

1988 No. 2285 (C.85)

FINANCIAL SERVICES

**The Financial Services Act 1986 (Commencement)
(No. 11) Order 1988**

Made - - - - - *29th December 1988*

The Secretary of State in exercise of his powers under section 211(1) of the Financial Services Act 1986(a) hereby makes the following Order—

1. This Order may be cited as the Financial Services Act 1986 (Commencement) (No. 11) Order 1988.
2. Article 3 of the Financial Services Act 1986 (Commencement) (No. 10) Order 1988(b) shall not have effect in relation to—
 - (a) an open-ended investment company managed in and authorised under the law of Bermuda units in which are, on 31st December 1988, included in the Official List of The International Stock Exchange of the United Kingdom and the Republic of Ireland Limited; or
 - (b) any prospectus issued by or on behalf of an open-ended investment company which fulfils the conditions described in paragraph (a) of this article, being a prospectus which complies with Chapter II of Part III of the Companies Act 1985(c) or the corresponding provisions of the Companies (Northern Ireland) Order 1986(d) and the issue of which in the United Kingdom does not contravene section 74 or 75 of the Companies Act 1985 or the corresponding provisions of the Companies (Northern Ireland) Order 1986 as the case may be.
3. Article 4 of the Financial Services Act 1986 (Commencement) (No. 10) Order 1988 shall not have effect in relation to a prospectus offering for subscription, or to any application form for, units in an open-ended investment company which fulfils the conditions described in article 2(a) of this Order.
4. Section 76 of the Financial Services Act 1986 shall come into force on 1st May 1989 insofar as it has effect in relation to—
 - (a) an open-ended investment company which fulfils the conditions described in article 2(a) of this Order and which is a scheme of a class specified in the Schedule to the Financial Services (Designated Countries and Territories) (Overseas Collective Investment Schemes) (Bermuda) Order(e); or
 - (b) any prospectus issued by or on behalf of an open-ended investment company falling within paragraph (a) of this article, being a prospectus which fulfils the conditions described in article 2(b) of this Order,

(a) 1986 c.60.
(b) S.I. 1988/1960.
(c) 1985 c.6.
(d) S.I. 1986/1032 (N.I. 6).
(e) S.I. 1988/2284.

and shall come into force on 28th February 1989 insofar as it has effect in relation to an open-ended investment company falling within article 2(a) of this Order but not falling within paragraph (a) of this article or to any prospectus which fulfils the conditions described in paragraph 2(b) of this Order issued by or on behalf of any such company.

5. Section 212(3) of and Schedule 17 to the Financial Services Act 1986 shall come into force on 1st May 1989 insofar as is necessary to have the effect that, to the extent that they do apply, the provisions of Part III and section 693 of, and Schedule 3 to, the Companies Act 1985 and the corresponding provisions of the Companies (Northern Ireland) Order 1986 cease to apply to a prospectus offering for subscription, or to any application form for, units in an open-ended investment company falling within article 4(a) of this Order and shall come into force on 28th February 1989 insofar as is necessary to have the effect described in this article with respect to a prospectus offering for subscription, or to any application form for, units in an open-ended investment company falling within article 2(a) of this Order but not within article 4(a).

6. Articles 3(b) and 4 of the Financial Services Act 1986 (Commencement) (No. 10) Order 1988 shall have effect as if "or (a)(ii)" were inserted after "(a)(i)" in each place in which it occurs.

29th December 1988.

Eric Forth
Parliamentary Under Secretary of State,
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Order)

This Order postpones, until 28th February 1989, the coming into force of the restriction on the promotion of certain collective investment schemes, namely open-ended investment companies which are managed in and authorised under the law of Bermuda and units in which are included in the Official List on 31st December 1988 or are promoted by a complying prospectus. It also postpones, until 1st May 1989, the coming into force of that restriction with respect to schemes of the kind just described which are of a class specified in the Schedule to the Financial Services Act 1986 (Designated Countries and Territories) (Overseas Collective Investment Schemes) (Bermuda) Order 1988.

The Order also postpones, until 1st March 1989, the application of the restrictions which would otherwise be imposed, on 31st December 1988, by section 76 of the Financial Services Act 1986 on a prospectus issued by or on behalf of an open-ended investment company which meets the conditions described in article 3(a)(ii) of the Financial Services Act 1986 (Commencement) (No. 10) Order 1988.

NOTE AS TO EARLIER COMMENCEMENT

(This note is not part of the Order)

The following provisions of the Financial Services Act 1986 have been brought into force before the date of this Order in pursuance either of the Act or of previous commencement orders.

<i>Provisions of the Act</i>	<i>S.I. No.</i>
s.1	1986/2246 1987/1997 1987/2158
s.2	1986/2246
ss.3 and 4	1988/740
s.5	1986/2246 1988/740
ss. 6 and 7	1988/740
ss.8 to 11	1987/907
s.12	1987/1997
s.13 and 14	1987/907
s.15	1987/907 1988/740
ss.16 to 19	1987/907
s.20	1987/1997
s.21	1987/907
ss.22 and 23	1988/740
s.24 (partially)	1988/740
s.25	1988/740
ss.26 to 30	1987/2158
s.31	1987/2158 1988/740
ss.32 to 34	1988/740
s.35	1986/2246 1988/740
s.36	1987/907 1988/740
s.37	1987/907 1987/1997
s.38	1987/907 1988/740
s.39	1987/907 1987/1997
s.40	1987/1997
s.41	1987/907
s.42	1986/2246 1988/740
s.43	1987/2158
s.44	1988/740
s.45	1986/2246 1988/740
s.46	1987/907
s.47	1988/740
ss.48 to 52	1987/907
ss.54 and 55	1987/907
s.56	1987/907 1988/740
s.57	1988/740
s.58 (partially)	1988/740
ss.59 to 61	1988/740
s.62	1987/1997
s.63	1987/623
ss.64 to 75	1988/740
s.76 (partially)	1988/740 1988/995 1988/1960
	articles 6(2) and 7 of S.I. 1988/740 were amended by S.I. 1988/995 and revoked by S.I. 1988/1960
ss.77 to 85	1988/740
s.86 (partially)	1988/740
ss.87 to 95	1988/740
s.96	1987/1997
ss.97 to 101	1988/740
ss.102 and 103	1987/907

<i>Provisions of the Act</i>	<i>S.I. No.</i>
s.104	1987/907
	1988/740
ss.105 and 106	1986/2246
s.107	1987/907
ss.108 and 109	1988/740
s.110	1987/907
s.111	1988/740
s.112	1987/907
	1987/2158
	1988/740
s.113	1987/907
	1988/740
ss.114 to 118	1986/2246
ss.119 and 120	1987/907
s.121	1986/2246
ss.122 and 123	1986/2246
	1987/907
s.124	1986/2246
s.125	1987/907
	1988/995
s.126	1986/2246
s.127	1987/907
s.128	1986/2246
s.129	1986/2246
	1987/907
	1988/740
	1988/995
ss.130 and 131	1988/740
s.132	1986/2246
	1988/740
s.133	1988/740
s.134 (partially)	1986/2246
ss.135 and 136	1988/740
s.137	1986/2246
s.138	1986/2246
	1987/907
	1988/740
s.139	1986/2246
	1988/740
s.140 (partially)	1986/2246
	1987/907
	1987/1997
	1987/2158
	1988/740
ss.141 to 153	1986/2246
s.154	1986/2246
	1988/740
ss.155 to 157	1986/2246
s.160 (partially)	1988/740
s.162 (partially)	1988/740
s.169	1988/740
s.170 (partially)	1988/740
ss.172 and 173	1986/2246
s.174 (partially)	1986/2246
	1988/740
s.175	1988/740
s.176	1986/2246
s.177	1986/1940
s.178	1986/1940
	1986/2246
	1988/740
s.179	1986/1940
	1986/2246
s.180	1986/1940

