Deregulation and Contracting Out Act 1994

1994 CHAPTER 40

PART I

DEREGULATION

CHAPTER I

GENERAL

Removal or reduction of burdens

[F1 1 Power to remove or reduce certain statutory burdens on businesses, individuals etc.

(1) If, with respect to any provision made by an enactment, a Minister of the Crown is of the opinion—

(a) that the effect of the provision is such as to impose, or authorise or require the imposition of, a burden affecting any person in the carrying on of any trade, business or profession or otherwise, and

(b) that, by amending or repealing the enactment concerned and, where appropriate, by making such other provision as is referred to in subsection (4)(a) below, it would be possible, without removing any necessary protection, to remove or reduce the burden or, as the case may be, the authorisation or requirement by virtue of which the burden may be imposed,

he may, subject to the following provisions of this section and sections 2 to 4 below, by order amend or repeal that enactment.

(2) The reference in subsection (1)(b) above to reducing the authorisation or requirement by virtue of which a burden may be imposed includes a reference to shortening any period of time within which the burden may be so imposed.

Status: *Point in time view as at 20/06/2003.*
Changes to legislation: *Deregulation and Contracting Out Act 1994, Part I is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) In this section and sections 2 to 4 below, in relation to an order under this section,—

(a) "the existing provision" means the provision by which the burden concerned is imposed or, as the case may be, is authorised or required to be imposed; and

(b) "the relevant enactment" means the enactment containing the existing provision.

(4) An order under this section shall be made by statutory instrument and may do all or any of the following—

(a) make provision (whether by amending any enactment or otherwise) creating a burden which relates to the subject matter of, but is less onerous than that imposed by, the existing provision;

(b) make such modifications of enactments as, in the opinion of the Minister concerned, are consequential upon, or incidental to, the amendment or repeal of the relevant enactment;

(c) contain such transitional provisions and savings as appear to the Minister to be appropriate;

(d) make different provision for different cases or different areas;

but no order shall be made under this section unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

(5) In this section and sections 2 to 4 below—

(a) "Minister of the Crown" has the same meaning as in the Ministers of the Crown [M1]Act 1975 **[**[F2]and includes the Scottish Ministers where the functions of a Minister of the Crown under this section have transferred to them under section 53 of the Scotland Act 1998**]** and "Minister" shall be construed accordingly;

(b) "burden" includes a restriction, requirement or condition (including one requiring the payment of fees), together with—

(i) any sanction (whether criminal or otherwise) for failure to observe the restriction or to comply with the requirement or condition; and

(ii) any procedural provisions (including provisions for appeal) relevant to that sanction; and

(c) "enactment", subject to subsection (6) below, means an enactment contained in this Act or in any other Act passed before or in the same Session as this Act, or any provision of an order under this section.

(6) In paragraph (c) of subsection (5) above—

(a) "Act" does not include anything contained in Northern Ireland legislation, within the meaning of section 24 of the Interpretation [M2] Act 1978; and

(b) the reference to an enactment is a reference to an enactment as for the time being amended, extended or applied by or under any Act mentioned in that paragraph.

(7) Where a restriction, requirement or condition is subject to a criminal sanction (as mentioned in subsection (5)(b)(i) above), nothing in this section shall authorise the making of an amendment which would have the effect of leaving the restriction, requirement or condition in place but producing a different criminal sanction or altering any procedural provisions relevant to the criminal sanction.**]**

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Textual Amendments

F1 Ss. 1-5 and Sch. 1 shall cease to have effect except for specified purposes (S.) (10.4.2001) by virtue of 2001 c. 6, **s. 12(1)** (with s. 12(2)-(4)) and are repealed (E.W.N.I.) (10.4.2001) by 2001 c. 6, **s. 12(1)** (with s. 12(2)-(4))

F2 Words in s. 1(5)(a) inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 117(2)** (with art. 5)

Marginal Citations

M1 1975 c. 26.

M2 1978 c. 30.

[F3 2 Limitations on the power under section 1.

(1) If an order under section 1 above creates a new criminal offence, then, subject to subsections (2) and (3) below, that offence shall not be punishable—

(a) on indictment with imprisonment for a term of more than two years; or

(b) on summary conviction with imprisonment for a term exceeding six months or a fine exceeding level 5 on the standard scale or both.

(2) In the case of an offence which, if committed by an adult, is triable either on indictment or summarily and is not an offence triable on indictment only by virtue of—

(a) Part V of [M3] the Criminal Justice Act 1988, or

[F4(b) **[** section 292(6) and (7) of the Criminal Procedure (Scotland) Act 1995,**]**

the reference in subsection (1)(b) above to level 5 on the standard scale shall be construed as a reference to the statutory maximum.

(3) If an order under section 1 above abolishes an offence contained in the relevant enactment and the maximum penalties for that offence are greater than those specified in subsection (1) above, the order may create a new criminal offence having maximum penalties not exceeding those applicable to the offence which is abolished.

(4) An order under section 1 above shall not contain any provision—

(a) providing for any forcible entry, search or seizure, or

(b) compelling the giving of evidence,

unless, and then only to the extent that, a provision to that effect is contained in the relevant enactment and is abolished by the order.**]**

Textual Amendments

F3 Ss. 1-5 and Sch. 1 shall cease to have effect except for specified purposes (S.) (10.4.2001) by virue of 2001 c. 6, **s. 12(1)** (with s. 12(2)-(4)) and are repealed (E.W.N.I.) (10.4.2001) by 2001 c. 6, **s. 12(1)** (with s. 12(2)-(4))

F4 S. 2(2)(b) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 96**

Marginal Citations

M3 1988 c.33.

Status: *Point in time view as at 20/06/2003.*
Changes to legislation: *Deregulation and Contracting Out Act 1994, Part I is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F5 3 Preliminary consultation.

(1) Before a Minister makes an order under section 1 above, he shall—

(a) consult such organisations as appear to him to be representative of interests substantially affected by his proposals; and

(b) consult such other persons as he considers appropriate.

(2) If it appears to the Minister, as a result of the consultation required by subsection (1) above, that it is appropriate to vary the whole or any part of his proposals, he shall undertake such further consultation with respect to the variations as appears to him to be appropriate.

(3) If, after the conclusion of—

(a) the consultation required by subsection (1) above, and

(b) any further consultation undertaken as mentioned in subsection (2) above,

the Minister considers it appropriate to proceed with the making of an order under section 1 above, he shall lay before Parliament **[**F6or, where the Minister is a Scottish Minister, before the Scottish Parliament**]** a document containing his proposals in the form of a draft of the order, together with details of the matters specified in subsection (4) below.

(4) The matters referred to in subsection (3) above are—

(a) the burden, authorisation or requirement which it is proposed to remove or reduce;

(b) whether the existing provision affords any necessary protection and, if so, how that protection is to be continued if the burden, authorisation or requirement is removed or reduced;

(c) whether any savings in cost are estimated to result from the proposals and, if so, either the estimated amount or the reasons why savings should be expected;

(d) any other benefits which are expected to flow from the removal or reduction of the burden, authorisation or requirement;

(e) any consultation undertaken as required by subsection (1) or subsection (2) above;

(f) any representations received as a result of that consultation; and

(g) the changes (if any) which the Minister has made to his original proposals in the light of those representations.

(5) In giving details of the representations referred to in subsection (4)(f) above, the Minister shall not disclose any information relating to a particular person or business except—

(a) with the consent of that person or of the person carrying on that business; or

(b) in such a manner as not to identify that person or business.

(6) If, before the day on which this section comes into force, any consultation was undertaken which, had it been undertaken after that day, would to any extent have satisfied the requirements of subsection (1) above, those requirements shall to that extent be taken to have been satisfied.**]**

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Textual Amendments

F5 Ss. 1-5 and Sch. 1 shall cease to have effect except for specified purposes (S.) (10.4.2001) by virtue of 2001 c. 6, **s. 12(1)** (with s. 12(2)-(4)) and are repealed (E.W.N.I.) (10.4.2001) by 2001 c. 6, **s. 12(1)** (with s. 12(2)-(4))

F6 Words in s. 3(3) inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 117(3)** (with art. 5)

[[F7]4 Parliamentary consideration of proposals.

(1) Where a document has been laid before Parliament under section 3(3) above, no draft of an order under section 1 above to give effect (with or without variations) to proposals in that document shall be laid before Parliament until after the expiry of the period for Parliamentary consideration, as defined in subsection (2) below.

(2) In this section "the period for Parliamentary consideration", in relation to a document, means the period of sixty days beginning on the day on which it was laid before Parliament.

