Deregulation and Contracting Out Act 1994

1994 CHAPTER 40

An Act to amend, and make provision for the amendment of, statutory provisions and rules of law in order to remove or reduce certain burdens affecting persons in the carrying on of trades, businesses or professions or otherwise, and for other deregulatory purposes; to make further provision in connection with the licensing of operators of goods vehicles; to make provision for and in connection with the contracting out of certain functions vested in Ministers of the Crown, local authorities, certain governmental bodies and the holders of certain offices; and for purposes connected therewith. [3rd November 1994]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

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PART I

DEREGULATION

CHAPTER I

GENERAL

Removal or reduction of burdens

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.

(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—

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(a) "Minister of the Crown" has the same meaning as in the Ministers of the Crown [M1] Act 1975 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.

Marginal Citations

M1 1975 c. 26.

M2 1978 c. 30.

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

[[F1](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—

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(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

F1 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.

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 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.

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(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.

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.

(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.

Enforcement procedures and appeals

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—

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(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.

(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

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(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.

Marginal Citations

M4 1978 c. 30.

6 Model provisions with respect to appeals.

(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;

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

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(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 [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.

Modifications etc. (not altering text)

C1 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.).

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CHAPTER II

MISCELLANEOUS DEREGULATORY PROVISIONS

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

(1) In the Fair Trading Act [M7]1973, after section 56 there shall be inserted—

" Undertakings as alternative to monopoly reference by Director

56A Proposals by Director.

(1) The Director may propose that the Secretary of State accept undertakings in lieu of the Director making a monopoly reference if—
  (a) he considers that a monopoly situation exists and that there are facts relating to the monopoly situation which may now or in future operate against the public interest,
  (b) he intends, apart from the question of undertakings being accepted in lieu, to make a monopoly reference with respect to the existence of the monopoly situation and that the reference should be a monopoly reference not limited to the facts, and
  (c) he considers that undertakings offered to be given by particular persons would be sufficient to deal with such of the relevant adverse effects of the monopoly situation as he thinks need to be dealt with.

(2) A proposal under this section shall include—
  (a) a statement of the terms of the proposed undertakings and the persons by whom they are proposed to be given,
  (b) a statement of the facts relating to the monopoly situation which the Director considers may now or in future operate against the public interest, and
  (c) a statement of the effects identified by the Director as the relevant adverse effects of the monopoly situation.

(3) For the purposes of the law relating to defamation, absolute privilege shall attach to anything included in a proposal under this section pursuant to subsection (2)(b) or (c) of this section.

(4) In this section, references to the relevant adverse effects of a monopoly situation are to the particular effects, adverse to the public interest, which the facts relating to the monopoly situation may now or in future have.

56B Proposals under section 56A: preparatory steps.

(1) The Director may only make a proposal under section 56A of this Act if—
  (a) the first or second condition is met, and
  (b) the third condition is met.

(2) The first condition is that the Director has published in an appropriate manner a notice containing—
  (a) each of the matters mentioned in subsection (5) of this section, and

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(b) the invitation mentioned in subsection (6) of this section.

(3) The second condition is that the Director has published in an appropriate manner—

(a) a notice containing the matters mentioned in paragraphs (a) and (b) of subsection (5) of this section, and

(b) a notice containing—

(i) the matters mentioned in paragraphs (c), (d), (e) and (f) of that subsection, and

(ii) the invitation mentioned in subsection (6) of this section.

(4) The third condition is that the Director has considered any representations made to him in accordance with the notice under this section which contains the invitation mentioned in subsection (6) of this section.

(5) The matters referred to above are—

(a) the identity of the person or persons in whose favour the Director considers the monopoly situation exists,

(b) the terms of the proposed monopoly reference,

(c) the facts relating to the monopoly situation which the Director considers may now or in future operate against the public interest,

(d) the effects identified by the Director as the particular effects, adverse to the public interest, which the facts relating to the monopoly situation may now or in future have,

(e) the terms of the undertakings which the Director is, at the time of the notice, considering proposing the Secretary of State accept in lieu of the Director making the proposed monopoly reference ("the potential undertakings"), and

(f) the identity of the persons by whom the potential undertakings would be given.

(6) The invitation referred to above is an invitation to make representations to the Director, within such time as he may specify, about the potential undertakings being the subject of a proposal under section 56A of this Act.

(7) For the purposes of the law relating to defamation, absolute privilege shall attach to anything contained in a notice published under this section.

(8) In this section, references to an appropriate manner, in relation to the publication of a notice by the Director, are to such manner as he considers most suitable for the purpose of bringing the notice to the attention of persons who, in his opinion, are likely to be interested in it.

56C Proposals under section 56A: exclusion of sensitive information.

(1) The Director shall—

(a) in formulating the statement required by section 56A(2)(b) or (c) of this Act, and

(b) in publishing a notice under section 56B of this Act containing the matters mentioned in subsection (5)(c) and (d) of that section,

have regard to the need for excluding, so far as practicable, any matter to which subsection (2) or (3) of this section applies.

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(2) This subsection applies to any matter which relates to the private affairs of an individual, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that individual.

(3) This subsection applies to any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that body, unless in his opinion the inclusion of that matter relating specifically to that body is necessary for the purposes of the statement or notice, as the case may be.

56D Acceptance by Secretary of State of proposals under section 56A.

(1) Where the Secretary of State accepts a proposal under section 56A of this Act, then, within the period of twelve months from the date of acceptance of the undertakings to which the proposal relates, no monopoly reference may be made in the same, or substantially the same, terms as those published by the Director under section 56B of this Act preparatory to making the proposal.

(2) Subsection (1) of this section shall not prevent a reference being made if the Director—
   (a) considers that any of the undertakings has been breached, or needs to be varied or superseded, and
   (b) has given notice of that fact to the person responsible for giving the undertaking.

(3) The Secretary of State shall send to the Director a copy of every undertaking accepted pursuant to a proposal under section 56A of this Act.

(4) For the purposes of subsection (1) of this section, the Secretary of State shall be treated as accepting a proposal under section 56A of this Act if he accepts the undertakings to which the proposal relates, either in the form in which they were proposed or with such modifications as he thinks fit; and references in this Act to an undertaking accepted pursuant to a proposal under that section shall be construed accordingly.

56E Review of undertakings.

(1) The Director shall keep the carrying out of an undertaking to which this section applies under review, and from time to time consider whether, by reason of any change of circumstances, the undertaking is no longer appropriate and either—
   (a) one or more of the parties to it can be released from it, or
   (b) it needs to be varied or to be superseded by a new undertaking.

(2) If it appears to the Director—
   (a) that any one or more of the parties to an undertaking to which this section applies can be released from it,
   (b) that such an undertaking needs to be varied or to be superseded by a new undertaking, or
   (c) that there has been any failure to carry out such an undertaking,

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he shall give to the Secretary of State such advice as he may think proper in the circumstances.

(3) Where the Director advises the Secretary of State under subsection (2) of this section that an undertaking needs to be varied or to be superseded by a new undertaking, he shall propose the terms of variation or, as the case may be, the new undertaking.

(4) The Director shall, if the Secretary of State so requests, give him advice with respect to the release, variation or superseding of an undertaking to which this section applies.

(5) In this section, references to an undertaking to which this section applies are to an undertaking accepted—
- (a) pursuant to a proposal under section 56A of this Act, or
- (b) under section 56F of this Act.

56F Release, variation and replacement of undertakings.

(1) The Secretary of State may only—
- (a) accept a new undertaking in place of an undertaking to which this section applies,
- (b) release a person from such an undertaking, or
- (c) agree to the variation of such an undertaking,

after considering the advice of the Director on the subject.

(2) The Secretary of State shall send to the Director—
- (a) a copy of every undertaking accepted under this section,
- (b) particulars of every variation of an undertaking agreed under this section, and
- (c) particulars of every release of a person from an undertaking under this section.

(3) In this section, references to an undertaking to which this section applies are to an undertaking accepted—
- (a) pursuant to a proposal under section 56A of this Act, or
- (b) under this section.

56G Publication of undertakings etc.

(1) The Secretary of State shall arrange for the publication in such manner as he considers appropriate of—
- (a) every undertaking accepted—
  - (i) pursuant to a proposal under section 56A of this Act, or
  - (ii) under section 56F of this Act, and
- (b) every variation or release under that section.

(2) Where the Secretary of State accepts undertakings pursuant to a proposal under section 56A of this Act, he shall arrange for the statements included in the proposal under subsection (2)(b) and (c) of that section to be published in such manner as he considers appropriate.