<i>Provisions of the Act</i>	<i>S.I. No.</i>
s.181	1986/2246
s.182	1986/1940 1986/2031 1986/2246
ss.183 and 184	1987/623 1988/740
s.185	1987/623
s.186	1987/623 1988/740
s.187	1986/2246 1987/907
s.188	1986/2246
s.189 (partially)	1986/2246 1987/1997 1987/2158
ss.190 and 191	1987/907
s.192	1986/2246
s.194	1988/740
s.195	s.211(2)
s.196	1987/1997
s.197	1988/740
s.198	1986/1940 1986/2246 1987/907 1988/740
s.199	1986/1940 1986/2246 1988/740
s.200	1986/1940 1986/2246 1987/907 1987/2158 1988/740
s.201	1986/1940 1986/2246 1987/623 1988/740
ss.202 and 203	1986/1940 1986/2246
s.204	1986/2246
s.205	1986/1940 1986/2246
s.206	1987/907
s.207	1986/1940 1986/2246
s.208 (partially)	1988/740
ss.209 and 210	1986/1940 1986/2246
s.211	1986/2031 1986/2246 1987/907 1987/2158 1988/740
s.212 (partially)	1986/2031 1986/2246 1987/907 1988/740 1988/995 1988/1960
Schedule 1	1986/2246 1987/1997 1987/2158
Schedules 2 to 4	1987/907
Schedule 5	1987/2158

<i>Provisions of the Act</i>	<i>S.I. No.</i>
Schedule 6	1987/1997
Schedules 7 to 9	1986/2246
Schedule 10	1986/2246
	1987/907
	1988/740
	1988/995
Schedule 11 (partially)	1986/2246
	1987/907
	1987/1997
	1987/2158
	1988/740
Schedule 12	1986/2246
Schedule 13	1986/1940
	1986/2031
	1986/2246
Schedule 14 (partially)	1986/2246
	1987/1997
	1987/2158
Schedule 15	1986/2031
	1986/2246
	1987/907
	1987/2158
	1988/740
Schedule 16 (partially)	1986/2246
	1987/907
	1988/740
Schedule 17 (partially)	1986/2031
	1986/2246
	1988/740
	1988/995
	1988/1960

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Supersedes draft published on 30th December 1988.

This draft Statutory Instrument supersedes that published on 30th December 1988 and is being issued free of charge to all known recipients of that Statutory Instrument.

Draft Regulations laid before Parliament under section 3(5) of the Access to Personal Files Act 1987, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

1989 No. (S.)

RIGHTS OF THE SUBJECT

**The Access to Personal Files (Social Work) (Scotland)
Regulations 1989**

Made 1989

Coming into force 1st April 1989

The Secretary of State, in exercise of the powers conferred on him by section 3(1), (2), (3) and (6) of the Access to Personal Files Act 1987(a), having consulted in accordance with section 3(4) of that Act such bodies representing social work authorities as he thought appropriate, hereby makes the following Regulations a draft of which has been laid before and approved by resolution of each House of Parliament:—

Citation, extent, commencement and interpretation

1.—(1) These Regulations may be cited as the Access to Personal Files (Social Work) (Scotland) Regulations 1989, shall extend to Scotland only and shall come into force on 1st April 1989.

(2) In these Regulations, unless the context otherwise requires—

“the Act” means the Access to Personal Files Act 1987;

“care” includes examination, investigation and diagnosis;

“dental practitioner” and “medical practitioner” mean, respectively, a person registered under the Dentists Act 1984(b) and the Medical Act 1983(c);

“health board” means a board constituted under section 2 of the National Health Service (Scotland) Act 1978(d);

“health professional” means any person listed in the Schedule to these Regulations;

“social work functions” means the functions of a social work authority specified in section 2(2) of the Social Work (Scotland) Act 1968(e);

“social work authority” has the meaning given by paragraph 2(4) of Schedule 2 of the Act.

(3) In these Regulations, unless the context otherwise requires, any reference to a numbered regulation is a reference to the regulation bearing that number in these Regulations

(a) 1987 c.37; section 3(6) contains a definition of “prescribed”.

(b) 1984 c.24.

(c) 1983 c.54.

(d) 1978 c.29.

(e) 1968 c.49.

and any reference in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number.

Rights of access to personal information

2.—(1) Subject to regulations 3, 4, 8, 9 and 10, a social work authority shall be obliged—

- (a) to inform any individual whether the accessible personal information(a) held by them includes personal information(b) of which that individual is the subject, and
- (b) to give that individual access to any personal information of which he is the subject.

(2) A social work authority shall have complied with their obligation under paragraph (1)(b) if they supply the individual with a copy of any personal information of which he is the subject, but if the social work authority give the individual access to that information by a means other than supplying him with a copy of it, they shall in addition be obliged to supply the individual with a copy of such part of that information as he may require.

(3) If—

- (a) a social work authority supply an individual with a copy of any personal information of which he is subject, and
- (b) that information is expressed in terms which are not intelligible without explanation, the information shall be accompanied by an explanation of those terms.

Request for information

3.—(1) A social work authority shall not be obliged under regulation 2 to inform an individual or to give access to any information, except in response to a request in writing and on payment of such fee (not exceeding £10) as they may require.

(2) A request under both sub-paragraphs of regulation 2(1) shall be treated as a single request and a request to be informed under sub-paragraph (a) of regulation 2(1) shall, in the absence of any indication to the contrary, be treated as extending also to being given access to any personal information under sub-paragraph (b).

Further information required

4. A social work authority shall not be obliged to comply with a request under regulation 3 unless they are supplied with such information as they may reasonably require in order to satisfy themselves as to the identity of the person making the request and to locate the information which he seeks.

Another individual involved

5. If any accessible personal information in respect of which a social work authority have received a request under regulation 3 contains information relating to another individual who can be identified from that information (other than an individual to whom regulation 8(5)(b) or regulation 10(3)(a) applies), the social work authority, within 14 days of receiving the request under regulation 3, or, if later, of receiving the information referred to in regulation 4, shall in writing inform that other individual of the request and that the accessible personal information contains information relating to him, and ask that other individual whether he consents to the information relating to him being disclosed to the person making the request.

Time limit for complying with the request for information

6. A social work authority shall comply with a request under regulation 3 within 40 days of receiving the request or, if later, receiving the information referred to in regulation 4 and, in a case where it is required, the consent asked for in accordance with regulation 5.

Information to which access is to be given

7. The information to which access is to be given pursuant to a request under regulation 3 shall be the information held at the time when the request is received except that it may

(a) "Accessible personal information" is defined in section 2(3) of the Act.

(b) "Personal information" is defined in section 2(2) of the Act.

take into account any amendment or deletion made between that time and the time when access is given being an amendment or deletion that would have been made regardless of the receipt of the request.

Exemption from access to personal health information from a health professional

8.—(1) This regulation applies to information as to the physical or mental health of an individual which—

- (a) originated from, or was supplied to the social work authority by or on behalf of, a health professional, or
- (b) the social work authority believe to have originated from, or to have been supplied to them by or on behalf of, a health professional.

(2) In this regulation “appropriate health professional” means—

- (a) the medical practitioner or dental practitioner who is currently, or was most recently, responsible for the clinical care of the individual who is the subject of the information, in connection with the matters to which the information which is the subject of the request relates; or
- (b) where there is more than one such practitioner, the practitioner who is the most suitable to advise on the matters to which the information which is the subject of the request relates; or
- (c) where there is no practitioner available falling within sub-paragraph (a) or (b) above, a health professional who has the necessary experience and qualifications to advise on the matters to which the information which is the subject of the request relates.