(3) In reckoning the period of sixty days referred to in subsection (2) above, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than four days **[**[F8]and, in relation to the Scottish Parliament, no account shall be taken of any time during which the Parliament is dissolved or is in recess for more than 4 days.**]**.

(4) In preparing a draft of an order under section 1 above to give effect, with or without variations, to proposals in a document laid before Parliament under section 3(3) above, the Minister concerned shall have regard to any representations made during the period for Parliamentary consideration and, in particular, to any resolution or report of, or of any committee of, either House of Parliament with regard to the document.

(5) Together with a draft of an order laid before Parliament under section 1(4) above, the Minister concerned shall lay a statement giving details of—

(a) any representations, resolution or report falling within subsection (4) above; and

(b) the changes (if any) which, in the light of any such representations, resolution or report, the Minister has made to his proposals as contained in the document previously laid before Parliament under section 3(3) above.

(6) Subsection (5) of section 3 above shall apply in relation to the representations referred to in subsection (5)(a) above as it applies in relation to the representations referred to in subsection (4)(f) of that section.**]**

Textual Amendments

F7 Ss. 1-5 and Sch. 1 shall cease to have effect except for specified purposes (S.) (10.4.2001) by virtue of 2001 c. 6, **s. 12(1)** (with s. 12(2)-(4)) and are repealed (E.W.N.I.) (10.4.2001) by 2001 c. 6, **s. 12(1)** (with s. 12(2)-(4))

F8 Words in s. 4(3) inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 117(4)(b)** (with art. 5)

Status: *Point in time view as at 20/06/2003.*
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Modifications etc. (not altering text)

C1 S. 4 amended (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 117(4)(a)** (with art. 5)

Enforcement procedures and appeals

[F9 5 Powers to improve enforcement procedures.

(1) If, with respect to any provision made by an enactment, a Minister of the Crown is of the opinion—

(a) that the effect of the provision is such as to impose, or authorise or require the imposition of, a restriction, requirement or condition affecting any person in the carrying on of any trade, business or profession or otherwise, and

(b) that, by exercising any one or more of the powers conferred by Schedule 1 to this Act, it would be possible, without jeopardising any necessary protection, to improve (so far as fairness, transparency and consistency are concerned) the procedures for enforcing the restriction, requirement or condition,

he may, subject to the following provisions of this section, by order exercise the power or powers accordingly.

(2) No order shall be made under this section in any case where the sole or main effect which the restriction, requirement or condition may be expected to have on each person on whom it is imposed is an effect on him in his personal capacity, and not as a person carrying on a trade, business or profession.

(3) Where the relevant enactment—

(a) contains a power for the Minister to make regulations or orders; and

(b) provides for that power to be exercisable so as to give effect, with or without modifications, to proposals submitted by some other person,

the Minister shall consult with that person before he makes an order under this section.

(4) An order under this section shall be made by statutory instrument and may do all or any of the following—

(a) make provision as to the consequences of any failure to comply with a provision made by the order;

(b) contain provisions (including provisions modifying enactments relating to the periods within which proceedings must be brought) which are consequential upon, or supplemental or incidental to, the provisions made by the order;

(c) contain such transitional provisions and savings as appear to the Minister to be appropriate;

(d) make different provision for different cases or different areas;

and a statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Nothing in any order made under this section shall—

(a) preclude an enforcement officer from taking immediate enforcement action against any person, or from requiring any person to take immediate remedial action, in any case where it appears to the officer to be necessary to take such action or impose such a requirement; or

(b) require such an officer to disclose any information the disclosure of which would be contrary to the public interest.

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(6) In this section and Schedule 1 to this Act—

"enactment" means an enactment within the meaning of section 1 above, and any subordinate legislation made under such an enactment;

"enforcement action"—

(a) in relation to any restriction, requirement or condition, means any action taken with a view to or in connection with imposing any sanction (whether criminal or otherwise) for failure to observe or comply with it; and

(b) in relation to a restriction, requirement or condition relating to the grant or renewal of licences, includes any refusal to grant, renew or vary a licence, the imposition of any condition on the grant or renewal of a licence and any variation or revocation of a licence;

"enforcement officer" does not include—

(a) the Director of Public Prosecutions;

(b) the Lord Advocate or a procurator fiscal; or

(c) the Director of Public Prosecutions for Northern Ireland,

but, subject to that, means any person who is authorised, whether by or under the relevant enactment or otherwise, to take enforcement action;

"licence" includes any authorisation (by whatever name called) to do anything which would otherwise be unlawful;

"Minister of the Crown" and "Minister" have the same meanings as in section 1 above;

"the relevant enactment" means the enactment containing the provision by which the restriction, requirement or condition is imposed or, as the case may be, is authorised or required to be imposed;

"remedial action" means action taken by any person in order to avoid enforcement action being taken against him;

"subordinate legislation" has the same meaning as in the Interpretation [M4]Act 1978.**]**

Textual Amendments

F9 Ss. 1-5 and Sch. 1 shall cease to have effect except for specified purposes (S.) (10.4.2001) by 2001 c. 6, **s. 12(1)** (with s. 12(2)-(4)) and are repealed (E.W.N.I.) (10.4.2001) by 2001 c. 6, **s. 12(1)** (with s. 12(2)-(4))

Marginal Citations

M4 1978 c. 30.

6 Model provisions with respect to appeals. E+W+N.I.

(1) The Secretary of State shall by order prescribe model provisions with respect to appeals against enforcement action with a view to their being incorporated, if thought fit and with or without modifications, in enactments to which subsection (2) below applies.

(2) This subsection applies to enactments which include provision the effect of which is to impose, or authorise or require the imposition of, a restriction, requirement or

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condition affecting any person in the carrying on of any trade, business or profession or otherwise.

(3) The Secretary of State shall perform his duty under this section in the manner which he considers is best calculated to secure—

(a) that appeals determined in accordance with the model provisions are determined without unnecessary delay; and

(b) that the costs or expenses incurred by the parties to appeals so determined are kept to the minimum.

(4) Model provisions prescribed by an order under this section may provide for the appointment of persons to hear and determine appeals and confer powers on persons so appointed, including in particular—

(a) power to appoint experts and their own counsel or solicitor;

(b) power to require respondents to disclose documents and other material;

(c) power to summon or, in Scotland, to cite witnesses;

(d) power to make interim orders, including orders staying or, in Scotland, suspending enforcement action; and

(e) power to award costs or expenses to appellants and, in certain cases, against them.

(5) Model provisions so prescribed may also—

(a) confer a right for interested persons to make representations before enforcement action is taken;

(b) require the giving of reasons to such persons for any decision to take such action;

(c) require appellants to state their grounds of appeal and respondents to furnish statements by way of answer;

(d) enable appellants to amend their grounds of appeal before the hearing;

(e) require appeals to be determined on the merits rather than by way of review; and

(f) provide for further appeals to courts on points of law.

(6) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section—

"enactment" does not include anything contained in Northern Ireland legislation but, subject to that, includes an enactment contained in an Act (whenever passed) and an enactment contained in subordinate legislation (whenever made);

"enforcement action" has the same meaning as in **[**[F10]section 9 of the Regulatory Reform Act 2001**]**;

[[F11]"interested person" means—

(a) the person against whom enforcement action may be or has been taken;

(b) any other person who will or may be required to meet, or to make a significant contribution towards, the cost of observing the restriction or complying with the requirement or condition; or

(c) where the enforcement action which may be or has been taken relates specifically to goods or services which are to be or have been supplied by a

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person other than the one against whom enforcement action may be or has been taken, that person;**]**

"Northern Ireland legislation" means—

(a) Northern Ireland legislation within the meaning of section 24 of the Interpretation [M5]Act 1978; and

(b) instruments, within the meaning of the Interpretation [M6]Act (Northern Ireland) 1954, made under such legislation;

"subordinate legislation" has the same meaning as in the Interpretation Act 1978.

Extent Information

E1 This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only

Textual Amendments

F10 Words in the definition of "enforcement action" in s. 6(7) substituted (10.4.2001) by 2001 c. 6, **s. 13(1)(a)**

F11 Definition of "interested person" in s. 6(7) substituted (10.4.2001) by 2001 c. 6, **s. 13(1)(b)**

Modifications etc. (not altering text)

C2 S. 6: power to apply (with modifications) conferred (3.8.1999 for certain purposes only and 1.11.1999 otherwise) by 1999 c. 8, **s. 37(6)**; S.I. 1999/2177, **arts. 2(2)(c)**, 4(a)

Marginal Citations

M5 1978 c. 30.