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(3) If it appears to the Secretary of State that the publication of any matter contained in a statement which falls to be published under subsection (2) of this section would be against the public interest, he shall exclude that matter from the statement as published under that subsection.

(4) Without prejudice to subsection (3) of this section, if the Secretary of State considers that it would not be in the public interest to disclose—

(a) any matter contained in a statement which falls to be published under subsection (2) of this section relating to the private affairs of an individual whose interests would, in the opinion of the Secretary of State, be seriously and prejudicially affected by the publication of that matter, or

(b) any matter contained in such a statement relating specifically to the affairs of a particular person whose interests would, in the opinion of the Secretary of State, be seriously and prejudicially affected by the publication of that matter,

the Secretary of State shall exclude that matter from the statement as published under subsection (2) of this section."

(2) Schedule 2 to this Act (sectoral regulators) shall have effect.

Marginal Citations

M7 1973 c. 41.

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

(1) Section 57 of the Fair Trading Act [M8]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 ".

Status: *Point in time view as at 01/04/1999.*
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(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—

(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 [M9] 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 [M10] the Fair Trading Act 1973 made by this section.

Marginal Citations

M8 1973 c. 41.
M9 1965 c. 50.
M10 1973 c. 41.

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

(1) In section 75G of the Fair Trading Act 1973 (acceptance of undertakings) subsections (2) and (3) (under which undertakings are limited to divestment matters) shall cease to have effect.

(2) In section 75K of that Act (order of Secretary of State where undertaking not fulfilled) in subsection (2) (powers which he may exercise by order) for "powers specified in paragraphs 9A and 12 to 12C and Part II of Schedule 8 to this Act" there shall be substituted " relevant powers ".

(3) In that section, there shall be inserted at the end—

"(6) In subsection (2) of this section, "the relevant powers" means—

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(a) in relation to an undertaking to which subsection (7) of this section applies ("a divestment undertaking"), the powers specified in paragraphs 9A and 12 to 12C and Part II of Schedule 8 to this Act, and

(b) in relation to an undertaking which is not a divestment undertaking, the powers specified in that Schedule.

(7) This subsection applies to an undertaking which provides for—

(a) the division of a business by the sale of any part of the undertaking or assets or otherwise (for which purpose all the activities carried on by way of business by any one person or by any two or more interconnected bodies corporate may be treated as a single business),

(b) the division of a group of interconnected bodies corporate, or

(c) the separation, by the sale of any part of the undertaking or assets concerned or other means, of enterprises which are under common control otherwise than by reason of their being enterprises of interconnected bodies corporate.

(8) Schedule 8 to this Act shall, to such extent as is necessary for the purpose of giving effect to subsection (2) of this section, have effect as if, in paragraph 1 of that Schedule, after "section 73" there were inserted "or section 75K"."

10 Restrictive trade practices: non-notifiable agreements.

(1) In the Restrictive Trade Practices Act [M11] 1976, after section 27 there shall be inserted—

" Non-notifiable agreements

27A Non-notifiable agreements.

(1) For the purposes of this Act, a non-notifiable agreement is one which—

(a) is subject to registration under this Act,

(b) is, and has always been, of a description specified for the purposes of this section by order made by the Secretary of State,

(c) is not, and has never been, a price-fixing agreement, and

(d) is not an agreement in respect of which the Director has entered or filed particulars under section 1(2)(b) above.

(2) Without prejudice to the generality of paragraph (b) of subsection (1) above, an order under that paragraph may frame a description by reference—

(a) to the size of the businesses of the parties to an agreement, whether expressed by reference to turnover, as defined in the order, or to market share, as so defined, or in any other manner, or

(b) to exemption under, or any steps taken or decision given under or for the purpose of, any directly applicable Community provision (including any such provision as it has effect from time to time).

(3) In subsection (1)(c) above, the reference to a price-fixing agreement is to an agreement to which this Act applies by virtue of—

(a) a restriction in respect of any of the matters set out in section 6(1)(a) or (b) or 11(2)(a) above, or

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(b) an information provision in respect of any of the matters set out in section 7(1)(a) or (b) or 12(2)(a) above.

(4) An order under subsection (1)(b) above shall be made by statutory instrument and may contain such transitional provisions as the Secretary of State considers appropriate."

(2) In section 42(1) of that Act (statutory instruments subject to negative resolution procedure) in paragraph (a) (orders) after "18(5)" there shall be inserted " , 27A(1)(b) ".

(3) In section 43(1) of that Act (interpretation) there shall be inserted at the appropriate place—

""non-notifiable agreement" has the meaning given by section 27A(1) above;".

(4) Schedule 3 to this Act (which modifies the 1976 Act in relation to non-notifiable agreements) shall have effect.

Marginal Citations
M11 1976 c. 34.

11 Restrictive trade practices: registration of commercially sensitive information.

In section 23(3) of the Restrictive Trade Practices Act [M12]1976 (certain categories of information to be entered or filed in a special section of the register of agreements) for paragraph (b) there shall be substituted—

"(b) particulars containing information whose publication would, in the Secretary of State's opinion, substantially damage the legitimate business interests of any person, not being information whose publication is, in the Secretary of State's opinion, in the public interest."

Marginal Citations
M12 1976 c. 34.

12 Anti-competitive practices: competition references.

(1) In section 5 of the Competition Act [M13]1980 (grounds for competition reference) for subsection (1)(a) there shall be substituted—

"(a) there are reasonable grounds for believing that any person is pursuing, or has pursued, a course of conduct which constitutes an anti-competitive practice,".

(2) In consequence of subsection (1) above, that Act shall be amended as mentioned in subsections (3) to (6) below.

(3) In section 3 of that Act (preliminary investigation by Director General of Fair Trading of possible anti-competitive practice) subsections (2) to (6), (9) and (10) (which provide for the formal constitution, carrying out and discontinuation of an

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investigation and the publication by the Director of a report following completion of an investigation) shall cease to have effect.

(4) In section 4 of that Act (undertakings) for subsections (1) to (3) there shall be substituted—

"(1) Where it appears to the Director—

(a) that there are reasonable grounds for believing that any person is pursuing, or has pursued, a course of conduct which constitutes an anti-competitive practice,

(b) that the practice may operate, now or in future, or have operated, against the public interest, and

(c) that an undertaking offered to be given to the Director by that person, or by a person associated with that person, would remedy or prevent effects adverse to the public interest which the practice may now or in future have,

he may, at any time before making a reference under section 5(1)(a) below in relation to the course of conduct in question, accept the undertaking by giving notice to the person by whom it is offered.

(2) The Director may not accept an undertaking under subsection (1) above unless he has—

(a) arranged for the publication of an appropriate notice, and

(b) considered any representations made to him in accordance with the notice.

(3) Publication under subsection (2)(a) above shall be in such manner as the Director considers most suitable for bringing the notice to the attention of persons who, in his opinion, would, if the course of conduct in question were the subject of a reference under section 5(1)(a) below, be affected by the reference or be likely to have an interest in it.

(3A) In subsection (2)(a) above, the reference to an appropriate notice is to a notice which—

(a) states that the Director is proposing to exercise his power under subsection (1) above,

(b) identifies the course of conduct whose pursuit prompts the exercise of that power,

(c) identifies the person who the Director believes is pursuing, or has pursued, that course of conduct,

(d) identifies the goods or services in relation to which the Director believes that person is pursuing, or has pursued, that course of conduct,

(e) specifies the effects which the Director has identified as effects adverse to the public interest which that course of conduct may now or in future have,

(f) sets out the terms of the undertaking which the Director is proposing to accept,

(g) identifies the person by whom the undertaking is to be given, and

(h) specifies a deadline for the making to the Director of representations about what he proposes to do.

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(3B) Once the Director has considered any representations made to him in accordance with a notice under paragraph (a) of subsection (2) above, that subsection shall not apply to the acceptance of a modified version of the undertaking set out in the notice."

(5) In that section, at the end there shall be inserted—

"(10) Subsection (6) of section 2 above shall apply for the purposes of this section as it applies for the purposes of that."

(6) In section 6 of that Act (scope of competition references) for subsections (3) and (4) there shall be substituted—

"(3) Where the Director has accepted an undertaking under section 4 above with respect to the pursuit by any person of a course of conduct in relation to any goods or services, the Director may not, while the undertaking is in force, make a competition reference by virtue of section 5(1)(a) above with respect to the pursuit by that person of that course of conduct in relation to those goods or services."

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

Marginal Citations

M13 1980 c. 21.