(3) Within 14 days of receiving a request under regulation 3, or, if later, receiving the information referred to in regulation 4 the social work authority shall in writing inform

- (a) the health board concerned, if the information to which this regulation applies originated from or was supplied by, or if the social work authority believe it to have originated from or to have been supplied by, a health professional in the course of his employment (whether under a contract of service or for services) with that health board, and
- (b) in any other case, the person who appears to the social work authority to be the appropriate health professional,

that a request has been made and that the accessible personal information contains information to which this regulation applies.

(4) A social work authority shall save as provided by paragraph (5) be exempted from the obligation imposed by regulation 2(1)(b) insofar as it relates to information to which this regulation applies, if before the end of the 40 day period provided for by regulation 6 the health board referred to in paragraph 3(a) or the appropriate health professional informs the social work authority in writing that the information to which this regulation applies must not be disclosed because its disclosure would be likely to—

- (a) cause serious harm to the physical or mental health of the individual who is the subject of the information or any other person, or
- (b) disclose to the individual who is the subject of the information the identity of another individual (who has not consented to the disclosure of the information) either as a person to whom the information or part of it relates or as the source of the information or enable that identity to be deduced by the individual who is the subject of the information either from the information itself or from a combination of that information and other information which the individual who is the subject of the information has or is likely to have.

(5) If the health board referred to in paragraph 3(a) or the appropriate health professional informs the social work authority in accordance with paragraph (4) that the information to which this regulation applies must not be disclosed, the obligation imposed by regulation 2(1)(b) shall nonetheless apply—

- (a) to so much of the information sought by the request as can be supplied without causing such serious harm, or enabling the identity of another individual to be disclosed or deduced, whether by the omission of names or other particulars or otherwise; and
- (b) if the only individual whose identity is likely to be disclosed or deduced (as mentioned in paragraph 4(b)) is a health professional who has been involved in the care of the

individual who is the subject of the information, and the information relates to the health professional or was supplied by him in that capacity.

Exemptions from access to information from reporters to children's panels

9.—(1) This regulation applies to information in the possession of the social work authority originating from or supplied by a Reporter to a Children's Panel in pursuit of his statutory duties, other than information referred to in paragraph (2).

(2) This regulation does not apply to information which the individual who requests access to it is in any event entitled to receive from the Reporter to the Children's Panel in performance of the Reporter's statutory duties.

(3) Within 14 days of receiving a request under regulation 3 or, if later, receiving the information referred to in regulation 4, the social work authority shall in writing inform the appropriate Reporter to the Children's Panel that request has been made and that the accessible personal information contains information to which this regulation applies.

(4) A social work authority shall, save as provided by paragraph (5), be exempted from the obligation imposed by regulation 2(1)(b) if, before the end of the 40 day period provided for by regulation 6, the Reporter informs that authority in writing that the information to which this regulation applies must not be disclosed, because its disclosure would be likely to—

- (a) cause serious harm to the physical or mental health or emotional condition of the individual who is the subject of the information or any other person,
- (b) disclose to the individual, who is the subject of the information, the identity of another individual (who has not consented to the disclosure of the information) either as a person to whom the information or part of it relates or as the source of the information or would enable that identity to be deduced by the individual who is the subject of the information either from the information itself or from a combination of that information and other information which the individual, who is the subject of the information, has or is likely to have, or
- (c) prejudice the prevention or detection of a crime or the apprehension or prosecution of offenders (where the information is held for these purposes).

(5) If the appropriate Reporter informs the social work authority in accordance with paragraph (4) that the information to which this regulation applies must not be disclosed, the obligation imposed by regulation 2(1)(b) shall nonetheless apply to so much of the information sought by the request as can be supplied, whether by the omission of names or other particulars or otherwise, without causing such serious harm, or enabling the identity of another individual to be disclosed or deduced, or prejudicing the prevention or detection of a crime or the apprehension or the prosecution of offenders.

Exemptions from access to other information

10.—(1) As regards accessible personal information to which regulations 8 and 9 do not apply, a social work authority shall be exempted from the obligation imposed by regulation 2(1)(b) if any of the conditions set out in paragraphs (2) to (7) is met.

(2) The condition in this paragraph is that the carrying out of the social work functions of the social work authority would be likely to be prejudiced by reason of the fact that serious harm to the physical or mental health or emotional condition of the individual who is the subject of the information or any other person would be likely to be caused; but the condition in this paragraph shall not apply to so much of the information sought by the request as can be supplied without causing such serious harm, whether by the omission of names or other particulars or otherwise.

(3) The condition in this paragraph is that the identity of another individual (who has not consented to the disclosure of the information) either as a person to whom the information or part of it relates or as the source of the information, would be likely to be disclosed to or deduced by the individual the subject of the information or any other person who is likely to obtain access to it, either from the information itself or from a combination of that information and other information which the individual the subject of the information or such other person has, or is likely to have; but the condition in this paragraph shall not apply—

(a) if the only individual whose identity would be likely to be disclosed or deduced is or has been employed by the social work authority in connection with their social work functions or has provided to the authority for reward a service similar to a service provided by the social work authority in the exercise of their social work functions and the information relates to him or he supplied the information in his official capacity, or as the case may be, in connection with the provision of that service, or

(b) to so much of the information sought by the request as can be supplied without enabling the identity of another individual to be disclosed or deduced, (which may be done by the omission of names or other particulars or otherwise).

(4) The condition in this paragraph is that the information is held by the social work authority for the purposes of—

(a) the prevention or detection of crime, or

(b) the apprehension or prosecution of offenders

and the application of regulation 2(1)(b) to the information would be likely to prejudice either or both of the matters mentioned in sub-paragraphs (a) and (b) above.

(5) The condition in this paragraph is that the information consists of information the disclosure of which is prohibited or restricted by or which came into the possession of the social work authority by virtue of—

(i) section 45 of the Adoption (Scotland) Act 1978(a),

(ii) regulation 24 of the Adoption Agencies (Scotland) Regulations 1984(b),

(iii) Rule 230 of the Act of Sederunt (Rules of Court) (Consolidation and Amendment) 1965(c),

(iv) paragraphs 9, 24 and 28 of the Act of Sederunt (Adoption of Children) 1984(d),

(v) section 60(4) of the Education (Scotland) Act 1980(e),

(vi) proviso (bb) to regulation 7(2) of the Education (Record of Needs) (Scotland) Regulations 1982(f).

(6) The condition in this paragraph is that the information consists of information in respect of which a claim to confidentiality as between client and professional legal adviser could be maintained in legal proceedings.

Rectification and erasure of inaccurate information

11.—(1) If an individual who is the subject of accessible personal information regards that information, or part of it, as inaccurate, he may by notice in writing require the social work authority holding the information to rectify or erase the information he regards as inaccurate.

(2) A social work authority shall not be obliged to take any action in response to a notice under paragraph (1) unless the notice—

(a) supplies sufficient information for the social work authority to locate the information regarded as inaccurate,

(b) specifies in what respect the individual regards that information as inaccurate, and

(c) specifies how the individual considers the local social work authority should rectify the information or what part of the information he considers the social work authority should erase.

(3) An individual who serves a notice under paragraph (1) shall be entitled to submit with the notice such written evidence of the inaccuracy of the information referred to in the notice as he considers appropriate.

(4) If, following a notice under paragraph (1), a local social work authority is satisfied that the information specified in the notice is inaccurate, that social work authority shall rectify or erase—

(a) the inaccurate information, and

(a) 1978 c.28.