M6 1954 c. 33 (N.I.).

6 Model provisions with respect to appeals. S

(1) The Secretary of State shall by order prescribe model provisions with respect to appeals against enforcement action with a view to their being incorporated, if thought fit and with or without modifications, in enactments to which subsection (2) below applies.

(2) This subsection applies to enactments which include provision the effect of which is to impose, or authorise or require the imposition of, a restriction, requirement or condition affecting any person in the carrying on of any trade, business or profession or otherwise.

(3) The Secretary of State shall perform his duty under this section in the manner which he considers is best calculated to secure—

(a) that appeals determined in accordance with the model provisions are determined without unnecessary delay; and

(b) that the costs or expenses incurred by the parties to appeals so determined are kept to the minimum.

(4) Model provisions prescribed by an order under this section may provide for the appointment of persons to hear and determine appeals and confer powers on persons so appointed, including in particular—

(a) power to appoint experts and their own counsel or solicitor;

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(b) power to require respondents to disclose documents and other material;

(c) power to summon or, in Scotland, to cite witnesses;

(d) power to make interim orders, including orders staying or, in Scotland, suspending enforcement action; and

(e) power to award costs or expenses to appellants and, in certain cases, against them.

(5) Model provisions so prescribed may also—

(a) confer a right for interested persons to make representations before enforcement action is taken;

(b) require the giving of reasons to such persons for any decision to take such action;

(c) require appellants to state their grounds of appeal and respondents to furnish statements by way of answer;

(d) enable appellants to amend their grounds of appeal before the hearing;

(e) require appeals to be determined on the merits rather than by way of review; and

(f) provide for further appeals to courts on points of law.

(6) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section—

"enactment" does not include anything contained in Northern Ireland legislation but, subject to that, includes an enactment contained in an Act (whenever passed) and an enactment contained in subordinate legislation (whenever made);

"enforcement action" has the same meaning as in section 5 above;

"interested person" means—

(a) the person against whom enforcement action may be or has been taken; and

(b) any other person in respect of whom either of the conditions mentioned in paragraph 5(1) of Schedule 1 to this Act is fulfilled;

"Northern Ireland legislation" means—

(a) Northern Ireland legislation within the meaning of section 24 of the Interpretation [M51]Act 1978; and

(b) instruments, within the meaning of the Interpretation [M52]Act (Northern Ireland) 1954, made under such legislation;

"subordinate legislation" has the same meaning as in the Interpretation Act 1978.

Extent Information

E2 This version of this provision extends to Scotland only; a separate version has been created for England and Wales and Northern Ireland only

Modifications etc. (not altering text)

C3 S. 6: power to apply (with modifications) conferred (3.8.1999 for certain purposes only and 1.11.1999 otherwise) by 1999 c. 8, **s. 37(6)**; S.I. 1999/2177, **arts. 2(2)(c)**, 4(a)

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Marginal Citations

M51 1978 c. 30.

M52 1954 c. 33 (N.I.).

CHAPTER II

MISCELLANEOUS DEREGULATORY PROVISIONS

F12 7 Undertakings as alternative to monopoly reference by Director General of Fair Trading.

. . . . . .

Textual Amendments

F12 S. 7(1) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1) (with art. 8)

8 Newspaper mergers: meaning of "newspaper proprietor" etc.

(1) Section 57 of the Fair Trading Act M7 1973 shall be amended as follows.

(2) In subsection (1) (which defines "newspaper proprietor" and explains references to the newspapers of a newspaper proprietor) for the words from the beginning of paragraph (b) to the end of the subsection there shall be substituted—

"(b) "newspaper proprietor" includes (in addition to an actual proprietor of a newspaper) any member of a group of persons of which another member is an actual proprietor of a newspaper.

(1A) In this Part of this Act, any reference to the newspapers of a newspaper proprietor ("NP") is to—

(a) all newspapers of which NP is an actual proprietor, and

(b) all newspapers of which a member of a group of persons of which NP is a member is an actual proprietor."

(3) In subsection (2) (definition of "transfer of a newspaper or of newspaper assets") in paragraph (a), for ", a newspaper proprietor in relation to a newspaper;" there shall be substituted "—

(i) an actual proprietor of a newspaper, or

(ii) a person with a primary or secondary controlling interest in an actual proprietor of a newspaper;".

(4) In subsection (4) (definition of "controlling interest") before "controlling" there shall be inserted " primary ".

(5) After that subsection there shall be inserted—

"(5) For the purposes of this section a person ("A") has a secondary controlling interest in a body corporate ("B") if, without having a primary controlling interest in B—

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(a) A has a primary controlling interest in a body corporate which has a primary controlling interest in B, or

(b) A is connected to B by a chain of any number of other bodies corporate, in the first of which A has a primary controlling interest, in the second of which the first has a primary controlling interest, and so on, the last such body corporate having a primary controlling interest in B.

(6) For the purposes of this section a group of persons consists of any number of persons of whom the first is—

(a) a person other than a body corporate, or

(b) a body corporate in which no other person has a primary controlling interest,

and the others are the bodies corporate in which the first has a primary or secondary controlling interest.

(7) In determining for the purposes of subsection (6)(b) of this section whether a body corporate ("X") is one in which another person has a primary controlling interest, there shall be disregarded any body corporate in which X has a primary or secondary controlling interest."

(6) Subsections (1) to (5) above shall be deemed always to have had effect.

(7) Section 8 of [M8] the Monopolies and Mergers Act 1965 shall be deemed never to have applied to a transaction to which it would not have applied had there been in force at the time of the transaction amendments of that Act corresponding to the amendments of [M9] the Fair Trading Act 1973 made by this section.

Marginal Citations

M7 1973 c. 41.

M8 1965 c. 50.

M9 1973 c. 41.

[F13]9 Undertakings as alternative to merger reference: non-divestment matters.

. . . . . .

Textual Amendments

F13 S. 9 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1) (with art. 8)

[F14]10 . . . . . .

Textual Amendments

F14 S. 10 repealed (1.3.2000) by 1998 c. 41, s. 74(1)(3), Sch. 12 para. 19(2)(a), **Sch. 14 Pt. I** (with s. 73); S.I. 2000/344, art. 2, **Sch.**

Status: *Point in time view as at 20/06/2003.*
Changes to legislation: *Deregulation and Contracting Out Act 1994, Part I is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F15]11 . . . . . .

Textual Amendments

F15 S. 11 repealed (1.3.2000) by 1998 c. 41, s. 74(1)(3), Sch. 12 para. 19(2)(b), **Sch. 14 Pt. I** (with s. 73); S.I. 2000/344, art. 2, **Sch.**

12 Anti-competitive practices: competition references.

[F16](1) . . . . . .

[F16](2) . . . . . .

[F16](3) . . . . . .

[F16](4) . . . . . .

[F16](5) . . . . . .

[F16](6) . . . . . .

(7) Schedule 4 to this Act (which makes provision about sectoral regulators and with respect to transition) shall have effect.

Textual Amendments

F16 S. 12(1)-(6) repealed (1.3.2000) by 1998 c. 41, s. 74(1)(3), Sch. 12 para. 19(3), **Sch. 14 Pt. I** (with s. 73); S.I. 2000/344, art. 2, **Sch.**

13 Striking off of non-trading private companies.

(1) Schedule 5 to this Act (which amends the Companies Act [M10]1985 for the purpose of facilitating the striking off of non-trading private companies registered in Great Britain) shall have effect.

(2) Schedule 6 to this Act (which amends the [M11]Companies (Northern Ireland) Order 1986 for the purpose of facilitating the striking off of non-trading companies registered in Northern Ireland) shall have effect.

Commencement Information

I1 S. 13 wholly in force at 1.11.1995; s. 13 not in force at Royal Assent see s. 82(4); s. 13(1) in force at 1.7.1995; s, 13(2) in force for certain purposes at 1.7.1995 by S.I. 1995/1433, **arts. 2**, 3(a)(b); s. 13(2) in force in so far as not already in force at 1.11.1995 by S.I. 1995/1433, **art. 5(a)**

Marginal Citations

M10 1985 c. 6.

M11 S.I. 1986/1032 (N.I. 6).

Status: *Point in time view as at 20/06/2003.*
Changes to legislation: *Deregulation and Contracting Out Act 1994, Part I is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

14 Repeal of section 43 of the Weights and Measures Act 1985.

Section 43 of the [M12]Weights and Measures Act 1985 (which provides for the gas comprised in any foam on beer or cider to be disregarded for certain purposes) shall cease to have effect.