13 Striking off of non-trading private companies.

(1) Schedule 5 to this Act (which amends the Companies Act [M14]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 [M15]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

M14 1985 c. 6.

M15 S.I. 1986/1032 (N.I. 6).

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

Section 43 of the [M16]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.

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Marginal Citations
M16 1985 c. 72.

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

In section 7 of the [M17]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
M17 1986 c. 53.

[F2]16 . . . . . .

Textual Amendments
F2 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**

[F3]17 . . . . . .

Textual Amendments
F3 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 [M18]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.

(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

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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 [M19]Excise Management Act 1979."

(2) In the Licensing [M20](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

M18 1964 c. 26.
M19 1979 c. 2.
M20 1976 c. 66.

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

(1) In section 168 of the Licensing Act [M21]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—

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(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.

(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

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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

M21 1964 c. 26.

20 Betting on Sundays.

(1) The Betting, Gaming and Lotteries Act [M22]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 ".

[F4](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 ".

[F4](5) . . . . . .

Textual Amendments

F4 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

M22 1963 c. 2.

21 Sporting events and activities on Sundays.

The entertainments and amusements to which the Sunday Observance Act [M23]1780 applies shall not include any sporting event or activity.

Marginal Citations

M23 1780 c. 49.

22 Sunday opening of certain licensed premises in Scotland.

For section 119(3) of the Licensing (Scotland) Act [M24]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

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(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
M24 1976 c. 66.

23 Repeal of Part I of the Shops Act 1950.

Part I of the Shops Act [M25]1950 (hours of closing) shall cease to have effect.

Marginal Citations
M25 1950 c. 28.

24 Repeal of remainder of the Shops Act 1950.

In then [M26]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
M26 1950 c.28.

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

(1) In Part II of the Charities Act [M27]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 ".

Marginal Citations
M27 1992 c. 41.

Status: *Point in time view as at 01/04/1999.*
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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 [M28]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

M28 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 ".

(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

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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 [M29]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—

"(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—

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"(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
M29 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 [M30]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
M30 1984 c. 55.

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

(1) In section 34 of the Environmental Protection Act [M31]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

(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.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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) 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

M31 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 [M32]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.

(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.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

(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;

"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.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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

M32 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.

[F5](1) . . . . . .

(2) Article 22C(1)(e) of [M33] the Industrial Relations (Northern Ireland) Order 1976 (corresponding provision for Northern Ireland) shall be omitted.

Textual Amendments

F5 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

M33 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 [M34] 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 [M35] 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—

(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,

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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 [M36] the Statutory Rules (Northern Ireland) Order 1979, and

(b) shall be subject to affirmative resolution, as defined in section 41(4) of [M37] 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

M34 1974 c. 37.
M35 S.I. 1978/1039 (N.I. 9).
M36 S.I. 1979/1573 (N.I. 12).
M37 1954 c. 33 (N.I.).

38 Inspection of independent schools.

After section 87 of the Children Act [M38] 1989 there shall be inserted—

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

"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.

(6) In this section—

(a) "proprietor" has the same meaning as in the [M39]Education Act 1944, and

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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) 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 [M40]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

M38 1989 c. 41.
M39 1944 c. 31.
M40 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.

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

Status: *Point in time view as at 01/04/1999.*
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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.

[F6 CHAPTER III]

Textual Amendments

F6 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.)

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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 [M52] the Public Passenger Vehicles Act 1981.

Marginal Citations
M52 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—

"(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."

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

(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.

(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."

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

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 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.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

(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).

(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."

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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) 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.

(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—

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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) 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 [M53]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

(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—

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

"(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

M53 1985 c. 67.

68 Chapter IV: minor and consequential amendments.

The 1981 Act and [M54] 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

M54 1985 c. 67.

PART II

CONTRACTING OUT

Modifications etc. (not altering text)

C2 Pt. II (ss. 69-79) extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 13** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
Pt. II (ss. 69-79) extended (S.) (8.9.2000) by 2000 asp. 10, s. 9, Sch. 2 para. 14 (with s. 32); S.S.I. 2000/312, **art. 2**
Pt. II (ss. 69-79) modified (1.10.2001 (W.) 25.3.2002 (E.) for specified purposes, otherwise*prosp.*) by 2000 c. 14, **ss. 67(7)**, 122; S.I. 2001/2538, **art. 2(2)(4)(a)**; S.I. 2002/1245, **art. 2**

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

Contracting out of functions

69 Functions of Ministers and office-holders.

(1) This section applies to any function of a Minister or office-holder—
- (a) which is conferred by or under any enactment; and
- (b) which, by virtue of any enactment or rule of law, may be exercised by an officer of his; and
- (c) which is not excluded by section 71 below.

(2) If a Minister by order so provides, a function to which this section applies may be exercised by, or by employees of, such person (if any) as may be authorised in that behalf by the office-holder or Minister whose function it is.

(3) A Minister shall not make an order under this section in relation to an office-holder without first consulting him.

(4) An order under this section may provide that a function to which this section applies may be exercised, and an authorisation given by virtue of such an order may (subject to the provisions of the order) authorise the exercise of such a function—
- (a) either wholly or to such extent as may be specified in the order or authorisation;
- (b) either generally or in such cases or areas as may be so specified; and
- (c) either unconditionally or subject to the fulfilment of such conditions as may be so specified.

(5) An authorisation given by virtue of an order under this section—
- (a) shall be for such period, not exceeding 10 years, as is specified in the authorisation;
- (b) may be revoked at any time by the Minister or office-holder by whom the authorisation is given; and
- (c) shall not prevent that Minister or office-holder or any other person from exercising the function to which the authorisation relates.

Modifications etc. (not altering text)

C3 S. 69 extended (1.10.2000) by 2000 c. 21, **s. 136(3)**; S.I. 2000/2559, art. 2, **Sch. Pt. I**
S. 69 applied (with modifications) (27.7.2000) by S.I. 2000/2040, art. 2, **Sch. Pt. I para. 16**

70 Functions of local authorities.

(1) This section applies to any function of a local authority—
- (a) which is conferred by or under any enactment; and
- (b) which, by virtue of section 101 of [M55] the Local Government Act 1972 or section 56 of [M56] the Local Government (Scotland) Act 1973 (arrangements for discharge of functions by local authorities), may be exercised by an officer of the authority; and
- (c) which is not excluded by section 71 below.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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) If a Minister by order so provides, a function to which this section applies may be exercised by, or by employees of, such person (if any) as may be authorised in that behalf by the local authority whose function it is.

(3) A Minister shall not make an order under this section in relation to a local authority without first consulting—

(a) in the case of an authority in England or Wales, such representatives of local government;

(b) in the case of an authority in Scotland, such associations of local authorities,

as he considers appropriate.

(4) Subsections (4) and (5) of section 69 above shall apply for the purposes of this section as they apply for the purposes of that section; and in subsection (5) of that section as so applied any reference to the Minister or office-holder by whom the authorisation is given shall be construed as a reference to the local authority by which the authorisation is given.

(5) Where at any time—

(a) an order is in force under this section in relation to any function of a local authority ("authority A"); and

(b) arrangements are in force under section 101 of [M57] the Local Government Act 1972 or section 56 of [M58] the Local Government (Scotland) Act 1973 for the exercise of that function by another local authority ("authority B"),

it shall be an implied term of those arrangements that, except with the consent of authority A, authority B shall not give any authorisation by virtue of the order in relation to that function.

Modifications etc. (not altering text)

C4 S. 70 modified (16.7.1998) by 1998 c. 30, **s. 23(3)(b)** (with s. 42(8))
S. 70 extended (27.9.1999 with effect in relation to England and Wales and*prosp.* otherwise) by 1999 c. 27, **ss. 18**, 27(1)(2)(c); S.I. 1999/2169, **art. 3(1)**

Marginal Citations

M55 1972 c.70.
M56 1973 c.65.
M57 1972 c.70.
M58 1973 c.65.

71 Functions excluded from sections 69 and 70.

(1) Subject to subsections (2) and (3) below, a function is excluded from sections 69 and 70 above if—

(a) its exercise would constitute the exercise of jurisdiction of any court or of any tribunal which exercises the judicial power of the State; or

(b) its exercise, or a failure to exercise it, would necessarily interfere with or otherwise affect the liberty of any individual; or

(c) it is a power or right of entry, search or seizure into or of any property; or

(d) it is a power or duty to make subordinate legislation.

Status: *Point in time view as at 01/04/1999.*
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(2) Subsection (1)(b) and (c) above shall not exclude any function of the official receiver attached to any court.