(b) S.I. 1984/988.

(c) S.I. 1965/321; Rule 230 was amended by S.I. 1984/997.

(d) S.I. 1984/1013.

(e) 1980 c.44; section 60(4) was amended by section 4 of the Education (Scotland) Act 1981 (c.58).

(f) S.I. 1982/1222.

(b) any information held by them containing an expression of opinion which appears to the social work authority to be based on the inaccurate information.

(5) If, following a notice under paragraph (1), the social work authority are not satisfied that the information specified in the notice is inaccurate, the social work authority shall place with the information regarded as inaccurate by the individual who served the notice, a written note that the individual regards that information as inaccurate.

(6) If a social work authority—

(a) rectify any information under paragraph (4), or

(b) place a written note with any information under paragraph (5),

the social work authority shall give the individual who is the subject of the information access to the rectified information or the written note, as the case may be, without the payment of any fee.

(7) A social work authority shall have complied with their obligation under paragraph (6) if they supply the individual with a copy of the rectified information or the note as the case may be, but if the social work authority give the individual access to that rectified information or the written note by a means other than supplying him with a copy of it, they shall in addition be obliged to supply the individual with a copy of such of that rectified information or the written note as he may require.

Review of decisions

12.—(1) An individual who is the subject of information held by a social work authority and who is aggrieved by any decision of that authority concerning his access to, or rectification or erasure of, that information, may within 28 days of his being notified of the decision require that decision to be reviewed by a committee of three members of that authority appointed for that purpose, not more than one of whom may be a member of the committee established under section 2(1) of the Social Work (Scotland) Act 1968(a).

(2) An individual who under paragraph (1) has required the review of a decision may make representations to the members of the social work authority appointed for the purposes of the review, in writing and, if he so wishes, orally before them.

St. Andrew's House, Edinburgh
1989

Parliamentary Under Secretary of State,
Scottish Office

(a) 1968 c.49.

SCHEDULE

Regulation 1

HEALTH PROFESSIONALS

Description	Statutory Derivation (where applicable)
Registered medical practitioner	Medical Act 1983(a), section 55.
Registered dentist	Dentists Act 1984(b), section 53(1) and (3).
Registered optician	Opticians Act 1958(c), section 30(1).
Registered pharmaceutical chemist	Pharmacy Act 1954(d), section 24(1) and (2).
Registered nurse, midwife or health visitor	Nurses, Midwives and Health Visitors Act 1979(e), section 10.
Registered chiropodist, dietician, occupational therapist, orthoptist or physiotherapist (subject to the Note below)	Professions Supplementary to Medicine Act 1960(f), section 1(2).
Clinical psychologist, child psychotherapist or speech therapist	
Art therapist or music therapist employed by a health board	
Scientist employed by such a board as head of department	

Note This category shall be construed as not including any person belonging to a profession specified in the first column which, by virtue of an Order under section 10 of the Professions Supplementary to Medicine Act 1960, is for the time being treated as if it were not mentioned in section 1(2) of that Act and as including any person belonging to a profession not specified therein which is for the time being treated by virtue of such an Order as if it were mentioned therein.

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- (a) 1983 c.54.
 - (b) 1984 c.24.
 - (c) 1958 c.32.
 - (d) 1954 c.61.
 - (e) 1979 c.36.
 - (f) 1960 c.66; Section 1(2) was amended by S.I. 1966/990 and 1986/630.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for individuals to have access to information relating to themselves held by social work authorities.

Provided that an individual applies in writing and pays the appropriate fee (regulation 3) and supplies sufficient information to establish his identity and enable the social work authority to locate the information (regulation 4), a social work authority is obliged to tell him whether they hold any information on him and to give him access to that information (regulation 2).

If the information in respect of which an application has been received refers to another individual, the social work authority must within the specified time, seek the consent of that other individual to the information being disclosed (regulation 5).

The information supplied must be that held at the time the request is made (regulation 7) and must be supplied within the specified time (regulation 6).

Provision is made for certain information to be exempt from disclosure (regulations 8, 9 and 10), for inaccurate information to be rectified or erased (regulation 11) and for the review of decisions, by members of the social work authority (regulation 12).

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DRAFT STATUTORY INSTRUMENTS

1989 No.

RESTRICTIVE TRADE PRACTICES

**The Restrictive Trade Practices (Services) (Amendment)
Order 1989**

<i>Made - - - -</i>	<i>1989</i>
<i>Coming into force</i>	<i>1989</i>

Whereas a notice has been published by the Secretary of State complying with the terms of section 15(2) of the Restrictive Trade Practices Act 1976 (a) and all the representations made with respect thereto have been taken into consideration;

And whereas a draft of this Order has been approved by resolution of each House of Parliament pursuant to section 15(1) of the said Act of 1976;

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 11 and 14(2)(b) of that Act, hereby makes the following Order:

1. This Order may be cited as the Restrictive Trade Practices (Services) (Amendment) Order 1989 and shall come into force on the day after the day on which it is made.

2. The articles set out in the Schedule to this Order shall be added to the Restrictive Trade Practices (Services) Order 1976 (c) and shall apply to agreements made on or after the date on which this Order comes into force.

1989 Parliamentary Under Secretary of State for Corporate Affairs,
Department of Trade and Industry

(a) 1976 c.34.

(b) Section 14(2) was amended by section 1(1) of the Restrictive Trade Practices Act 1977 (c. 19).

(c) S.I. 1976/98: as amended by section 1 of the Restrictive Trade Practices Act 1977, section 115 of the Transport Act 1985, S.I. 1985/2044, and S.I. 1986/2204.

ARTICLES ADDED TO RESTRICTIVE TRADE PRACTICES (SERVICES) ORDER 1976

5.—(1) This article applies to an agreement made on or after the date on which the Restrictive Trade Practices (Services) (Amendment) Order 1989 came into force (a)—

- (a) the parties to which include a person (the “vendor”) who agrees to transfer shares in a company or the whole of his interest in a business to a purchaser;
- (b) under which, in the case of an agreement for the transfer of shares in a company, more than 50 per cent in nominal value of the issued share capital of that company is transferred or agreed to be transferred to one purchaser or to more than one purchaser each of which is a member of the same group;
- (c) under which no relevant restriction in respect of any of the matters specified in article 3(2)(a) of this Order is accepted by a person; and
- (d) under which no relevant restriction in respect of any of the matters specified in article 3(2)(b) to (e) of this Order is accepted by a person other than such a person as is described in paragraph (2) below.

(2) Persons by whom a relevant restriction may be accepted for the purpose of paragraph (1)(d) above are—

- (a) any vendor;
- (b) any member of the same group as any vendor; and
- (c) any individual;

other than a body corporate or unincorporate which is also a purchaser under the agreement in question, or a member of the same group as such a body.

6.—(1) In determining whether an agreement to which article 5 applies is an agreement to which Part III of the Act of 1976 applies by virtue of this Order, no account shall be taken of any relevant restriction—

- (a) which is accepted for a period not exceeding that permitted under paragraph (2) below; and
- (b) which limits the extent to which the person accepting the restriction may compete with the acquired enterprise, or may be engaged or interested in, disclose information to, or otherwise assist any business which so competes.

(2) For the purpose of paragraph (1)(a) above, a permitted period is:—

- (a) a period of 5 years beginning with the date of the agreement; or
- (b) in the case of restrictions accepted by an individual who is to have a contract of employment with or a contract for the supply of services to the acquired enterprise, the purchaser, or a member of the same group as the purchaser, a period beginning with the date of the agreement and ending 2 years after the date of expiry or termination of the contract,

whichever ends the later.