Marginal Citations
M12 1985 c. 72.

15 Building societies: issue of deferred shares at a premium.

In section 7 of the [M13]Building Societies Act 1986 (power to raise funds) after subsection (2) there shall be inserted—

"(2A) In the case of deferred shares, the power to raise funds by the issue of shares includes the issue of shares at a premium.

(2B) If a building society issues deferred shares at a premium, whether for cash or otherwise, a sum equal to the aggregate amount or value of the premiums on those shares shall be transferred to the society's reserves."

Marginal Citations
M13 1986 c. 53.

[F17]16 . . . . . .

Textual Amendments
F17 S. 16 repealed (1.12.1997) by 1997 c. 32, s. 46(2), **Sch. 9**; S.I. 1997/2668, art. 2(2)(3)(5), **Sch. Pt. II**

[F18]17 . . . . . .

Textual Amendments
F18 S. 17 repealed (1.12.1997) by 1997 c. 32, s. 46(2), **Sch. 9**; S.I. 1997/2668, art. 2(2)(3)(5), **Sch. Pt. II**

18 Licensed premises at international ports: permitted hours.

(1) In the Licensing Act [M14]1964, after section 86 there shall be inserted—

"**86A International ports.**

(1) At a port where this section is in operation section 59 of this Act shall not apply to licensed premises within an approved wharf.

Status: *Point in time view as at 20/06/2003.*
Changes to legislation: *Deregulation and Contracting Out Act 1994, Part I is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) The Secretary of State may by order bring this section into operation at any port which appears to him to be one at which there is a substantial amount of international passenger traffic.

(3) Before the Secretary of State makes an order bringing this section into operation at a port, he shall satisfy himself that arrangements have been made for affording reasonable facilities on licensed premises within any approved wharf at that port for obtaining hot and cold beverages other than intoxicating liquor at all times when intoxicating liquor is obtainable on those premises.

(4) If it appears to the Secretary of State that at any port where this section is in operation such arrangements as are mentioned in subsection (3) of this section are not being maintained, he shall revoke the order bringing this section into operation at that port, but without prejudice to his power of making a further order with respect to that port.

(5) In this section, "approved wharf" has the same meaning as in the Customs and [M15]Excise Management Act 1979."

(2) In the Licensing [M16](Scotland) Act 1976, after section 63 there shall be inserted—

"**63A Exemption of international ports from restrictions on permitted hours.**

(1) The Secretary of State may by order made by statutory instrument bring this section into operation at any port which appears to him to be a port at which there is a substantial amount of international passenger traffic.

(2) At a port where this section is in operation, neither section 54 nor section 119 of this Act nor any provision or rule of law prohibiting or restricting the sale or supply of alcoholic liquor on Sunday shall apply to licensed premises which are within an approved wharf.

(3) Before the Secretary of State makes an order bringing this section into operation at a port, he shall satisfy himself that arrangements have been made for affording reasonable facilities in licensed premises within any approved wharf at that port for obtaining hot and cold beverages other than alcoholic liquor at all times when alcoholic liquor is obtainable for consumption in those premises.

(4) If it appears to the Secretary of State that at any port where this section is in operation such arrangements as are mentioned in subsection (3) above are not being maintained, he shall revoke the order bringing this section into operation as respects that port, but without prejudice to his power of making a further order with respect to that port.

(5) In this section, "approved wharf" has the same meaning as in the Customs and Excise Management Act 1979.."

Marginal Citations

M14 1964 c. 26.
M15 1979 c. 2.
M16 1976 c. 66.

Status: *Point in time view as at 20/06/2003.*
Changes to legislation: *Deregulation and Contracting Out Act 1994, Part I is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

19 Bars in licensed premises in England and Wales: children's certificates.

(1) In section 168 of the Licensing Act [M17]1964 (children prohibited from bars) after subsection (3) there shall be inserted—

"(3A) No offence shall be committed under subsection (1) of this section if—

(a) the person under fourteen is in the bar in the company of a person who is eighteen or over,

(b) there is in force a certificate under section 168A(1) of this Act relating to the bar, and

(c) the certificate is operational or subsection (3B) of this section applies.

(3B) This subsection applies where—

(a) the person under fourteen, or a person in whose company he is, is consuming a meal purchased before the certificate ceased to be operational, and

(b) no more than thirty minutes have elapsed since the certificate ceased to be operational.

(3C) No offence shall be committed under subsection (2) of this section if the person causes or procures, or attempts to cause or procure, the person under fourteen to be in the bar in the circumstances mentioned in paragraphs (a) to (c) of subsection (3A) of this section."

(2) After that section there shall be inserted—

"**168A Children's certificates.**

(1) The holder of a justices' licence may apply to the licensing justices for the grant of a certificate in relation to any area of the premises for which the licence is in force which consists of or includes a bar.

(2) Licensing justices may grant an application for a certificate under subsection (1) of this section ("a children's certificate") if it appears to them to be appropriate to do so, but shall not do so unless they are satisfied—

(a) that the area to which the application relates constitutes an environment in which it is suitable for persons under fourteen to be present, and

(b) that meals and beverages other than intoxicating liquor will be available for sale for consumption in that area.

(3) Where a children's certificate is in force, the holder of the justices' licence for the licensed premises to which the certificate relates shall keep posted in some conspicuous place in the area to which the certificate relates a notice which—

(a) states that a children's certificate is in force in relation to the area, and

(b) explains the effect of the certificate and of any conditions attached to it.

(4) A person who fails to perform the duty imposed on him by subsection (3) of this section shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding level 1 on the standard scale.

Status: *Point in time view as at 20/06/2003.*
Changes to legislation: *Deregulation and Contracting Out Act 1994, Part I is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) In any proceedings for an offence under subsection (4) of this section, it shall be a defence for the accused to prove that he took all reasonable precautions, and exercised all due diligence, to avoid the commission of the offence.

(6) Schedule 12A to this Act (supplementary provisions) shall have effect.

(7) Subsection (1) of this section shall apply to an applicant for a justices' licence as it applies to the holder of a justices' licence, and, in its application by virtue of this subsection, shall have effect as if the reference to the premises for which the licence is in force were to the premises which are the subject of the application for a justices' licence."

(3) After Schedule 12 to that Act there shall be inserted the Schedule set out in Schedule 7 to this Act (supplementary provisions).

Marginal Citations
M17 1964 c. 26.

20 Betting on Sundays.

(1) The Betting, Gaming and Lotteries Act [M18]1963 shall be amended as set out in subsections (2) to (5) below.

(2) In section 5(1), for "Good Friday, Christmas Day or Sunday" there shall be substituted " Good Friday or Christmas Day ".

[F19](3) . . . . . .

(4) In Schedule 4, in paragraph 1, for "Good Friday, Christmas Day and every Sunday" there shall be substituted " Good Friday and Christmas Day ".

[F19](5) . . . . . .

Textual Amendments
F19 S. 20(3)(5) repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-195, 202)

Marginal Citations
M18 1963 c. 2.

21 Sporting events and activities on Sundays.

The entertainments and amusements to which the Sunday Observance Act [M19]1780 applies shall not include any sporting event or activity.

Marginal Citations
M19 1780 c. 49.

Status: *Point in time view as at 20/06/2003.*
Changes to legislation: *Deregulation and Contracting Out Act 1994, Part I is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

22 Sunday opening of certain licensed premises in Scotland.

For section 119(3) of the Licensing (Scotland) Act [M20]1976 (trading hours for off-sale premises and off-sale parts of public houses and hotels and prohibition of Sunday opening), there shall be substituted the following subsection—

"(3) Off-sale premises and the off-sale part of premises shall not be opened for the serving of customers with alcoholic liquor—

(a) on a day other than a Sunday, earlier than eight in the morning, and

(b) on a Sunday, earlier than half past twelve in the afternoon,

and shall be closed for the serving of customers with such liquor not later than ten in the evening."

Marginal Citations

M20 1976 c. 66.

23 Repeal of Part I of the Shops Act 1950.

Part I of the Shops Act [M21]1950 (hours of closing) shall cease to have effect.

Marginal Citations

M21 1950 c. 28.

24 Repeal of remainder of the Shops Act 1950.

In then [M22]Shops Act 1950—

(a) Part II (conditions of employment), and

(b) section 67 (business of hairdresser or barber not to be carried on in Scotland on Sunday),

shall cease to have effect.

Marginal Citations

M22 1950 c.28.