(3) Subsection (1)(c) above shall not exclude any function of a local authority under, or under regulations made under, any of the following enactments, namely—

(a) section 247 of [M59] the Local Government (Scotland) Act 1947 (enforcement of non-domestic rates);

(b) Part VI of [M60] the General Rate Act 1967 (distress for general rates);

(c) paragraphs 7 and 7A of Schedule 2 and paragraph 11 of Schedule 5 to [M61] the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (enforcement of community charges and community water charges);

(d) paragraphs 5 to 7 of Schedule 4 to [M62] the Local Government Finance Act 1988 (enforcement of community charge);

(e) paragraph 3(2)(b) of Schedule 9 to that Act (enforcement of non-domestic rates);

(f) paragraphs 5 to 7 of Schedule 4 to [M63] the Local Government Finance Act 1992 (enforcement of council tax);

(g) paragraphs 2 and 6 of Schedule 8 and paragraph 11 of Schedule 11 to that Act (enforcement of council tax and council water charge); and

(h) paragraph 2 of Schedule 10 to the Local [M64]Government etc. (Scotland) Act 1994 (enforcement of water and sewerage charges).

Marginal Citations

M59 1947 c.43.
M60 1967 c.9.
M61 1987 c.47.
M62 1988 c.41.
M63 1992 c.14.
M64 1994 c. 39.

72 Effect of contracting out.

(1) This section applies where by virtue of an order made under section 69 or 70 above a person is authorised to exercise any function of a Minister, office-holder or local authority.

(2) Subject to subsection (3) below, anything done or omitted to be done by or in relation to the authorised person (or an employee of his) in, or in connection with, the exercise or purported exercise of the function shall be treated for all purposes as done or omitted to be done—

(a) in the case of a function of a Minister or office-holder, by or in relation to the Minister or office-holder in his capacity as such;

(b) in the case of a function of a local authority, by or in relation to that authority.

(3) Subsection (2) above shall not apply—

(a) for the purposes of so much of any contract made between the authorised person and the Minister, office-holder or local authority as relates to the exercise of the function, or

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(b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done by the authorised person (or an employee of his).

73 Termination of contracting out.

(1) This section applies where—

(a) by virtue of an order made under section 69 or 70 above a person is authorised to exercise any function of a Minister, office-holder or local authority; and

(b) the order or authorisation is revoked at a time when a relevant contract is subsisting.

(2) The authorised person shall be entitled to treat the relevant contract as repudiated by the Minister, office-holder or local authority (and not as frustrated by reason of the revocation).

(3) In this section "relevant contract" means so much of any contract made between the authorised person and the Minister, office-holder or local authority as relates to the exercise of the function.

Provisions for facilitating contracting out

74 Powers of certain office-holders.

(1) In so far as an office-holder to whom this section applies does not already have power to do so, he may authorise an officer of his to exercise any function of his which is conferred by or under any enactment.

(2) Subject to subsection (3) below, anything done or omitted to be done by an officer so authorised in, or in connection with, the exercise or purported exercise of the function shall be treated for all purposes as done or omitted to be done by the office-holder in his capacity as such.

(3) Subsection (2) above shall not apply for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done as mentioned in that subsection.

(4) The office-holders to whom this section applies are—

(a) the registrar of companies for England and Wales and the registrar of companies for Scotland;

(b) the official receiver attached to any court;

(c) the Comptroller-General of Patents, Designs and Trade Marks;

(d) the Public Trustee;

(e) the traffic commissioner for any traffic area;

(f) the registrar of approved driving instructors;

(g) the Registrar General of Births, Deaths and Marriages for Scotland;

(h) the Keeper of the Registers of Scotland; and

(i) the Keeper of the Records of Scotland.

Modifications etc. (not altering text)

C5 S. 74(4)(a) applied (3.12.1998) by 1998 c. 48, ss. 23, 25(3), **Sch. 3 para. 4**

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

75 Restrictions on disclosure of information.

Schedule 15 to this Act (which contains provisions modifying certain restrictions on the disclosure of information where functions of Ministers, office-holders or local authorities are contracted out) shall have effect.

76 Amendments of enactments etc.

Schedule 16 to this Act (which contains amendments and other provisions for facilitating or otherwise in connection with the contracting out of particular functions, whether in pursuance of an order made under section 69 or 70 above or otherwise) shall have effect.

Supplemental

77 Provisions with respect to orders.

(1) An order under section 69 or 70 above—
- (a) shall be made by statutory instrument;
- (b) may contain provisions (including provisions modifying enactments) which are consequential upon, or supplemental or incidental to, the provisions made by the order which fall within subsection (2) of that section; and
- (c) may contain such transitional provisions and savings as appear to the Minister by whom the order is made to be appropriate.

(2) No order shall be made under section 69 or 70 above unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

78 Extent of Part II.

(1) The following provisions of this Part extend to Northern Ireland, namely—
- (a) sections 69 and 74 above;
- (b) the other provisions of this Part in so far as they relate to orders under section 69 or to functions of Ministers or office-holders; and
- (c) paragraphs 4, 24 and 25 of Schedule 16.

(2) In so far as they relate to functions under enactments relating to patents, registered designs or trade marks, the provisions of this Part also extend to the Isle of Man, subject to such exceptions and modifications as Her Majesty may specify by Order in Council.

79 Interpretation of Part II.

(1) In this Part—

"employee", in relation to a body corporate, includes any director or other officer of that body;

"enactment" does not include an enactment 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);

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"function", in relation to a local authority, includes any power to do any thing which is calculated to facilitate, or is conducive or incidental to, the exercise of a function;

"joint board"—

(a) in relation to England and Wales, means a joint or special planning board constituted for a National Park by order under paragraph 1, 3 or 3A of Schedule 17 to [M65] the Local Government Act 1972, or a joint planning board within the meaning of section 2 of [M66] the Town and Country Planning Act 1990;

(b) in relation to Scotland, has the same meaning as in the Local [M67]Government (Scotland) Act 1973;

"joint committee"—

(a) in relation to England and Wales, means a joint committee appointed under section 102(1)(b) of the Local Government Act 1972;

(b) in relation to Scotland, has the same meaning as in the Local Government (Scotland) Act 1973;

"local authority"—

(a) in relation to England, means a county council, district council or London borough council, the Common Council of the City of London, the sub-treasurer of the Inner Temple, the under treasurer of the Middle Temple, the Council of the Isles of Scilly or a parish council;

(b) in relation to Wales, means a county council, county borough council or community council;

(c) in relation to Scotland, has the same meaning as in the Local Government (Scotland) Act 1973;

"Minister" has the same meaning as Minister of the Crown has in the Ministers [M68]of the Crown Act 1975;

"Northern Ireland legislation" means—

(a) Northern Ireland legislation within the meaning of section 24 of [M69]the Interpretation Act 1978; and

(b) instruments, within the meaning of [M70] the Interpretation Act (Northern Ireland) 1954, made under such legislation;

"office-holder" does not include a Minister, an officer of either House of Parliament, **[**[F7]the Auditor General for Wales,**]** the Parliamentary Commissioner for Administration **[**[F8], the Welsh Administration Ombudsman**]** or the Health Service Commissioner for England, for Wales or for Scotland but, subject to that, means—

(a) the holder of an office created or continued in existence by a public general Act of Parliament;

(b) the holder of an office the remuneration in respect of which is paid out of money provided by Parliament;

(c) the registrar of companies for England and Wales and the registrar of companies for Scotland; and

(d) the registrar of approved driving instructors;

"officer"—

(a) in relation to a Minister, means any person in the civil service of the Crown who is serving in his department;

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(b) in relation to an office-holder, means any member of his staff, or any person in the civil service of the Crown who has been assigned or appointed to assist him in the exercise of his functions;

"the registrar of approved driving instructors" means the officer of the Secretary of State by whom the register of approved driving instructors established in pursuance of section 23 of [M71] the Road Traffic Act 1962 is compiled and maintained;

"subordinate legislation" has the same meaning as in the Interpretation [M72]Act 1978.

(2) In relation to any time before 1st April 1996, subsection (1) above shall have effect as if, in paragraph (b) of the definition of "local authority", for the words "county borough" there were substituted the word " district ".

(3) Subject to subsection (4) below, this Part shall have effect as if—

(a) any reference to a Minister included references to the Forestry Commissioners and the Intervention Board for Agricultural Produce; and

(b) any reference to a local authority included references to a joint board and a joint committee.