7. This article applies to an agreement made on or after the date on which the Restrictive Trade Practices (Services) (Amendment) Order 1989 came into force (a)—

- (a) which provides for a person (the “subscriber”) to subscribe (whether or not in cash) for shares in a company (the “issuing company”);
- (b) under which no relevant restriction in respect of any of the matters specified in article 3(2)(a) of this Order is accepted by a person; and
- (c) under which no relevant restriction in respect of any of the matters specified in article 3(2)(b) to (e) of this Order is accepted by a body corporate or unincorporate.

8.—(1) In determining whether an agreement to which article 7 applies is an agreement to which Part III of the Act of 1976 applies by virtue of this Order, no account shall be taken of any relevant restriction—

- (a) which is accepted for a period not exceeding that permitted under paragraph (2) below; and
- (b) which limits the extent to which the person accepting the restriction may compete with the issuing company, or may be engaged or interested in, disclose information to, or otherwise assist any business which so competes.

(a) The Restrictive Trade Practices (Services) (Amendment) Order 1989 came into force on

1989.

(2) For the purpose of paragraph (1)(a) above, a permitted period is:-

(a) a period of 5 years beginning with the date of the agreement; or

(b) in the case of restrictions accepted-

(i) by a member of the issuing company, a period beginning with the date of the agreement and ending 2 years after the date on which that person ceases to be a member; or

(ii) by an individual who is to have a contract of employment with or a contract for the supply of services to the issuing company, a period beginning with the date of the agreement and ending 2 years after the expiry or termination of the contract,

whichever ends the later.

9. In articles 5 to 8 above-

"the Act of 1976" means the Restrictive Trade Practices Act 1976;

"acquired enterprise" means a company in which shares are acquired or a business an interest in which is acquired;

"business" means any undertaking which is, or any part of an undertaking, which part is-

(a) carried on as a going concern for gain or reward; or

(b) carried on as a going concern in the course of which goods or services are supplied otherwise than free of charge;

"company" means a company as defined in section 735 of the Companies Act 1985 (a) and an oversea company as defined in section 744 of that Act;

"contract of employment" means a contract of service whether it is express or implied and (if it is express) whether it is oral or in writing;

"goods" has the same meaning as in section 43(1) of the Act of 1976;

"group" means a group of interconnected bodies corporate within the meaning of section 43(1) of the Act of 1976;

"member of the issuing company" is to be construed in accordance with section 22 of the Companies Act 1985;

"purchaser" means a person acquiring shares in a company, or acquiring an interest in a business, whether for cash or otherwise;

"relevant restriction" means a restriction in respect of the matters specified in article 3(2) of this Order;

"services" has the same meaning as in section 20 of the Act of 1976.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Restrictive Trade Practices (Services) Order 1976 (S.I. 1976/98) ("the 1976 Order") which applied Part I of the Restrictive Trade Practices Act 1956 (now consolidated in the Restrictive Trade Practices Act 1976) to restrictive agreements in the supply and acquisition of services.

The amendments made by the Order exempt from the registration requirements of the 1976 Act agreements for the sale and purchase of shares in a company or of a business ("sale and purchase agreements") and agreements for the subscription of shares in a company ("share subscription agreements") provided that the agreements satisfy certain conditions.

In the case of sale and purchase agreements the main conditions are (new articles 5 and 6 to be added to the 1976 Order)-

(a) that more than 50 per cent in nominal value of the issued share capital of the company be transferred to one purchaser or to more than one where they are all members of the same group of companies, or (as the case may be) that the whole of the vendor's interest in a business be transferred to one or more purchasers;

(a) 1985 c.6.

- (b) that the agreements only contain registrable restrictions of the type specified in article 3(2)(b) to (e) of the 1976 Order;
- (c) that such restrictions only be accepted by vendors, their associated companies, or by individuals (save that bodies corporate or unincorporate cannot accept such restrictions where they are also purchasers under the agreement in question);
- (d) that the restrictions to be disregarded only limit the extent to which the persons accepting them may compete with the company or business which is the subject of the sale, or be involved in or assist any business which so competes; and
- (e) that the restrictions to be disregarded only be operative for a period not exceeding 5 years beginning with the date of the agreement or a period beginning with the date of the agreement and ending 2 years after the date of expiry or termination of the relevant employment or services contract, whichever is the later.

In the case of share subscription agreements the main conditions are (new articles 7 and 8 to be added to the 1976 Order)–

- (a) that the agreements only contain registrable restrictions of the type specified in article 3(2)(b) to (e) of the 1976 Order;
- (b) that such restrictions only be accepted by individuals;
- (c) that the restrictions to be disregarded only limit the extent to which the persons accepting them may compete with the issuing company, or be involved in or assist any business which so competes; and
- (d) that the restrictions to be disregarded only be operative for a period not exceeding 5 years beginning with the date of the agreement or a period beginning with the date of the agreement and ending 2 years after the relevant person ceases to be a member of the issuing company or after the date of expiry or termination of the relevant employment or services contract, whichever is the later.

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D R A F T S T A T U T O R Y I N S T R U M E N T S

1989 No.

RESTRICTIVE TRADE PRACTICES

The Restrictive Trade Practices (Sale and Purchase and Share Subscription Agreements) (Goods) Order 1989

<i>Made - - - -</i>	<i>1989</i>
<i>Coming into force</i>	<i>1989</i>

Whereas a draft of this Order has been approved by resolution of each House of Parliament pursuant to section 2(5) of the Restrictive Trade Practices Act 1977(a);

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by section 2(3) of the said Act of 1977, hereby makes the following Order:—

Citation and Commencement

1. This Order may be cited as the Restrictive Trade Practices (Sale and Purchase and Share Subscription Agreements) (Goods) Order 1989 and shall come into force on the day after the day on which it is made.

Interpretation

2. In this Order—

“the Act of 1976” means the Restrictive Trade Practices Act 1976(b);

“acquired enterprise” means a company in which shares are acquired or a business an interest in which is acquired;

“business” means any undertaking which is, or any part of an undertaking, which part is—

(a) carried on as a going concern for gain or reward; or

(b) carried on as a going concern in the course of which goods or services are supplied otherwise than free of charge;

“company” means a company as defined in section 735 of the Companies Act 1985(c) and an oversea company as defined in section 744 of that Act;

“contract of employment” means a contract of service whether it is express or implied and (if it is express) whether it is oral or in writing;

“goods” has the same meaning as in section 43(1) of the Act of 1976;

“group” means a group of interconnected bodies corporate within the meaning of section 43(1) of the Act of 1976;

“member of the issuing company” is to be construed in accordance with section 22 of the Companies Act 1985;

“purchaser” means a person acquiring shares in a company, or acquiring an interest in a business, whether for cash or otherwise;

(a) 1977 c.19.

(b) 1976 c.34.

(c) 1985 c.6.

- (a) which is accepted for a period not exceeding that permitted under paragraph (2) below; and
 - (b) which limits the extent to which the person accepting the restriction may compete with the issuing company, or may be engaged or interested in, disclose information to, or otherwise assist any business which so competes.
- (2) For the purpose of paragraph (1)(a) above, a permitted period is:-
- (a) a period of 5 years beginning with the date of the agreement; or
 - (b) in the case of restrictions accepted-
 - (i) by a member of the issuing company, a period beginning with the date of the agreement and ending 2 years after the date on which that person ceases to be a member; or
 - (ii) by an individual who is to have a contract of employment with or a contract for the supply of services to the issuing company, a period beginning with the date of the agreement and ending 2 years after the date of expiry or termination of the contract,

whichever ends the later.