25 Controls on fund-raising for charitable institutions: exclusion of connected companies.

(1) In Part II of the Charities Act [M23]1992 (control of fund-raising for charitable institutions) section 58(1) (definitions) shall be amended as follows.

(2) In the definition of "commercial participator", after "person" there shall be inserted " (apart from a company connected with the institution) ".

(3) In paragraph (a) of the definition of "professional fund-raiser", after "institution" there shall be inserted " or a company connected with such an institution ".

Status: *Point in time view as at 20/06/2003.*
Changes to legislation: *Deregulation and Contracting Out Act 1994, Part I is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Marginal Citations
M23 1992 c. 41.

26 Offences under section 63 of the Charities Act 1992: creation of statutory defence.

(1) Section 63 of the Charities Act 1992 (which makes it an offence to solicit property for an institution while falsely representing that it is a registered charity) shall be amended as follows.

(2) After subsection (1) there shall be inserted—

"(1A) In any proceedings for an offence under subsection (1), it shall be a defence for the accused to prove that he believed on reasonable grounds that the institution was a registered charity."

(3) In subsection (2) (meaning of "registered charity") for the words "subsection (1)" there shall be substituted " this section ".

27 Applications for permits to conduct public charitable collections: time-limits.

In section 67 of the Charities Act 1992 (applications for permits to conduct public charitable collections) paragraph (b) of subsection (3) (which provides that an application shall not be made more than six months before the relevant day) and the word "but" immediately preceding it shall be omitted.

28 Annual audit or examination of charity accounts.

(1) Section 43 of the Charities Act [M24]1993 (annual audit or examination of charity accounts) shall be amended as follows.

(2) In subsection (3) (which requires a charity's accounts for a financial year to be audited or independently examined if its gross income and total expenditure in that year, and each of the two previous financial years, is £100,000 or less) after "a charity" there shall be inserted " and its gross income or total expenditure in that year exceeds £10,000 ".

(3) In subsection (8) (power of Secretary of State to amend sum specified in subsection (1)) after "(1)" there shall be inserted " or (3) ".

Marginal Citations
M24 1993 c. 10.

29 Annual reports of charities.

(1) In section 45 of the Charities Act 1993 (annual reports) in subsection (3) (automatic duty to transmit annual report to the Commissioners) for the words from the beginning to "a charity" there shall be substituted " Where in any financial year of a charity its gross income or total expenditure exceeds £10,000, the annual report required to be prepared under this section in respect of that year ".

Status: *Point in time view as at 20/06/2003.*
Changes to legislation: *Deregulation and Contracting Out Act 1994, Part I is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) After that subsection there shall be inserted—

"(3A) Where in any financial year of a charity neither its gross income nor its total expenditure exceeds £10,000, the annual report required to be prepared under this section in respect of that year shall, if the Commissioners so request, be transmitted to them by the charity trustees—

(a) in the case of a request made before the end of seven months from the end of the financial year to which the report relates, within ten months from the end of that year, and

(b) in the case of a request not so made, within three months from the date of the request,

or, in either case, within such longer period as the Commissioners may for any special reason allow in the case of that report."

(3) In subsection (4) of that section, for "any such annual report" there shall be substituted " any annual report transmitted to the Commissioners under this section ".

(4) In subsection (5) of that section, for "subsection (3) above" there shall be substituted " this section ".

(5) In subsection (6) of that section, for "subsection (3) above" there shall be substituted " this section ".

(6) At the end of that section there shall be inserted—

"(7) The charity trustees of a charity shall preserve, for at least six years from the end of the financial year to which it relates, any annual report prepared by them under subsection (1) above which they have not been required to transmit to the Commissioners.

(8) Subsection (4) of section 41 above shall apply in relation to the preservation of any such annual report as it applies in relation to the preservation of any accounting records (the references in subsection (3) of that section being read as references to subsection (7) above).

(9) The Secretary of State may by order amend subsection (3) or (3A) above by substituting a different sum for the sum for the time being specified there."

(7) In section 46(7) of that Act (application of section 45(3) to (6) to annual reports under section 46(5)) after "section 45" there shall be inserted " (as originally enacted) ".

(8) In section 49 of that Act (penalty for persistent default in relation to certain requirements) in paragraph (a), after "45(3)" there shall be inserted " or (3A) ".

30 Annual returns by charities.

(1) Section 48 of the Charities Act [M25]1993 (annual returns by registered charities) shall be amended as follows.

(2) In subsection (1) (duty to prepare annual return) at the beginning there shall be inserted " Subject to subsection (1A) below, ".

(3) After subsection (1) there shall be inserted—

Status: *Point in time view as at 20/06/2003.*
Changes to legislation: *Deregulation and Contracting Out Act 1994, Part I is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(1A) Subsection (1) above shall not apply in relation to any financial year of a charity in which neither the gross income nor the total expenditure of the charity exceeds £10,000."

(4) At the end there shall be inserted—

"(4) The Secretary of State may by order amend subsection (1A) above by substituting a different sum for the sum for the time being specified there."

Marginal Citations
M25 1993 c. 10.

31 Slaughterhouses and knackers' yards: uniting of enforcement functions.

Schedule 9 to this Act (which contains provisions designed to facilitate the uniting of enforcement functions relating to slaughterhouses and knackers' yards) shall have effect.

32 Building regulations: power to repeal or modify provisions of local Acts.

(1) In Schedule 1 to the [M26]Building Act 1984 (building regulations) in paragraph 11(1), after paragraph (b) there shall be inserted "or

(c) any provision of a local Act passed before the day on which the Deregulation and Contracting Out Act 1994 is passed,".

(2) In section 14 of that Act (consultation) there shall be inserted at the end—

"(4) Before making any building regulations containing provision of the kind authorised by paragraph 11(1)(c) of Schedule 1 to this Act, the Secretary of State shall consult—

(a) the Building Regulations Advisory Committee,

(b) such persons or bodies as appear to him to be representative of local authorities, and

(c) such other bodies as appear to him to be representative of the interests concerned."

Marginal Citations
M26 1984 c. 55.

33 Amendment of duty of care etc. as respects waste.

(1) In section 34 of the Environmental Protection Act [M27]1990 (duty of care etc. as respects controlled waste), after subsection (4) there shall be inserted—

"(4A) For the purposes of subsection (1)(c)(ii) above—

(a) a transfer of waste in stages shall be treated as taking place when the first stage of the transfer takes place, and

Status: *Point in time view as at 20/06/2003.*
Changes to legislation: *Deregulation and Contracting Out Act 1994, Part I is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) a series of transfers between the same parties of waste of the same description shall be treated as a single transfer taking place when the first of the transfers in the series takes place."

(2) Subsection (1) above shall be deemed always to have had effect, except in relation to any proceedings for failure to comply with the duty imposed by section 34(1) of that Act which were commenced before the coming into force of subsection (1) above.

(3) Where any such proceedings have not been disposed of before the coming into force of subsection (1) above, it shall be a defence to show that the conduct in question would not have constituted a breach of the duty concerned had subsection (1) above been in force at the time.

Commencement Information

I2 S. 33 in force at Royal Assent (subject as mentioned in s. 33(2))

Marginal Citations

M27 1990 c. 43.

34 Controls on London lorries: replacement of discretionary exceptions.

(1) Subsection (3) below applies to any order having effect under or by virtue of section 6 (orders similar to traffic regulation orders) or 9 (experimental traffic orders) of the Road Traffic Regulation Act [M28]1984 ("the 1984 Act") which provides for a relevant traffic control to be subject to a relevant exception, being an order in relation to which the appropriate authority is a London borough council or the Common Council of the City of London.

(2) For the purposes of this section—

(a) a relevant traffic control is a prohibition or restriction on the use of a road for traffic which does not apply to motor vehicles generally but applies to some or all heavy commercial vehicles, and

(b) a relevant exception is an exception whose application, in the case of any heavy commercial vehicles, depends to any extent on the exercise of a delegated discretion.

(3) The Secretary of State may, for the purpose of replacing a relevant exception to a relevant traffic control with such other exception as he thinks fit, by order make any such variation of an order to which this subsection applies as the appropriate authority may make.

(4) The Secretary of State shall only exercise the power conferred by subsection (3) above if he is satisfied that doing so—

(a) will have the effect that less of a burden is imposed on the carrying on of business, and

(b) will not have the effect of removing any necessary protection.

(5) The Secretary of State may, for the purpose of amending as he thinks fit an exception introduced under subsection (3) above (including such an exception as amended), by order make any such variation of the order varied under that subsection as the appropriate authority may make.