(4) Nothing in subsection (3) above shall be construed as enabling those Commissioners or that Board to make an order under section 69 or 70 above; and any order under section 69 above which relates to a function of that Board shall be made by the Ministers (within the meaning of Part I of [M73] the Agriculture Act 1957).

(5) Subject to subsection (6) below, any function of an examiner or other officer of the Patent Office which is conferred by or under any enactment shall be treated for all purposes of this Part as if it were a function of the Comptroller-General of Patents, Designs and Trade Marks.

(6) In any case where by virtue of an order made under section 69 above a person is authorised by that Comptroller to exercise any such function as is mentioned in subsection (5) above, section 72(2) above shall have effect as if for paragraphs (a) and (b) there were substituted the words " by or in relation to an examiner or other officer of the Patent Office in his capacity as such ".

Textual Amendments

F7 Words in the definition in s. 79(1) inserted (1.4.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 36(a)** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**

F8 Words in the definition in s. 79(1) inserted (1.4.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 36(b)** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**

Modifications etc. (not altering text)

C6 S. 79(1) extended (1.7.1999) by S.I. 1999/1351, **arts. 1**, 17(2)(f) (with art. 18)

Marginal Citations

M65 1972 c.70.

M66 1990 c.8.

M67 1973 c.65.

M68 1975 c. 26.

M69 1978 c.30.

M70 1954 c.33 (N.I.).

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

M71 1962 c.59.
M72 1978 c.30.
M73 1957 c.57.

PART III

SUPPLEMENTARY

80 Financial provisions.

(1) There shall be paid out of money provided by Parliament—

(a) any sums required by a Minister of the Crown, an office-holder, the Forestry Commissioners or the Intervention Board for Agricultural Produce for making payments under contracts entered into under or by virtue of Part II of this Act;

(b) any administrative expenses incurred by a Minister of the Crown or office-holder in consequence of the provisions of this Act; and

(c) any increase attributable to this Act in the sums so payable under any other Act.

(2) In this section—

"Minister of the Crown" has the same meaning as in [M74] the Ministers of the Crown Act 1975;

"office-holder" has the same meaning as in Part II of this Act.

Marginal Citations
M74 1975 c. 26.

81 Repeals.

(1) The enactments mentioned in Schedule 17 to this Act (which include enactments which are spent) are hereby repealed to the extent specified in the third column of that Schedule.

(2) The extent of any repeal in that Schedule of an enactment is the same as that of the enactment repealed.

Commencement Information
I7 S. 81 wholly in force; s. 81 in force for certain purposes at Royal Assent and at 3.1.1995 see s. 82(2)(3); s. 81 in force for certain purposes at 1.12.1994 by S.I. 1994/3037, **arts. 2**, 3; s. 81 in force for certain purposes at 3.1.1995 by S.I. 1994/3188, **arts. 2**, 3(n)(s); s. 81 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.)

82 Short title, commencement and extent.

(1) This Act may be cited as the Deregulation and Contracting Out Act 1994.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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 provisions of this Act set out below shall come into force at the end of the period of two months beginning with the day on which this Act is passed, that is to say—
- (a) sections 7, 9, 10, 12, 15, 16, 17, 20, 21 and 31,
- (b) Schedules 2 to 4,
- (c) Schedule 8,
- (d) Schedule 9,
- (e) section 39 and Schedule 11 so far as relating to sections 93A and 133 of the Fair Trading Act 1973, the Energy Act 1976, the Competition Act 1980, the Building Societies Act 1986, the Financial Services Act 1986, the Companies Act 1989 and the Companies (Northern Ireland) Order 1990,
- (f) Part II, and
- (g) section 81 and Schedule 17 so far as relating to the Fair Trading Act 1973, the Competition Act 1980, the Telecommunications Act 1984, the Gas Act 1986, the Building Societies Act 1986, the Financial Services Act 1986, the Electricity Act 1989, the Companies Act 1989, the Companies (Northern Ireland) Order 1990, the Electricity (Northern Ireland) Order 1992 and the Railways Act 1993.

(3) The provisions of this Act set out below shall come into force on the day on which this Act is passed, that is to say—
- (a) Chapter I of Part I,
- (b) sections 14, 18, 25 to 30, 32 to 34 and 37,
- (c) section 39 and Schedule 11 so far as relating to the Road Traffic Regulation Act 1984 and the Charities Act 1993,
- (d) section 40,
- (e) sections 41, 54 and 55,
- (f) section 57(1) so far as relating to paragraph 14(1)(c) and (d) of Schedule 13, and paragraph 14(1)(c) and (d) of Schedule 13,
- (g) section 81 and Schedule 17 so far as relating to the Road Traffic Regulation Act 1984, the Weights and Measures Act 1985, the Charities Act 1992 and the Charities Act 1993, and
- (h) this section.

(4) The remaining provisions of this Act, other than section 36(2), shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be so appointed for different purposes.

(5) An order under subsection (4) above may include such transitional provisions and savings as appear to the Secretary of State to be necessary or expedient in connection with the coming into force of section 36(1) or Chapters III and IV of Part I of this Act.

(6) Section 36(2) shall come into force on such day as the Department of Economic Development in Northern Ireland may by order appoint.

(7) An order under subsection (6) above—
- (a) may contain such transitional provisions as appear to the Department of Economic Development in Northern Ireland to be necessary or expedient in connection with the coming into force of section 36(2), and
- (b) shall be a statutory rule for the purposes of [M75] the Statutory Rules (Northern Ireland) Order 1979.

Status: *Point in time view as at 01/04/1999.*
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(8) Except in so far as any provision of this Act otherwise provides, this Act, other than Chapter I of Part I and this section, does not extend to Northern Ireland.

Subordinate Legislation Made

P1 S. 82(4) power partly exercised: 1.12.1994 appointed for specified provisions by S.I. 1994/3037, **arts. 2**, 3
S. 82(4) power partly exercised: different dates appointed for specified provisions by S.I. 1994/3188, **arts. 2-4** (with transitional provisions in arts. 5, 6)
S. 82(4) power partly exercised: 1.7.1995 and 1.11.1995 appointed for specified provisions by S.I. 1995/1433, **arts. 2-5**
S. 82(4) power partly exercised (2.11.1995): 1.1.1996 appointed for specified provisions by S.I. 1995/2835, **art. 2** (with transitional provisions in Sch.)

P2 S. 82(5) power fully exercised (2.11.1995): 1.1.1996 appointed for specified provisions by S.I. 1995/2835, **art. 2** (with transitional provisions in Sch.)

Marginal Citations

M75 S.I. 1979/1573 (N.I. 12).

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

SCHEDULES

SCHEDULE 1

Section 5.

POWERS TO IMPROVE ENFORCEMENT PROCEDURES

Explanation of suggested remedial action

1 (1) This paragraph confers power to provide that, where an enforcement officer expresses to any person any opinion as to what remedial action should be taken by that person, then, if that person so requests, the officer—

(a) shall as soon as practicable give to him a written notice which satisfies the requirements of sub-paragraph (2) below; and

(b) shall not take any enforcement action against him until after the end of such period beginning with the giving of the notice as may be determined by or under the order.

(2) A notice satisfies the requirements of this sub-paragraph if it—

(a) states the nature of the remedial action which in the officer's opinion should be taken, and explains why and within what period;

(b) explains what constitutes the failure to observe the restriction or to comply with the requirement or condition; and

(c) states the nature of the enforcement action which could be taken and states whether there is a right to make representations before, or a right of appeal against, the taking of such action.

Explanation of immediate enforcement action etc.

2 (1) This paragraph confers power to provide that, where an enforcement officer—

(a) takes immediate enforcement action against any person; or

(b) requires any person to take immediate remedial action,

the officer shall as soon as practicable give to that person a written notice explaining why it appeared to him to be necessary to take such action or impose such a requirement.

(2) The power conferred by this paragraph shall not be exercisable unless the restriction, requirement or condition is such that observance of or compliance with it would be likely to involve expenditure of a significant amount.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

Right to make representations

3 This paragraph confers power to provide that, before an enforcement officer takes any enforcement action against any person, the officer—

(a) shall give to that person a written notice stating—

(i) that he is considering taking the action and the reasons why he is considering it; and

(ii) that the person may, within a period specified in the notice, make written representations to him or, if the person so requests, make oral representations to him in the presence of a person determined by or under the order;

and

(b) shall consider any representations which are duly made and not withdrawn.