1989

Parliamentary Under-Secretary of State
for Corporate Affairs,
Department of Trade and Industry

“relevant restriction” means a restriction described in section 6(1) of the Act of 1976;

“services” has the same meaning as in section 20 of the Act of 1976.

Sale and Purchase Agreements

3.—(1) This article applies to an agreement made on or after the date on which this Order comes into force—

- (a) the parties to which include a person (the “vendor”) who agrees to transfer shares in a company or the whole of his interest in a business to a purchaser;
- (b) under which, in the case of an agreement for the transfer of shares in a company, more than 50 per cent in nominal value of the issued share capital of that company is transferred or agreed to be transferred to one purchaser or to more than one purchaser each of which is a member of the same group;
- (c) under which no relevant restriction in respect of any of the matters described in section 6(1)(a) or (b) of the Act of 1976 is accepted by a person; and
- (d) under which no relevant restriction in respect of any of the matters described in section 6(1)(c) to (f) of that Act is accepted by a person other than such a person as is described in paragraph (2) below.

(2) Persons by whom a relevant restriction may be accepted for the purpose of paragraph (1)(d) above are—

- (a) any vendor;
- (b) any member of the same group as any vendor; and
- (c) any individual;

other than a body corporate or unincorporate which is also a purchaser under the agreement in question, or a member of the same group as such a body.

4.—(1) In determining whether an agreement to which article 3 applies is an agreement to which the Act of 1976 applies by virtue of section 6 of that Act, no account shall be taken of any relevant restriction—

- (a) which is accepted for a period not exceeding that permitted under paragraph (2) below; and
- (b) which limits the extent to which the person accepting the restriction may compete with the acquired enterprise, or may be engaged or interested in, disclose information to, or otherwise assist any business which so competes.

(2) For the purpose of paragraph (1)(a) above, a permitted period is:—

- (a) a period of 5 years beginning with the date of the agreement; or
- (b) in the case of restrictions accepted by an individual who is to have a contract of employment with or a contract for the supply of services to the acquired enterprise, the purchaser, or a member of the same group as the purchaser, a period beginning with the date of the agreement and ending 2 years after the date of expiry or termination of the contract,

whichever ends the later.

Share Subscription Agreements

5. This article applies to an agreement made on or after the date on which this Order comes into force—

- (a) which provides for a person (the “subscriber”) to subscribe (whether or not in cash) for shares in a company (the “issuing company”);
- (b) under which no relevant restriction in respect of any of the matters described in section 6(1)(a) or (b) of the Act of 1976 is accepted by a person; and
- (c) under which no relevant restriction in respect of any of the matters described in section 6(1)(c) to (f) of that Act is accepted by a body corporate or unincorporate.

6. (1) In determining whether an agreement to which article 5 applies is an agreement to which the Act of 1976 applies by virtue of section 6 of that Act, no account shall be taken of any relevant restriction

EXPLANATORY NOTE

(This note is not part of the Order)

The Restrictive Trade Practices Act 1976 requires that restrictive agreements between two or more persons carrying on business in the United Kingdom in the supply of goods be furnished to the Director General of Fair Trading for registration.

This Order exempts from the registration requirements of the 1976 Act agreements for the sale and purchase of shares in a company or of a business ("sale and purchase agreements") and agreements for the subscription of shares in a company ("share subscription agreements") provided that the agreements satisfy certain conditions.

In the case of sale and purchase agreements the main conditions are (articles 3 and 4)—

- (a) that more than 50 per cent in nominal value of the issued share capital of the company be transferred to one purchaser or to more than one where they are all members of the same group of companies, or (as the case may be) that the whole of the vendor's interest in a business be transferred to one or more purchasers;
- (b) that the agreements only contain registrable restrictions of the type described in section 6(1)(c) to (f) of the 1976 Act;
- (c) that such restrictions only be accepted by vendors, their associated companies, or by individuals (save that bodies corporate or unincorporate cannot accept such restrictions where they are also purchasers under the agreement in question);
- (d) that the restrictions to be disregarded only limit the extent to which the persons accepting them may compete with the company or business which is the subject of the sale, or be involved in or assist any business which so competes; and
- (e) that the restrictions to be disregarded only be operative for a period not exceeding 5 years beginning with the date of the agreement or a period beginning with the date of the agreement and ending 2 years after the date of expiry or termination of the relevant employment or services contract, whichever is the later.

In the case of share subscription agreements the main conditions are (articles 5 and 6)—

- (a) that the agreements only contain registrable restrictions of the type described in section 6(1)(c) to (f) of the 1976 Act;
- (b) that such restrictions only be accepted by individuals;
- (c) that the restrictions to be disregarded only limit the extent to which the persons accepting them may compete with the issuing company or be involved in or assist any business which so competes; and
- (d) that the restrictions to be disregarded only be operative for a period not exceeding 5 years beginning with the date of the agreement or a period beginning with the date of the agreement and ending 2 years after the relevant person ceases to be a member of the issuing company or after the date of expiry or termination of the relevant employment or services contract, whichever is the later.

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D R A F T S T A T U T O R Y I N S T R U M E N T S

1989 No.

ROAD TRAFFIC

The Motor Vehicles (International Circulation)
(Amendment) Order 1989

Made - - - - - 1989

Coming into force in accordance with article 1

At the Court at Buckingham Palace, the day of 1989

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has, in pursuance of section 1(5) of the Motor Vehicles (International Circulation) Act 1952(a), been laid before Parliament and approved by resolution of each House of Parliament:

Now therefore, Her Majesty, in pursuance of section 1(1), (2) and (4) of the Motor Vehicles (International Circulation) Act 1952, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:-

Citation and commencement

1. This Order may be cited as the Motor Vehicles (International Circulation) (Amendment) Order 1989 and shall come into force for all purposes except the purposes of articles 5 and 6 on the day after the day on which it is made, for all purposes of article 5 on the 1st September 1989 and for all purposes of article 6 on the date on which the Convention on Road Traffic concluded at Vienna in 1968(b) is first in force in respect of the United Kingdom, which date shall be notified in the London, Edinburgh and Belfast Gazettes.

Interpretation, revocation and variation

2.—(1) In this Order “the principal Order” means the Motor Vehicles (International Circulation) Order 1975(c) as amended by the Motor Vehicles (International Circulation) (Amendment) Order 1980(d) and the Motor Vehicles (International Circulation) (Amendment) Order 1985(e).

(2) Articles 5, 6, 7 and 8 and paragraphs (2), (3) and (4) of article 10 of the Motor Vehicles (International Circulation) (Amendment) Order 1980 and articles 3 and 4 of the Motor Vehicles (International Circulation) (Amendment) Order 1985 are hereby revoked.

(a) 1952 c.39; section 1 has effect with section 8 of the Road Traffic (Amendment) Act 1967 (c.70).

(b) Cmnd. 4032.

(c) S.I. 1975/1208.

(d) S.I. 1980/1095.

(e) S.I. 1985/459.

- (3) In Schedule 3 to the principal Order,
- (a) in paragraph 1, after the words "Road Traffic Act 1972" there shall be inserted the words "'Convention driving permit' has the meaning assigned it by Article 2(7) of this Order";
 - (b) in paragraph 3, for sub-paragraph (2) there shall be substituted the following sub-paragraph—

“(2) The Secretary of State on receiving a permit forwarded under the foregoing sub-paragraph, shall—

 - (a) retain the permit until the disqualification ceases to have effect or until the holder leaves Great Britain, whichever is the earlier;
 - (b) send the holder's name and address, together with the particulars of the disqualification, to the authority by whom the permit was issued; and
 - (c) if the permit is a Convention driving permit, record the particulars of the disqualification on the permit.”;
 - (c) in paragraph 4, in sub-paragraph (1) the words from "and the Secretary of State shall transmit" to the end shall be omitted and the following sub-paragraph shall be substituted for sub-paragraph (2)—

“(2) The Secretary of State, on receiving particulars of a court order removing such a disqualification, shall—

 - (a) in the case of a permit on which particulars of a disqualification were recorded in accordance with paragraph 3(2)(c) of this Schedule, enter on the permit particulars of the order removing the disqualification;
 - (b) send the particulars of the order to the authority by whom the permit was issued; and
 - (c) return the permit to the holder.”.