Status: *Point in time view as at 20/06/2003.*
Changes to legislation: *Deregulation and Contracting Out Act 1994, Part I is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) The Secretary of State may, for the purpose of amending as he thinks fit a provision of an order having effect under or by virtue of section 6 or 9 of the 1984 Act which re-enacts (with or without modification) an exception introduced under subsection (3) above (including such an exception as amended) ("a re-enactment order"), by order make any such variation of the order as the appropriate authority may make.

(7) The Secretary of State shall only exercise the power conferred by subsection (5) or (6) above if he is satisfied—

(a) that, if he does so, it will still be the case that less of a burden is imposed on the carrying on of business than was imposed before the replacement under subsection (3) above, and

(b) that doing so will not have the effect of removing any necessary protection.

(8) Paragraphs 35 to 37 of Part VI of Schedule 9 to the 1984 Act (validity of certain orders) shall apply to an order under this section as they apply to an order to which that Part applies; and in those paragraphs, in their application by virtue of this subsection—

(a) "the relevant powers" means the powers conferred by this section with respect to the order in question, and

(b) "the relevant requirements" means the requirements of this section with respect to that order.

(9) Before making any order under this section, the Secretary of State shall consult with such representative organisations as he thinks fit; and any such order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(10) Where in the case of any order proposed to be made by the council of a London borough or the Common Council of the City of London under or by virtue of section 6 or 9 of the 1984 Act, it is proposed to include in the order any provision—

(a) varying or revoking an order under this section,

(b) varying or revoking an order having effect under or by virtue of section 6 or 9 of that Act which is varied by an order under this section, or

(c) varying or revoking a re-enactment order,

the order shall not be made except with the consent of the Secretary of State.

(11) Where, in the case of any order proposed to be made by the council of a London borough or the Common Council of the City of London under or by virtue of section 9 of the 1984 Act, it is proposed to include in the order provision under section 10(1)(a) of that Act relating to—

(a) an order under this section,

(b) an order having effect under or by virtue of section 6 or 9 of that Act which is varied by an order under this section, or

(c) a re-enactment order,

the order shall not be made except with the consent of the Secretary of State.

(12) In this section—

"appropriate authority", in relation to an order having effect under or by virtue of section 6 or 9 of the 1984 Act, means the authority by which the order is, or is deemed to be, made;

"heavy commercial vehicle" and "road" have the same meanings as in the 1984 Act;

Status: *Point in time view as at 20/06/2003.*
Changes to legislation: *Deregulation and Contracting Out Act 1994, Part I is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"motor vehicle" means a vehicle treated as a motor vehicle for the purposes of the 1984 Act;

"re-enactment order" has the meaning given by subsection (6) above; and

"the 1984 Act" has the meaning given by subsection (1) above.

Marginal Citations

M28 1984 c. 27.

35 Employment agencies etc.: replacement of licensing.

Schedule 10 to this Act (which provides for the replacement of licensing in relation to employment agencies etc.) shall have effect.

36 Unfair dismissal: selection for redundancy.

[F20](1) . . . . . .

(2) Article 22C(1)(e) of [M29] the Industrial Relations (Northern Ireland) Order 1976 (corresponding provision for Northern Ireland) shall be omitted.

Textual Amendments

F20 S. 36(1) repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-195, 202)

Commencement Information

I3 S. 36 wholly in force at 3.1.1995; s. 36 not in force at Royal Assent see s. 82; s. 36(1) in force at 3.1.1995 by S.I. 1994/3188, **art. 3(e)** (with transitional provisions in arts. 5, 6); s. 36(2) in force at 3.1.1995 by S.R. 1994/488, **art. 2**

Marginal Citations

M29 S.I. 1976/1043 (N.I. 16).

37 Power to repeal certain health and safety provisions.

(1) The appropriate authority may by regulations repeal or, as the case may be, revoke—

(a) any provision which is an existing statutory provision for the purposes of Part I of [M30] the Health and Safety at Work etc. Act 1974 ("the 1974 Act"),

(b) any provision of regulations under section 15 of the 1974 Act (health and safety regulations) which has effect in place of a provision which was an existing statutory provision for the purposes of that Part,

(c) any provision which is an existing statutory provision for the purposes of [M31] the Health and Safety at Work (Northern Ireland) Order 1978 ("the 1978 Order"), or

(d) any provision of regulations under Article 17 of the 1978 Order (health and safety regulations) which has effect in place of a provision which was an existing statutory provision for the purposes of that Order.

(2) Before making regulations under subsection (1) above, the appropriate authority shall consult—

Status: *Point in time view as at 20/06/2003.*
Changes to legislation: *Deregulation and Contracting Out Act 1994, Part I is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) in the case of regulations under paragraph (a) or (b) of that subsection, the Health and Safety Commission,

(b) in the case of regulations under paragraph (c) or (d) of that subsection, the Health and Safety Agency for Northern Ireland,

and, in either case, such other persons as the appropriate authority considers appropriate.

(3) Instead of consulting such other persons as the appropriate authority considers it appropriate to consult under subsection (2) above, the authority may require the Health and Safety Commission or, as the case may be, the Health and Safety Agency for Northern Ireland to consult such persons as it considers appropriate for the purpose of deciding how it should respond to consultation under that subsection.

(4) Instead of consulting a person whom the appropriate authority considers it appropriate to consult under subsection (2) above, the authority may require the Health and Safety Commission or, as the case may be, the Health and Safety Agency for Northern Ireland to consult the person for the purpose of deciding how it should respond to consultation under that subsection.

(5) The appropriate authority may require consultation under subsection (3) or (4) above to be carried out in accordance with the authority's directions.

(6) Regulations under subsection (1) above may contain such transitional provisions and savings as the appropriate authority considers appropriate.

(7) Regulations under paragraph (a) or (b) of subsection (1) above shall be made by statutory instrument, and no instrument shall be made under that paragraph unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.

(8) Regulations under subsection (1)(c) or (d) above—

(a) shall be statutory rules for the purposes of [M32] the Statutory Rules (Northern Ireland) Order 1979, and

(b) shall be subject to affirmative resolution, as defined in section 41(4) of [M33] the Interpretation Act (Northern Ireland) 1954, as if they were statutory instruments within the meaning of that Act.

(9) In this section, "appropriate authority"—

(a) in relation to regulations under subsection (1)(a) or (b) above, means the Secretary of State, and

(b) in relation to regulations under subsection (1)(c) or (d) above, means the Department concerned (within the meaning of the 1978 Order, but as if any reference to that Order included a reference to this section).

Marginal Citations

M30 1974 c. 37.

M31 S.I. 1978/1039 (N.I. 9).

M32 S.I. 1979/1573 (N.I. 12).

M33 1954 c. 33 (N.I.).

Status: *Point in time view as at 20/06/2003.*
Changes to legislation: *Deregulation and Contracting Out Act 1994, Part I is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

38 Inspection of independent schools.

After section 87 of the Children Act [M34] 1989 there shall be inserted—

"87A Suspension of duty under section 87(3).

(1) The Secretary of State may appoint a person to be an inspector for the purposes of this section if—

(a) that person already acts as an inspector for other purposes in relation to independent schools to which section 87(1) applies, and

(b) the Secretary of State is satisfied that the person is an appropriate person to determine whether the welfare of children provided with accommodation by such schools is adequately safeguarded and promoted while they are accommodated by them.

(2) Where—

(a) the proprietor of an independent school to which section 87(1) applies enters into an agreement in writing with a person appointed under subsection (1),

(b) the agreement provides for the person so appointed to have in relation to the school the function of determining whether section 87(1) is being complied with, and

(c) the local authority in whose area the school is situated receive from the person with whom the proprietor of the school has entered into the agreement notice in writing that the agreement has come into effect,

the authority's duty under section 87(3) in relation to the school shall be suspended.

(3) Where a local authority's duty under section 87(3) in relation to any school is suspended under this section, it shall cease to be so suspended if the authority receive—

(a) a notice under subsection (4) relating to the person with whom the proprietor of the school entered into the relevant agreement, or

(b) a notice under subsection (5) relating to that agreement.

(4) The Secretary of State shall terminate a person's appointment under subsection (1) if—

(a) that person so requests, or

(b) the Secretary of State ceases, in relation to that person, to be satisfied that he is such a person as is mentioned in paragraph (b) of that subsection,

and shall give notice of the termination of that person's appointment to every local authority.