Explanation of right of appeal

4 This paragraph confers power to provide that, where—

(a) an enforcement officer has taken enforcement action against any person; and

(b) the relevant enactment contains any provision conferring a right of appeal against such action,

the officer shall as soon as practicable give to that person a written notice explaining how, where, within what period, and on what grounds, an appeal may be brought, and whether the enforcement action would be stayed or, in Scotland, suspended while an appeal were pending.

Application of provisions to other interested persons

5 (1) This paragraph confers power to provide that, where—

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

(b) the enforcement action which may be or has been taken specifically relates to goods or services which are to be or have been supplied by a third person,

any relevant provision shall, with any modifications specified in the order, apply in relation to that person.

(2) In this paragraph—

"relevant provision" means any provision made by virtue of paragraphs 1 to 4 above or any provision of the relevant enactment which is to the like effect;

"third person" means any person other than the one against whom enforcement action may be or has been taken.

Status: *Point in time view as at 01/04/1999.*
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SCHEDULE 2

Section 7.

SECTION 7: SECTORAL REGULATORS

Telecommunications

1 (1) The Director General of Telecommunications shall be entitled to exercise, concurrently with the Director General of Fair Trading, the functions of that Director under the provisions inserted in [M76] the Fair Trading Act 1973 by section 7 above, so far as relating to monopoly situations which exist or may exist in relation to commercial activities connected with telecommunications; and references in those provisions to that Director shall be construed accordingly.

(2) In sub-paragraph (1) above, "commercial activities connected with telecommunications" has the same meaning as in [M77] the Telecommunications Act 1984.

Marginal Citations

M76 1973 c. 41.
M77 1984 c. 12.

2 In section 50(4) of the Telecommunications Act 1984 (which makes provision about the exercise of functions exercised concurrently by the Director General of Fair Trading and the Director General of Telecommunications) after paragraph (c) there shall be inserted "and

(d) paragraph 1 of Schedule 2 to the Deregulation and Contracting Out Act 1994,".

3 In section 50(6) of the Telecommunications Act 1984 (power of Secretary of State to determine any question as to the application of certain provisions) after "above" there shall be inserted " or paragraph 1 of Schedule 2 to the Deregulation and Contracting Out Act 1994 ".

Electricity

4 (1) The Director General of Electricity Supply shall be entitled to exercise, concurrently with the Director General of Fair Trading, the functions of that Director under the provisions inserted in the Fair Trading [M78]Act 1973 by section 7 above, so far as relating to monopoly situations which exist or may exist in relation to commercial activities connected with the generation, transmission or supply of electricity; and references in those provisions to that Director shall be construed accordingly.

(2) In sub-paragraph (1) above, "commercial activities connected with the generation, transmission or supply of electricity" has the same meaning as in section 43(2) of [M79] the Electricity Act 1989.

Marginal Citations

M78 1973 c. 41.
M79 1989 c. 29.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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 (1) The Director General of Electricity Supply for Northern Ireland shall be entitled to exercise, concurrently with the Director General of Fair Trading, the functions of that Director under the provisions inserted in the Fair Trading Act 1973 by section 7 above, so far as relating to monopoly situations which exist or may exist in relation to commercial activities connected with the generation, transmission or supply of electricity; and references in those provisions to that Director shall be construed accordingly.

(2) In sub-paragraph (1) above, "commercial activities connected with the generation, transmission or supply of electricity" has the same meaning as in Article 46(2) of [M80] the Electricity (Northern Ireland) Order 1992.

Marginal Citations

M80 S.I. 1992/231 (N.I. 1).

6 (1) In section 43(4) of the Electricity Act 1989 (which makes provision about the exercise of functions exercised concurrently by the Director General of Fair Trading and the Director General of Electricity Supply) after paragraph (c) there shall be inserted "and

(d) paragraph 4 of Schedule 2 to the Deregulation and Contracting Out Act 1994,".

(2) In Article 46(4) of [M81] the Electricity (Northern Ireland) Order 1992 (which makes similar provision in relation to the Director General of Fair Trading and the Director General of Electricity Supply for Northern Ireland) after sub-paragraph (c) there shall be inserted "and

(d) paragraph 5 of Schedule 2 to the Deregulation and Contracting Out Act 1994,".

Extent Information

E1 Sch. 2 para. 6(2) extends to Northern Ireland only see s. 40(3).

Marginal Citations

M81 S.I. 1992/231 (N.I. 1).

7 (1) In section 43(6) of [M82]the Electricity Act 1989 (power of Secretary of State to determine any question as to the application of certain provisions) after "above" there shall be inserted " or paragraph 4 of Schedule 2 to the Deregulation and Contracting Out Act 1994 ".

(2) In Article 46(6) of the Electricity (Northern Ireland) Order 1992 (corresponding power of Department of Economic Development) after "(3)" there shall be inserted " or paragraph 5 of Schedule 2 to the Deregulation and Contracting Out Act 1994 ".

Extent Information

E2 Sch. 2 para. 7(2) extends to Northern Ireland only see s. 40(3).

Status: *Point in time view as at 01/04/1999.*
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Marginal Citations
M82 1989 c. 29.

Water

8 (1) The Director General of Water Services shall be entitled to exercise, concurrently with the Director General of Fair Trading, the functions of that Director under the provisions inserted in [M83]the Fair Trading Act 1973 by section 7 above, so far as relating to monopoly situations which exist or may exist in relation to commercial activities connected with the supply of water or the provision of sewerage services.

(2) In sub-paragraph (1) above, "commercial activities connected with the supply of water or the provision of sewerage services" has the same meaning as in section 31(2) of [M84] the Water Industry Act 1991.

Marginal Citations
M83 1973 c. 41.
M84 1991 c. 56.

9 So far as necessary for the purposes of, or in connection with, sub-paragraph (1) of paragraph 8 above, the references to the Director General of Fair Trading in the provisions mentioned in that sub-paragraph shall be construed as if they were or, as the case may require, as if they included references to the Director General of Water Services.

10 (1) Section 31 of the Water [M85] Industry Act 1991 shall be amended as follows.

(2) In subsection (5) (duty to consult other Director in case of functions exercisable concurrently by Director General of Water Services and Director General of Fair Trading) after "subsection (3) above" there shall be inserted " or in paragraph 8 of Schedule 2 to the Deregulation and Contracting Out Act 1994 ".

(3) In subsection (6) (exercise of function by one Director to exclude exercise in the same matter by the other Director)—

(a) after the words "subsection (3) above", in the first place where they occur, there shall be inserted " or in paragraph 8 of Schedule 2 to the Deregulation and Contracting Out Act 1994 ", and

(b) for "that paragraph or, as the case may be, in subsection (3) above" there shall be substituted " that provision ".

(4) In subsection (8) (power of Secretary of State to determine any question as to the application of certain provisions) after "above" there shall be inserted " or paragraph 8 of Schedule 2 to the Deregulation and Contracting Out Act 1994 ".

Marginal Citations
M85 1991 c. 56.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

Railways

11 (1) The Rail Regulator shall be entitled to exercise, concurrently with the Director General of Fair Trading, the functions of that Director under the provisions inserted in [M86] the Fair Trading Act 1973 by section 7 above, so far as relating to monopoly situations which exist or may exist in relation to the supply of railway services; and references in those provisions to the Director shall be construed accordingly.

(2) In sub-paragraph (1) above, "the supply of railway services" has the same meaning as in section 67(2) of [M87] the Railways Act 1993.

Marginal Citations
M86 1973 c. 41.
M87 1993 c. 43.

12 In section 67(4) of the Railways Act 1993 (which makes provision about the exercise of functions exercised concurrently by the Director General of Fair Trading and the Rail Regulator) after paragraph (c) there shall be inserted "and

(d) paragraph 11 of Schedule 2 to the Deregulation and Contracting Out Act 1994,".

13 In section 67(8) of the Railways Act 1993 (power of Secretary of State to determine any question as to the application of certain provisions) after "above" there shall be inserted " or paragraph 11 of Schedule 2 to the Deregulation and Contracting Out Act 1994 ".

14 Section 93B of the Fair Trading Act 1973 (offences of furnishing false or misleading information in connection with functions of the Director General of Fair Trading under Part IV of that Act) shall have effect, so far as relating to functions exercisable by the Rail Regulator by virtue of paragraph 11 above, as if the reference in subsection (1)(a) of that section to the Director included a reference to the Rail Regulator.

Interpretation

15 Expressions used in this Schedule which are also used in the Fair [M88]Trading Act 1973 have the same meanings as in that Act.

Marginal Citations
M88 1973 c. 41.

SCHEDULE 3

Section 10.