Documents for drivers of vehicles going abroad

3. In article 1 of the principal Order there shall be inserted at the end the following paragraphs:—

“(9) Sections 173 and 174 of the Road Traffic Act 1988(a) (forgery of documents, etc., false statements and withholding material information) and Article 174 of the Road Traffic (Northern Ireland) Order 1981(b) (false statements in connection with forgery of, and fraudulent use of, documents, etc.) shall apply to a Convention driving permit as they apply to licences under that Act or under that Order.

(10) Section 13 of the Road Traffic Offenders Act 1988(c) and Article 190 of the said Order of 1981 (admissibility of records as evidence) shall apply to records maintained by the Secretary of State in connection with his functions under this Article, or by a body or Northern Ireland department to which in accordance with paragraph (8) of this Article he has delegated the function in connection with which the records are maintained, as that section or that Article apply to records maintained in connection with functions under that Act or under that Order, and the powers conferred by section 13(5) of the said Act of 1988 and Article 190(4) of the said Order of 1981 to prescribe a description of matter which may be admitted as evidence under that section or under that Article shall have effect in relation to the application of that section and that Article by this Article.”.

Visitors' driving permits

4. For articles 2 and 3 of the principal Order there shall be substituted the following articles:—

“Visitors' driving permits

2.—(1) Subject to the provisions of this Article, it shall be lawful for a person resident outside the United Kingdom who is temporarily in Great Britain and holds—

- (a) a Convention driving permit, or

(a) 1988 c.52.

(b) 1981 No. 154 (N.I. 1).

(c) 1988 c.53.

(b) a domestic driving permit issued in a country outside the United Kingdom, or

(c) a British Forces (BFG) driving licence,

during a period of twelve months from the date of his last entry into the United Kingdom to drive, or, except in the case of a holder of a British Forces (BFG) driving licence, for any person to cause or permit such a person to drive, in Great Britain a motor vehicle of any class which he is authorised by that permit or that licence to drive, notwithstanding that he is not the holder of a driving licence under Part III of the Road Traffic Act 1988.

(2) Subject to the provisions of this Article, it shall be lawful for a person resident outside the United Kingdom who is temporarily in Great Britain and holds—

(a) a Convention driving permit, or

(b) a domestic driving permit issued in a country outside the United Kingdom, during a period of twelve months from the date of his last entry into the United Kingdom to drive, or for any person to cause or permit such a person to drive, in Great Britain—

(i) in the case of any such person who is resident in a Member State of the European Economic Community, any public service vehicle or heavy goods vehicle; and

(ii) in the case of any other such person, a public service vehicle or heavy goods vehicle brought temporarily into Great Britain,

which he is authorised by that permit to drive, notwithstanding that he is not the holder either of such a licence as is required by section 22 of the Public Passenger Vehicles Act 1981(a), or of such a licence as is required by section 110 of the said Act of 1988.

(3) Subject to the provisions of this Article, it shall be lawful for a person resident outside the United Kingdom who is temporarily in Great Britain and holds a British Forces (BFG) public service vehicle driving licence during a period of twelve months from the date of his last entry into the United Kingdom to drive, or for any person to cause or permit such a person to drive, in Great Britain—

(a) in the case of any such person who is resident in a Member State of the European Economic Community, any public service vehicle, and

(b) in the case of any other such person, a public service vehicle brought temporarily into Great Britain,

which he is authorised by that licence to drive, notwithstanding that he is not the holder of such a licence as is required by section 22 of the Public Passenger Vehicles Act 1981.

(4) Nothing in the preceding provisions of this Article shall authorise any person to drive, or any person to cause or permit any person to drive, a vehicle of any class at a time when he is disqualified by virtue of section 101 of the Road Traffic Act 1988 (persons under age), for holding or obtaining a driving licence authorising him to drive vehicles of that class, but in the case of any such person as is mentioned in paragraph (1), (2) or (3) of this Article, who is driving a vehicle which—

(a) in the case of a person not resident in a Member State of the European Economic Community, is brought temporarily into Great Britain, and

(b) is within the class specified in the first column of paragraph 6 of the Table in subsection (1) of that section, and

(c) is either a vehicle registered in a Convention country or a goods vehicle in respect of which that person holds a certificate of competence which satisfies the international requirements,

the second column of that paragraph, in its application for the purposes of this paragraph, shall have effect as if for “21” there were substituted “18”.

(a) 1981 c.14.

In this paragraph the following expressions have the meanings respectively assigned to them:-

“the international requirements” means-

- (i) in relation to a person who is driving a goods vehicle on a journey to which Council Regulation (EEC) No. 3820/85 of 20th December 1985, on the harmonisation of certain social legislation relating to road transport^(a) applies, the requirements of Article 5(1)(b) (minimum ages for goods vehicle drivers) of that Regulation;
- (ii) in relation to a person who is driving a goods vehicle on a journey to which the European Agreement concerning the work of crews engaged in International Road Transport (AETR) signed at Geneva on 25th March 1971^(b) applies, the requirements of Article 5(1)(b) (conditions to be fulfilled by drivers) of that Agreement;

“Convention country” means a country which is not a Member State of the European Economic Community nor a party to the aforementioned European Agreement but is a party to the Convention on Road Traffic concluded at Geneva in the year 1949^(c), or the International Convention relative to Motor Traffic concluded at Paris in the year 1926^(d).

(5) This Article shall not authorise a person to drive a motor vehicle of any class if, in consequence of a conviction or of the order of a court, he is disqualified for holding or obtaining a driving licence under Part III of the Road Traffic Act 1988.

(6) The Secretary of State may by order contained in a statutory instrument withdraw the right conferred by paragraph (1)(b), (1)(c), (2)(b) or (3) of this Article, or any two or more of those rights either in the case of all domestic driving permits, British Forces (BFG) driving licences or British Forces (BFG) public service vehicle driving licences of a description specified in the order or held by persons of a description so specified.

(7) In this Article-

“Convention driving permit” means a driving permit in form A in Schedule 1 to this Order issued under the authority of a country outside the United Kingdom, whether or not that country is a party to the Convention on Road Traffic concluded at Geneva in the year 1949, or a driving permit in the form B in the said Schedule issued under the authority of a country outside the United Kingdom which is a party to the International Convention relative to Motor Traffic concluded at Paris in the year 1926 but not to the Convention of 1949;

“domestic driving permit” in relation to a country outside the United Kingdom means a document issued under the law of that country and authorising the holder to drive motor vehicles, or a specified class of motor vehicles, in that country, and includes a driving permit issued by the armed forces of any country outside the United Kingdom for use in some other country outside the United Kingdom;

“British Forces (BFG) driving licence” means a driving licence issued in Germany to members of the British Forces or of the civilian component thereof or to the dependants of such members by the British authorities in that country in such a form and in accordance with such licensing system as may from time to time be approved by those authorities; and “British Forces (BFG) public service vehicle driving licence” means any such driving licence authorising the driving of public service vehicles of any class;

“dependants” in relation to such a member of the British Forces or the civilian component thereof, means any of the following persons, namely-

- (a) the wife or husband of that member; and
- (b) any other person wholly or mainly maintained by him or in his custody, charge or care; and

“public service vehicle” has the same meaning as in the Public Passenger Vehicles Act 1981.

