

SCHEDULES

SCHEDULE 10

Section 90

ANCILLARY PROVISIONS RELATING TO BOARDS

Acting through subsidiaries

- 1 (1) A section 87 order may include provision—
 - (a) enabling the board to establish subsidiaries, and
 - (b) enabling or requiring the board to carry out specified functions through subsidiaries.
- (2) “Subsidiary” means a subsidiary as defined by section 736 of the Companies Act 1985 (c. 6) or Article 4 of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)).

Registers, returns and other information

- 2 (1) A section 87 order may include provision—
 - (a) with respect to registration in a register kept by the board of persons carrying on business in a specified industry;
 - (b) requiring the register to be made available (in accordance with the order) for inspection by the public;
 - (c) under which any right to inspect the register is subject to the payment of a reasonable fee.
- (2) A section 87 order may include provision conferring power on the board to require persons carrying on business in a specified industry to supply to the board returns and other information.

Investigative powers

- 3 (1) A section 87 order may include provision conferring a power of entry on authorised officers for the purpose of enabling them to carry out functions of the board.
- (2) But a section 87 order may not include provision by virtue of sub-paragraph (1) conferring power to enter a dwelling.
- (3) A section 87 order may include provision conferring power on authorised officers to require persons of a description specified in the order—
 - (a) to provide information of a description so specified, or
 - (b) to produce documents of a description so specified.
- (4) “Authorised officer”, in relation to a power, means a person authorised to exercise the power by, or on behalf of, the board to which the section 87 order relates.
- (5) A section 87 order may include provision—

Status: This is the original version (as it was originally enacted).

- (a) enabling a board to hold inquiries;
- (b) enabling a board to require a person to attend to give evidence;
- (c) as to appeals against a requirement imposed by virtue of paragraph (b).

Reserve funds etc.

- 4 (1) A section 87 order may include provision for enabling the board to establish and maintain a reserve fund for the purposes of its functions.
- (2) A section 87 order may also make provision with respect to powers of investment over a reserve fund or any other money of the board which is not immediately required for any other purpose.
- (3) A section 87 order may confer on the board—
- (a) power to borrow money;
 - (b) power to charge property.

Levies

- 5 (1) A section 87 order may include provision—
- (a) for the imposition by the board of charges (“levies”) on such persons as may be specified in the order;
 - (b) as to limits on the amounts of levies;
 - (c) for the recovery of levies in such ways and through such channels as may be specified in the order.
- (2) But a section 87 order may not include provision by virtue of sub-paragraph (1) except for the purpose of enabling a board—
- (a) to meet its expenses in the exercise of its functions;
 - (b) to meet its administrative expenses;
 - (c) to further a purpose or the purposes for which it is established;
 - (d) to establish a reserve fund.
- (3) The purpose or purposes for which any levies are imposed must be specified in the section 87 order.

Power to charge for services

- 6 A section 87 order may provide that the board (or a subsidiary of the board) may make such charges for any services as appear to the board (or subsidiary) to be reasonable.

Incidental powers

- 7 (1) A section 87 order may include provision enabling the board to do anything that appears to it to be conducive or incidental to the discharge of its functions.
- (2) The order may, in particular, provide that the board may—
- (a) enter into agreements;
 - (b) acquire or dispose of property;
 - (c) raise funds by means of voluntary contributions;
 - (d) accept gifts.

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- (3) The power to make provision falling within sub-paragraph (2)(c) applies whether or not the order also makes provision under paragraph 5 (levies).

Approval of appropriate authority, consultation etc.

- 8 (1) A section 87 order may include provision making the exercise of a specified function or description of functions conferred on the board—
- (a) subject to the approval of the appropriate authority, or
 - (b) subject to any other conditions.
- (2) The provision that may be made by virtue of sub-paragraph (1)(b) includes, in particular—
- (a) provision requiring the board to be satisfied, before a levy is—
 - (i) imposed, or
 - (ii) terminated,that the imposition or termination of the levy is desired by a substantial number of the persons who would be or are affected by the levy;
 - (b) provision requiring ballots to be conducted, in such circumstances as may be specified in the order, for the purpose of ascertaining the views of persons who would be or are affected by a levy;
 - (c) provision requiring the board to consult a specified person or a description of persons before exercising a specified function or description of functions.
- (3) A section 87 order may include provision for the appointment of a Consumers' Committee which the board is required to consult in relation to specified matters.

Offences

- 9 (1) A section 87 order may create offences in relation to—
- (a) failing to comply with a requirement relating to registration;
 - (b) obstructing an authorised officer exercising a power of entry;
 - (c) failing to comply with a requirement to provide information or produce documents;
 - (d) neglecting or failing to comply with a requirement to attend to give evidence;
 - (e) providing false or misleading information to a board or an authorised officer.
- (2) If a section 87 order creates an offence by virtue of sub-paragraph (1), the order—
- (a) must provide for the offence to be triable only summarily, and
 - (b) may not provide for the offence to be punishable with imprisonment.
- (3) A section 87 order—
- (a) may make provision enabling proceedings for an offence under the order to be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge, but
 - (b) may not authorise the commencement of proceedings for such an offence more than 2 years after the date on which the offence was committed.