NON-NOTIFIABLE AGREEMENTS: MODIFICATIONS OF THE RESTRICTIVE TRADE PRACTICES ACT 1976

1 The [M89]Restrictive Trade Practices Act 1976 shall be amended as follows.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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
M89 1976 c. 34.

2 In section 1 (registration of agreements) after subsection (2) there shall be inserted—

"(2A) In the case of a non-notifiable agreement, subsection (2)(a) and (b) above shall only apply where the Director considers that any restrictions or information provisions by virtue of which this Act applies to the agreement are of such significance as to call for investigation by the Court."

3 (1) Section 24 (particulars and time for registration) shall be amended as follows.

(2) In subsection (1) (duty to furnish particulars of agreements subject to registration under the Act) after "under this Act" there shall be inserted " , other than a non-notifiable agreement, ".

(3) In subsection (2) (additional provisions about particulars to be furnished)—

(a) in paragraph (a), after "under this Act" there shall be inserted " and is not a non-notifiable agreement ", and

(b) in paragraph (b), for "such an agreement" there shall be substituted " an agreement which, at the time of the variation or determination, falls within paragraph (a) above ".

(4) After that subsection there shall be inserted—

"(2A) Subsections (1) and (2)(a) above shall not apply in relation to an agreement which ceases to be a non-notifiable agreement by virtue of the Director entering or filing particulars of it under section 1(2)(b) above."

4 After section 25 there shall be inserted—

"**25A Registration of non-notifiable agreement: duty to inform parties.**

(1) Where an agreement ceases to be a non-notifiable agreement by virtue of the Director entering or filing particulars of it under section 1(2)(b) above, he shall give notice of that fact to each of the parties to the agreement.

(2) Regulations under section 27 below may prescribe how notice under subsection (1) above is to be given and who is to be treated as a party to an agreement for the purposes of that subsection."

5 (1) Section 26 shall be amended as follows.

(2) In subsection (2) (power of the Restrictive Practices Court to make declarations as to certain matters) for the words from "and" to the end there shall be substituted " , declare whether or not it is subject to registration under this Act and declare whether or not it is a non-notifiable agreement. "

(3) For subsection (3) there shall be substituted—

"(3) Where a party to an agreement makes an application for a declaration under subsection (2) above, the Director shall not enter or file particulars of the agreement in the register during the time during which the proceedings and any appeal therein are pending.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

(3A) Subsection (3) above shall not apply where—

(a) the only question in relation to which the declaration is sought is whether or not the agreement is a non-notifiable agreement, and

(b) the Director considers that any restrictions or information provisions by virtue of which this Act applies to the agreement are of such significance as to call for investigation by the Court.

(3B) Where—

(a) a party to an agreement makes an application for a declaration under subsection (2) above,

(b) the question in relation to which the declaration is sought is relevant to the existence of a duty to furnish particulars of the agreement under section 24 above, and

(c) the application is made before the expiry of the time within which particulars of the agreement are required to be furnished if the duty to furnish particulars under that section applies,

then, if particulars of the agreement have not been furnished under that section before the commencement of the proceedings, that time shall be extended by a time equal to the time during which the proceedings and any appeal therein are pending, and such further time, if any, as the Court may direct."

6 In section 36 (Director's power to obtain information) after subsection (3) there shall be inserted—

"(3A) The Director may give notice to any person being party to an agreement which—

(a) is a non-notifiable agreement, or

(b) has ceased to be a non-notifiable agreement by virtue of the Director entering or filing particulars of it under section 1(2)(b) above,

requiring him to furnish such documents or information in his possession or control as the Director considers expedient for the purposes of, or in connection with, the registration of the agreement."

7 (1) Schedule 2 (furnishing of particulars of agreements) shall be amended as follows.

(2) In paragraph 1, for sub-paragraph (1) there shall be substituted—

"(1) Subject to paragraph 2 below, no duty to furnish particulars in respect of an agreement which is subject to registration shall be affected by any subsequent variation or determination of the agreement."

(3) In paragraph 2, in sub-paragraph (1), for "an agreement becomes subject to registration after it is made" there shall be substituted " , after an agreement is made, it becomes an agreement in respect of which particulars fall to be furnished under section 24 above ".

(4) In that paragraph, in sub-paragraph (2), after "section 24(1) above" there shall be inserted " (so far as applicable) ".

(5) In that paragraph, in sub-paragraph (3), for "24" there shall be substituted " 24(1) ".

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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 paragraph 5(1) after entry (c) in the Table there shall be inserted—

"(ca) Agreement which ceases to be a non-notifiable agreement.	Within 1 month from the day on which the agreement so ceases."

SCHEDULE 4

Section 12.

SECTION 12: SECTORAL REGULATORS AND TRANSITION

Extent Information
E3 Sch. 4: certain amendments are co-extensive with the enactments they affect see s. 40.

Sectoral regulators

1 The amendments of [M90] the Competition Act 1980 made by section 12(1) to (6) above, together with the consequential amendments of that Act made by paragraph 4(2) to (6) of Schedule 11 to this Act, shall have effect, not only in relation to the jurisdiction of the Director General of Fair Trading under the provisions amended, but also in relation to the jurisdiction under those provisions of each of the following—

(a) the Director General of Telecommunications,
(b) the Director General of Electricity Supply,
(c) the Director General of Electricity Supply for Northern Ireland,
(d) the Director General of Water Services, and
(e) the Rail Regulator.

Marginal Citations
M90 1980 c. 21.

2 In each of the following, namely—

(a) section 50(4) of [M91] the Telecommunications Act 1984,
(b) section 43(4) of [M92] the Electricity Act 1989,
(c) Article 46(4) of [M93] the Electricity (Northern Ireland) Order 1992, and
(d) section 67(4) of [M94] the Railways Act 1993,

(which make provision about the exercise of functions exercised concurrently by the Director General of Fair Trading and the sectoral regulator concerned) for "transferred by", in each place, there shall be substituted " mentioned in ".

Marginal Citations
M91 1984 c. 12.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

M92 1989 c. 29.
M93 S.I. 1992/231 (N.I. 1).
M94 1993 c. 43.

3 In each of the following, namely—
(a) section 50(6) of the Telecommunications Act 1984,
(b) section 43(6) of the Electricity Act 1989, and
(c) Article 46(6) of the Electricity (Northern Ireland) Order 1992,

(which provide for the Secretary of State or, in Northern Ireland, the Department of Economic Development to determine certain questions in connection with the jurisdictions of the sectoral regulators concerned) for "as to whether" there shall be substituted " in any particular case as to the jurisdiction of the Director under any of the provisions mentioned in " and the words "applies to any particular case" shall be omitted.

4 In section 67(8) of the Railways Act 1993 (corresponding provision in relation to the jurisdiction of the Rail Regulator) for "as to whether" there shall be substituted " in any particular case as to the jurisdiction of the Regulator under any of the provisions mentioned in " and the words "applies to any particular case" shall be omitted.

Transition

5 (1) Where, immediately before the relevant day, an investigation under section 3 of [M95] the Competition Act 1980 has commenced and is being proceeded with, that Act shall, so far as concerns—
(a) further proceeding with the investigation,
(b) publishing, after completion of the investigation, such a report as is mentioned in subsection (10) of that section, and
(c) taking action in consequence of the report,

have effect as if this Act had not been passed.

(2) For the purposes of this paragraph, an investigation under section 3 of the Competition Act 1980 shall be taken to have commenced once the authority by whom it is to be carried out has performed the duties which subsection (2) of that section requires him to perform before carrying out the investigation.

Marginal Citations
M95 1980 c. 21.

6 Where, immediately before the relevant day, an investigation has been completed, but no such report as is mentioned in section 3(10) of the Competition Act 1980 has yet been published, that Act shall, so far as concerns—
(a) publishing such a report, and
(b) taking action in consequence of it,

have effect as if this Act had not been passed.

7 Where, immediately before the relevant day, the authority by whom an investigation under section 3 of the Competition Act 1980 has been carried out is considering what action to take in consequence of a report published under subsection (10) of

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that section, that Act shall, so far as concerns taking action in consequence of the report, have effect as if this Act had not been passed.

8 In paragraphs 5 to 7 above, "relevant day" means the day on which section 12 above comes into force.

SCHEDULE 5

Section 13(1).

STRIKING OFF OF NON-TRADING PRIVATE COMPANIES: GREAT BRITAIN

1 The [M96]Companies Act 1985 shall be amended as follows.

Marginal Citations
M96 1985 c. 6.