(5) Where—

(a) a local authority's duty under section 87(3) in relation to any school is suspended under this section, and

(b) the relevant agreement ceases to have effect,

the person with whom the proprietor of the school entered into that agreement shall give to the authority notice in writing of the fact that it has ceased to have effect.

Status: *Point in time view as at 20/06/2003.*
Changes to legislation: *Deregulation and Contracting Out Act 1994, Part I is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) In this section—

(a) "proprietor" has the same meaning as in the [M35]Education Act 1944, and

(b) references to the relevant agreement, in relation to the suspension of a local authority's duty under section 87(3) as regards any school, are to the agreement by virtue of which the authority's duty under that provision as regards that school is suspended.

87B Duties of inspectors under section 87A.

(1) The Secretary of State may impose on a person appointed under section 87A(1) ("an authorised inspector") such requirements relating to, or in connection with, the carrying out under substitution agreements of the function mentioned in section 87A(2)(b) as the Secretary of State thinks fit.

(2) Where, in the course of carrying out under a substitution agreement the function mentioned in section 87A(2)(b), it appears to an authorised inspector that there has been a failure to comply with section 87(1) in the case of a child provided with accommodation by the school to which the agreement relates, the inspector shall give notice of that fact to the Secretary of State.

(3) Where, in the course of carrying out under a substitution agreement the function mentioned in section 87A(2)(b), it appears to an authorised inspector that a child provided with accommodation by the school to which the agreement relates is suffering, or is likely to suffer, significant harm, the inspector shall—

(a) give notice of that fact to the local authority in whose area the school is situated, and

(b) where the inspector is required to make inspection reports to the Secretary of State, supply that local authority with a copy of the latest inspection report to have been made by the inspector to the Secretary of State in relation to the school.

(4) In this section—

(a) "proprietor" has the same meaning as in the Education [M36]Act 1944, and

(b) references to substitution agreement are to an agreement between an authorised inspector and the proprietor of an independent school by virtue of which the local authority's duty in relation to the school under section 87(3) is suspended."

Marginal Citations

M34 1989 c. 41.
M35 1944 c. 31.
M36 1944 c. 31.

39 Chapter II: consequential amendments.

Schedule 11 to this Act (which contains amendments consequential on certain provisions of this Chapter) shall have effect.

Status: *Point in time view as at 20/06/2003.*
Changes to legislation: *Deregulation and Contracting Out Act 1994, Part I is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I4 S. 39 wholly in force at 1.1.1996; s. 39 in force for certain purposes at Royal Assent see s. 82(2)(3); s. 39 in force for certain purposes at 3.1.1995 by S.I. 1994/3188, **arts. 2**, 3; s. 39 in force for certain purposes at 1.7.1995 by S.I. 1995/1433, **art. 3(c)**; s. 39 in force for certain purposes at 1.11.1995 by S.I. 1995/1433, **arts. 4**, 5(b); s. 39 in force at 1.1.1996 in so far as not already in force by S.I. 1995/2835, **art. 2** (with transitional provisions in Sch.)

40 Extent of Chapter II.

(1) The following provisions of this Chapter extend to England and Wales only—
sections 18(1), 19, 20(3), 21, 25 to 30, 32, 34 and 38,
paragraphs 8 to 10 of Schedule 2,
Schedules 7 and 8, and
paragraph 2 of Schedule 9.

(2) Sections 18(2), 22 and 24(b) and paragraph 3 of Schedule 9 extend to Scotland only.

(3) The following provisions of this Chapter extend to Northern Ireland only—
sections 13(2) and 36(2),
paragraphs 5, 6(2) and 7(2) of Schedule 2,
Schedule 6, and
paragraphs 2 and 5 of Schedule 10.

(4) The following provisions of this Chapter also extend to Northern Ireland—
sections 7 to 12,
sections 15 to 17,
sections 35, 37 and 39,
this section,
paragraphs 1 to 3 and 15 of Schedule 2,
Schedule 3,
paragraphs 1 and 5 to 8 of Schedule 4, and
paragraph 3 of Schedule 10.

(5) The extent of any amendment of an enactment in paragraph 2 or 3 of Schedule 4 to this Act or Schedule 11 to this Act is the same as that of the enactment amended.

(6) Subject to subsections (3) to (5) above, this Chapter does not extend to Northern Ireland.

[F21 CHAPTER III]

Textual Amendments

F21 Pt. I Chapter III (ss. 41-57) repealed (1.1.1996) by 1995 c. 23, s. 60(2), **Sch. 8 Pt. I** (with ss. 54, 55); S.I. 1995/2181, **art. 2** (with transitional provisions in Sch.)

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Changes to legislation: *Deregulation and Contracting Out Act 1994, Part I is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

CHAPTER IV

PUBLIC SERVICE VEHICLE OPERATOR LICENSING ETC.

58 The 1981 Act.

In this Chapter "the 1981 Act" means [M48] the Public Passenger Vehicles Act 1981.

Marginal Citations
M48 1981 c. 14.

59 Undertakings given on applications.

(1) The 1981 Act shall be amended as follows.

(2) After section 14(3) (which provides that an application for a PSV operator's licence shall not be granted unless there will be adequate facilities or arrangements for maintaining the vehicles proposed to be used under the licence etc.) there shall be inserted—

"(3A) In considering on an application for a PSV operator's licence whether the requirements mentioned in subsection (3) above are satisfied, the traffic commissioner may take into account any undertakings given by the applicant (or procured by him to be given) for the purposes of the application and may assume that those undertakings will be fulfilled."

(3) After section 14(4) there shall be inserted—

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"(5) In any case where the traffic commissioner grants an application for a PSV operator's licence, any undertakings taken into account by him under subsection (3A) above that he considers to be material to the granting of the application shall be recorded in the licence issued to the applicant."

(4) In section 16(6) (which provides that, on the application of the holder of a PSV operator's licence, a traffic commissioner may vary or remove conditions attached to the licence) after paragraph (b) there shall be inserted—

"or

(c) vary or remove any undertaking recorded in the licence;".

(5) After section 16(6) there shall be inserted—

"(6A) In considering whether to grant an application under subsection (6) above, the traffic commissioner may take into account any undertakings given by the applicant (or procured by him to be given) for the purposes of the application, and may assume that those undertakings will be fulfilled.

(6B) In any case where the traffic commissioner grants an application under subsection (6) above, any undertakings taken into account by him under subsection (6A) above that he considers to be material to the granting of the application shall be recorded in the licence as varied."

(6) In section 17(3) (which sets out the grounds on which a licence may be revoked, suspended or varied under section 17(2)) after paragraph (a) there shall be inserted—

"(aa) that any undertaking recorded in the licence has not been fulfilled;".

60 Objections to applications for licences.

After section 14A(2) of the 1981 Act (which requires objections to applications for PSV operators' licences to be made within the prescribed time and in the prescribed manner) there shall be inserted—

"(2A) Where the traffic commissioner considers there to be exceptional circumstances that justify his doing so, he may direct that an objection be treated for the purposes of this Part of this Act as duly made under this section, notwithstanding that it was not made within the prescribed time or in the prescribed manner."

61 Duration of licences.

In section 15 of the 1981 Act (duration of licences) for the words from "and the date on which it is to expire" to the end there shall be substituted—

"(2) Subject to its revocation or other termination under any provision of this Act or another statutory provision, a PSV operator's licence shall continue in force indefinitely.

(3) If the holder of a PSV operator's licence requests the traffic commissioner by whom it was granted to terminate it at any time, the commissioner shall, subject to subsection (4) below, comply with the request.

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(4) The traffic commissioner may refuse to comply with the request if he is considering taking action in respect of the licence under section 17(1) or (2) of this Act."

62 Suspension of licences.

(1) Section 17 of the 1981 Act (revocation, suspension etc. of licences) shall be amended as follows.

(2) In subsection (2)(b) (traffic commissioner's power to suspend a licence for such period as he directs) the words "(during which time it shall be of no effect)" shall be omitted.

(3) After subsection (5) there shall be inserted—

"(5A) Where a licence is suspended under this section, it remains in force during the time of its suspension subject to the limitation that no vehicles are authorised to be used under it.

(5B) A traffic commissioner who has suspended a licence under this section may at any time—

(a) cancel the suspension; or

(b) with the consent of the holder of the licence, vary the period for which it is suspended."

63 Operators' discs.

(1) Section 18 of the 1981 Act (duty to exhibit operator's disc) shall be amended as follows.