(a) O.J. No. L370, 31.12.85 p.1.

(b) Cmnd. 4858.

(c) Cmnd. 7997.

(d) Cmnd. 3510.

(8) The provisions of this Article which authorise the holder of a permit or a licence to drive a vehicle during a specified period shall not be construed as authorising the driving of a vehicle at a time when the permit or the licence has ceased to be valid.

3.—(1) It shall be lawful—

- (a) for a member of a visiting force of a country to which Part I of the Visiting Forces Act 1952^(a) for the time being applies who holds a driving permit issued under the law of any part of the sending country or issued by the service authorities of the visiting force, or
- (b) for a member of a civilian component of such a visiting force who holds such a driving permit, or
- (c) for a dependant of any such member of a visiting force or of a civilian component thereof who holds such a driving permit,

to drive, or for any person to cause or permit any such person to drive, in Great Britain a motor vehicle of any class which he is authorised by that permit to drive, notwithstanding that he is not the holder of a driving licence under Part III of the Road Traffic Act 1988.

(2) This Article shall not authorise a person to drive a motor vehicle of any class if, in consequence of a conviction or of the order of a court, he is disqualified for holding or obtaining a driving licence under Part III of the Road Traffic Act 1988.

(3) Nothing in this Article shall authorise any person to drive, or any person to cause or permit any other person to drive, a vehicle of any class at a time when he is disqualified by virtue of section 101 of the Road Traffic Act 1988 (persons under age), for holding or obtaining a driving licence authorising him to drive vehicles of that class.

(4) The interpretative provisions of the Visiting Forces Act 1952 shall apply for the interpretation of this Article and “dependant”, in relation to a member of any such visiting force or a civilian component thereof, means any of the following persons namely—

- (a) the wife or husband of that member; and
- (b) any other person wholly or mainly maintained by him or in his custody, charge or care.”.

Fees for documents

5. In Schedule 2 to the principal Order for “£2.50” in each place where it occurs there shall be substituted “£3”.

Vienna Convention on Road Traffic 1968

6.—(1) In paragraph (4) of article 2 of the principal Order, as substituted by article 4 of this Order, in the definition of “Convention country” after the words “but is a party to” there shall be inserted the words “the Convention on Road Traffic concluded at Vienna in the year 1968(b)”.

(2) In paragraph (7) of article 2 of the principal Order, as so substituted, for the definition of “Convention driving permit” there shall be substituted the following definition:—

‘Convention driving permit’ means either—

- (i) a driving permit in the form A in Schedule 1 to this Order issued under the authority of a country outside the United Kingdom, whether or not that country is a party to the Convention on Road Traffic concluded at Geneva in the year 1949 but not so issued as aforesaid after the expiry of a period of five years from the date of the entry into force of the Convention on Road Traffic concluded at Vienna in the year 1968 in accordance with Article 47(1) thereof, if that country is a party to that Convention, or

(a) 1952 c.67.

(b) Cmnd. 4032.

- (ii) a driving permit in the form B in that Schedule issued under the authority of a country outside the United Kingdom which is a party to the International Convention relative to Motor Traffic concluded at Paris in the year 1926, but not to the Convention of 1949 nor to the Convention of 1968, or
- (iii) a driving permit in the form C in that Schedule issued under the authority of a country outside the United Kingdom which is a party to the Convention of 1968;”.

(3) At the end of paragraph (8) of article 2 of the principal Order as so substituted, there shall be added the following words “and, without prejudice to the provisions of paragraph (4) above, a Convention driving permit in the form C in Schedule 1 to this Order shall, if the validity of the permit is by special endorsement thereon made conditional upon holder wearing certain devices or upon the vehicle being equipped in a certain manner to take account of his disability, not be valid at a time when any such condition is not satisfied”.

Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Motor Vehicles (International Circulation) Order 1975 as amended. The principal effects of the Order are—

- (a) that visitors to Great Britain resident in a Member State of the European Economic Community holding specified visitors' driving permits may drive in Great Britain heavy goods vehicles and public service vehicles whether or not they have been brought temporarily into Great Britain (article 4);
- (b) to bring into force those amendments made to the 1975 Order as amended by the Motor Vehicles (International Circulation) (Amendment) Order 1980 which were not intended for implementation of the Vienna Convention on Road Traffic 1968 when it comes into force for the United Kingdom (articles 2(3), 3 and 4); and
- (c) to increase the fees prescribed by Schedule 2 to the 1975 Order as amended for an international driving permit or an international certificate for motor vehicles from £2.50 to £3 (article 5).

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DRAFT STATUTORY INSTRUMENTS

1989 No.

SEA FISHERIES

The Fisheries Act 1981 (Amendment) Regulations 1989

Made - - - - - 1989

Coming into force
in accordance with regulation 1

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Economic Community, acting jointly in exercise of the powers conferred on them by that section and of all other powers enabling them in that behalf, hereby make the following Regulations, a draft of which has been approved by resolution of each House of Parliament:

Title and commencement

1. These Regulations may be cited as the Fisheries Act 1981 (Amendment) Regulations 1989, and shall come into force on the day after the day on which these Regulations are made.

Amendment of the Fisheries Act 1981

2.—(1) The Fisheries Act 1981(c) shall be amended in accordance with the following provisions of this Regulation.

(2) In section 2 (duties of the Sea Fish Industry Authority) at the beginning of subsection (1) there shall be inserted the words "Subject to subsection (2A) below" and after subsection (2) there shall be inserted the following subsection—

"(2A) If any levy imposed under section 4 below has effect in relation to sea fish or sea fish products from the sea fish industries of member States other than the United Kingdom, the Authority shall so exercise its powers under this Part of this Act as to secure that benefits are conferred on those industries commensurate with any burden directly or indirectly borne by them in consequence of the levy";

and, in subsection (3) for the words "subsection (1) above" there shall be substituted the words "subsections (1) and (2A) above".

(3) In section 3(5) (which provides that the Authority shall not provide services for persons concerned with sea fish industries of other countries unless the full cost is recovered by fees) for the words from "unless" to "and" there shall be substituted the words "unless—

(a) S.I. 1972/1811.

(b) 1972 c.68, to which there are amendments not relevant to these Regulations.

(c) 1981 c.29.

(a) in the case of a country which is not a member State, the full cost of the services is recovered by fees; and

(b) ”.

(4) In section 14(2) (definition of “sea fish industry”) for the words “section 3(5)” there shall be substituted the words “sections 2(2A) and 3(5)”.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is herunto affixed on 1989.

Minister of Agriculture, Fisheries and Food

1989

Minister of State, Scottish Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Part I of the Fisheries Act 1981 (“the Act”), which makes provision for the establishment of the Sea Fish Industry Authority. The Regulations are made in implementation of the Community obligation (which arises under article 95 of the Treaty establishing the European Economic Community) not to impose on the products of other member States internal taxation in excess of that imposed on similar domestic products.

Section 2 of the Act (duties of the Authority) is amended so as to require that if any levy imposed under section 4 has effect in relation to sea fish or sea fish products from the sea fish industries of member States other than the United Kingdom, the Authority shall so exercise its powers under Part I of the Act as to secure that benefits are conferred on those industries of those States commensurate with any burden directly or indirectly borne by them in consequence of the levy. Amendments consequential to this amendment are made to subsection (3) of section 2 (Ministers’ power to give directions) and to section 14 (definition of sea fish industry) (article 2(2)).

Section 3 is amended so that the Authority is not required to recover the cost of services provided for persons concerned with the sea fish industry of another member State (article 2(3)).

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