(2) For subsection (2) (which requires the holder of a PSV operator's licence to be supplied with a number of operators' discs equal to the maximum number of vehicles that he may use under the licence) there shall be substituted—

"(2) A traffic commissioner on granting a PSV operator's licence shall supply the person to whom the licence is granted—

(a) with a number of operators' discs equal to the maximum number of vehicles that he may use under the licence in accordance with the condition or conditions attached to the licence under section 16(1) of this Act; or

(b) with such lesser number of operators' discs as he may request.

(2A) Where, in the case of any PSV operator's licence, the maximum number referred to in subsection (2)(a) above is increased on the variation of one or more of the conditions there referred to, the traffic commissioner on making the variation shall supply the holder of the licence—

(a) with such number of additional operators' discs as will bring the total number of operators' discs held by him in respect of the licence to that maximum number, or

(b) with such lesser number of additional operators' discs as he may request.

(2B) Where the number of operators' discs currently held in respect of a PSV operator's licence is less than the maximum number referred to in

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subsection (2)(a) above, the traffic commissioner by whom the licence was granted shall on the application of the holder of the licence supply him with such number of additional operators' discs as is mentioned in subsection (2A)(a) or (b) above.

(2C) Where, in accordance with regulations under subsection (3)(aa) below, all the operators' discs held in respect of a PSV operator's licence expire at the same time, the traffic commissioner by whom the licence was granted shall supply the holder of the licence with a number of new operators' discs equal to the number of discs that have expired."

(3) In subsection (3) (provision that may be made by regulations)—

(a) after paragraph (a) there shall be inserted—

"(aa) as to the expiry of operators' discs;", and

(b) at the end there shall be added—

"(e) for the voluntary return of operators' discs by the holder of a PSV operator's licence."

64 Repeal of section 27 of the 1981 Act.

Section 27 of the 1981 Act (returns to be provided by persons operating public service vehicles) shall cease to have effect.

65 Review of decisions and correction of errors.

(1) After section 49 of the 1981 Act there shall be inserted—

"**49A Review of decisions.**

(1) Subject to subsection (2) below, a traffic commissioner may review and, if he thinks fit, vary or revoke any decision of his—

(a) to grant or refuse an application for a PSV operator's licence; or

(b) to grant or refuse an application for the variation of a PSV operator's licence,

if he is satisfied that a procedural requirement imposed by or under this Act has not been complied with in relation to the decision.

(2) A traffic commissioner may only review a decision under subsection (1) above—

(a) if, within such period after taking the decision as may be prescribed, he has given notice to the applicant or (as the case may be) the licence-holder that he intends to review the decision;

(b) if, within that period, a person who appears to him to have an interest in the decision has requested him to review it; or

(c) where neither paragraph (a) nor paragraph (b) above applies, if he considers there to be exceptional circumstances that justify the review.

(3) Regulations may make provision as to the manner in which notices under subsection (2)(a) above are to be or may be served, including provision as to the circumstances in which and time at which any such notice is to be treated as having been duly served (whether or not it has in fact been served).

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(4) The variation or revocation of a decision under this section shall not make unlawful anything done in reliance on the decision before the variation or revocation takes effect."

(2) In section 50 of the 1981 Act (appeals to the Transport Tribunal) after subsection (4) there shall be inserted—

"(4A) A person who—

(a) within the prescribed period has made an application for a review under section 49A of this Act; and

(b) has been certified by the traffic commissioner as a person such as is mentioned in subsection (2)(b) of that section,

may appeal to the Transport Tribunal against the refusal of the application."

(3) After section 56 of the 1981 Act there shall be inserted—

"**56A Correction of errors.**

Where it appears to the traffic commissioner for a traffic area that a document purporting to record, or issued in consequence of, a decision taken in the exercise of his functions contains a clerical error, he may issue a corrected document or a notice in writing that the document is to have effect with such corrections as are stated in the notice."

66 Fees.

(1) The 1981 Act shall be amended as follows.

(2) In section 52(1)(a) (which sets out matters in respect of which the traffic commissioner for an area is to charge fees) after sub-paragraph (i) there shall be inserted—

"(ia) applications under section 16(6) of this Act and the grant of such applications;

(ib) the continuation in force of PSV operators' licences;".

(3) For section 52(2)(b) there shall be substituted—

"(b) the grant of any PSV operator's licence or of any application under section 16(6) of this Act;

(bb) the issue of any certificate, disc or other document referred to in subsection (1) above; or".

(4) After section 52(2) there shall be inserted—

"(2A) If, in the case of any application for a PSV operator's licence, any fee or instalment of a fee in respect of the application, the grant of the licence or the issue of operators' discs under section 18(2) of this Act is not duly paid by the prescribed time—

(a) the application shall be treated as withdrawn at that time;

(b) any decision made on the application ceases to have effect at that time; and

(c) any licence granted in pursuance of such a decision terminates at that time.

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(2B) If, in the case of any application under section 16(6) of this Act, any fee or instalment of a fee in respect of the application, the grant of the application or the issue of operators' discs under section 18(2A) of this Act is not duly paid by the prescribed time—

(a) the application shall be treated as withdrawn at that time;

(b) any decision made on the application, and any variation effected in pursuance of such a decision, ceases to have effect at that time.

(2C) If, in the case of any PSV operator's licence, any fee or instalment of a fee in respect of—

(a) the continuation in force of the licence; or

(b) the issue of operators' discs under section 18(2C) of this Act,

is not duly paid by the prescribed time, the licence terminates at that time.

(2D) If any fee or instalment of a fee in respect of any operators' discs that have been issued under section 18 of this Act is not duly paid by the prescribed time, the discs cease to have effect at that time.

(2E) The traffic commissioner by whom a PSV operator's licence was granted may, if he considers there to be exceptional circumstances that justify his doing so in any case where subsection (2A), (2B), (2C) or (2D) above has applied, direct that as from the time mentioned in that subsection its effect in that case be disregarded.

(2F) Where the traffic commissioner has given a direction under subsection (2E) above in respect of a PSV operator's licence in a case where subsection (2A) or (2C) above has applied, it shall not for the purposes of section 20(1) or (2) of this Act be regarded as having been practicable for the licence-holder to—

(a) report any matter to the Secretary of State; or

(b) give him notice of any alteration,

during the period beginning with the time mentioned in subsection (2A) or (2C) and ending when the direction came into force."

(5) In section 60 (general power to make regulations for purposes of Act) for subsection (1)(e) there shall be substituted—

"(e) the fees to be payable under this Act, the persons liable to pay them, and the repayment (or partial repayment), in prescribed circumstances, of fees paid under this Act;".

67 Disqualification of PSV operators.

(1) Section 28 of the Transport Act [M49]1985 (power to disqualify PSV operators) shall be amended as follows.

(2) In subsection (2) (so long as a person is disqualified, no licence shall be granted to him and any obtained by him shall be of no effect) for the words from "no PSV" to the end there shall be substituted—

"(a) any PSV operator's licence held by him at the date of the making of the order under subsection (1) above (other than the licence revoked) shall be suspended (that is, shall remain in force subject to the limitation that no vehicles are authorised to be used under it); and

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(b) notwithstanding section 14(4) of the 1981 Act, no PSV operator's licence may be granted to him."

(3) After subsection (2) there shall be inserted—

"(2A) If a person obtains a PSV operator's licence while he is disqualified under subsection (1) above, the licence shall be void."

(4) At the end of subsection (5) (the traffic commissioner may exercise his powers under section 28 in relation to officers of corporate licence-holders and partners of licence-holders) there shall be added— " and any reference in subsection (6A) below to subsection (1) above or to subsection (4) above includes that subsection as it applies by virtue of this subsection. "

(5) After subsection (6) there shall be inserted—

"(6A) The traffic commissioner by whom any order disqualifying a person was made under subsection (1) above may at any time—

(a) cancel that order together with any direction that was given under subsection (4) above when the order was made;

(b) cancel any such direction; or

(c) with the consent of the person disqualified, vary the order or any such direction (or both the order and any such direction)."

Marginal Citations

M49 1985 c. 67.

68 Chapter IV: minor and consequential amendments.

The 1981 Act and [M50] the Transport Act 1985 shall have effect with the further amendments set out in Schedule 14 to this Act.

Commencement Information

I6 S. 68 wholly in force; s. 68 not in force at Royal Assent see s. 82(4); s. 68 in force for certain purposes at 3.1.1995 by S.I. 1994/3188, **arts. 2**, 3; s. 68 in force at 1.1.1996 in so far as not already in force by S.I. 1995/2835, **art. 2** (with transitional provisions in Sch.)

Marginal Citations

M50 1985 c. 67.

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