2 After section 652 there shall be inserted—

"**652A Registrar may strike private company off register on application.**

(1) On application by a private company, the registrar of companies may strike the company's name off the register.

(2) An application by a company under this section shall—
(a) be made on its behalf by its directors or by a majority of them,
(b) be in the prescribed form, and
(c) contain the prescribed information.

(3) The registrar shall not strike a company off under this section until after the expiration of 3 months from the publication by him in the Gazette of a notice—
(a) stating that he may exercise his power under this section in relation to the company, and
(b) inviting any person to show cause why he should not do so.

(4) Where the registrar strikes a company off under this section, he shall publish notice of that fact in the Gazette.

(5) On the publication in the Gazette of a notice under subsection (4), the company to which the notice relates is dissolved.

(6) However, the liability (if any) of every director, managing officer and member of the company continues and may be enforced as if the company had not been dissolved.

(7) Nothing in this section affects the power of the court to wind up a company the name of which has been struck off the register.

652B Duties in connection with making application under section 652A.

(1) A person shall not make an application under section 652A on behalf of a company if, at any time in the previous 3 months, the company has—

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(a) changed its name,
(b) traded or otherwise carried on business,
(c) made a disposal for value of property or rights which, immediately before ceasing to trade or otherwise carry on business, it held for the purpose of disposal for gain in the normal course of trading or otherwise carrying on business, or
(d) engaged in any other activity, except one which is—
(i) necessary or expedient for the purpose of making an application under section 652A, or deciding whether to do so,
(ii) necessary or expedient for the purpose of concluding the affairs of the company,
(iii) necessary or expedient for the purpose of complying with any statutory requirement, or
(iv) specified by the Secretary of State by order for the purposes of this sub-paragraph.

(2) For the purposes of subsection (1), a company shall not be treated as trading or otherwise carrying on business by virtue only of the fact that it makes a payment in respect of a liability incurred in the course of trading or otherwise carrying on business.

(3) A person shall not make an application under section 652A on behalf of a company at a time when any of the following is the case—
(a) an application has been made to the court under section 425 on behalf of the company for the sanctioning of a compromise or arrangement and the matter has not been finally concluded;
(b) a voluntary arrangement in relation to the company has been proposed under Part I of [M97] the Insolvency Act 1986 and the matter has not been finally concluded;
(c) an administration order in relation to the company is in force under Part II of that Act or a petition for such an order has been presented and not finally dealt with or withdrawn;
(d) the company is being wound up under Part IV of that Act, whether voluntarily or by the court, or a petition under that Part for the winding up of the company by the court has been presented and not finally dealt with or withdrawn;
(e) there is a receiver or manager of the company's property;
(f) the company's estate is being administered by a judicial factor.

(4) For the purposes of subsection (3)(a), the matter is finally concluded if—
(a) the application has been withdrawn,
(b) the application has been finally dealt with without a compromise or arrangement being sanctioned by the court, or
(c) a compromise or arrangement has been sanctioned by the court and has, together with anything required to be done under any provision made in relation to the matter by order of the court, been fully carried out.

(5) For the purposes of subsection (3)(b), the matter is finally concluded if—

Status: *Point in time view as at 01/04/1999.*
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(a) no meetings are to be summoned under section 3 of the Insolvency [M98]Act 1986,

(b) meetings summoned under that section fail to approve the arrangement with no, or the same, modifications,

(c) an arrangement approved by meetings summoned under that section, or in consequence of a direction under section 6(4)(b) of that Act, has been fully implemented, or

(d) the court makes an order under subsection (5) of section 6 of that Act revoking approval given at previous meetings and, if the court gives any directions under subsection (6) of that section, the company has done whatever it is required to do under those directions.

(6) A person who makes an application under section 652A on behalf of a company shall secure that a copy of the application is given, within 7 days from the day on which the application is made, to every person who, at any time on that day, is—

(a) a member of the company,

(b) an employee of the company,

(c) a creditor of the company,

(d) a director of the company,

(e) a manager or trustee of any pension fund established for the benefit of employees of the company, or

(f) a person of a description specified for the purposes of this paragraph by regulations made by the Secretary of State.

(7) Subsection (6) shall not require a copy of the application to be given to a director who is a party to the application.

(8) The duty imposed by subsection (6) shall cease to apply if the application is withdrawn before the end of the period for giving the copy application.

(9) The Secretary of State may by order amend subsection (1) for the purpose of altering the period in relation to which the doing of the things mentioned in paragraphs (a) to (d) of that subsection is relevant.

652C Directors' duties following application under section 652A.

(1) Subsection (2) applies in relation to any time after the day on which a company makes an application under section 652A and before the day on which the application is finally dealt with or withdrawn.

(2) A person who is a director of the company at the end of a day on which a person other than himself becomes—

(a) a member of the company,

(b) an employee of the company,

(c) a creditor of the company,

(d) a director of the company,

(e) a manager or trustee of any pension fund established for the benefit of employees of the company, or

(f) a person of a description specified for the purposes of this paragraph by regulations made by the Secretary of State,

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shall secure that a copy of the application is given to that person within 7 days from that day.

(3) The duty imposed by subsection (2) shall cease to apply if the application is finally dealt with or withdrawn before the end of the period for giving the copy application.

(4) Subsection (5) applies where, at any time on or after the day on which a company makes an application under section 652A and before the day on which the application is finally dealt with or withdrawn—

(a) the company—

(i) changes its name,

(ii) trades or otherwise carries on business,

(iii) makes a disposal for value of any property or rights other than those which it was necessary or expedient for it to hold for the purpose of making, or proceeding with, an application under section 652A, or

(iv) engages in any other activity, except one to which subsection (6) applies;

(b) an application is made to the court under section 425 on behalf of the company for the sanctioning of a compromise or arrangement;

(c) a voluntary arrangement in relation to the company is proposed under Part I of the [M99] Insolvency Act 1986;

(d) a petition is presented for the making of an administration order under Part II of that Act in relation to the company;

(e) there arise any of the circumstances in which, under section 84(1) of that Act, the company may be voluntarily wound up;

(f) a petition is presented for the winding up of the company by the court under Part IV of that Act;

(g) a receiver or manager of the company's property is appointed; or

(h) a judicial factor is appointed to administer the company's estate.

(5) A person who, at the end of a day on which an event mentioned in any of paragraphs (a) to (h) of subsection (4) occurs, is a director of the company shall secure that the company's application is withdrawn forthwith.

(6) This subsection applies to any activity which is—

(a) necessary or expedient for the purpose of making, or proceeding with, an application under section 652A,

(b) necessary or expedient for the purpose of concluding affairs of the company which are outstanding because of what has been necessary or expedient for the purpose of making, or proceeding with, such an application,

(c) necessary or expedient for the purpose of complying with any statutory requirement, or

(d) specified by the Secretary of State by order for the purposes of this subsection.

(7) For the purposes of subsection (4)(a), a company shall not be treated as trading or otherwise carrying on business by virtue only of the fact that it

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Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

makes a payment in respect of a liability incurred in the course of trading or otherwise carrying on business.

652D Sections 652B and 652C: supplementary provisions.

(1) For the purposes of sections 652B(6) and 652C(2), a document shall be treated as given to a person if it is delivered to him or left at his proper address or sent by post to him at that address.

(2) For the purposes of subsection (1) and section 7 of the Interpretation [M100]Act 1978 (which relates to the service of documents by post) in its application to that subsection, the proper address of any person shall be his last known address, except that—

(a) in the case of a body corporate, other than one to which subsection (3) applies, it shall be the address of its registered or principal office,

(b) in the case of a partnership, other than one to which subsection (3) applies, it shall be the address of its principal office, and

(c) in the case of a body corporate or partnership to which subsection (3) applies, it shall be the address of its principal office in the United Kingdom.

(3) This subsection applies to a body corporate or partnership which—

(a) is incorporated or formed under the law of a country or territory outside the United Kingdom, and

(b) has a place of business in the United Kingdom.

(4) Where a creditor of the company has more than one place of business, subsection (1) shall have effect, so far as concerns the giving of a document to him, as if for the words from "delivered" to the end there were substituted "left, or sent by post to him, at each place of business of his with which the company has had dealings in relation to a matter by virtue of which he is a creditor of the company."

(5) Any power to make an order or regulations under section 652B or 652C shall—

(a) include power to make different provision for different cases or classes of case,

(b) include power to make such transitional provisions as the Secretary of State considers appropriate, and

(c) be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(6) For the purposes of sections 652B and 652C, an application under section 652A is withdrawn if notice of withdrawal in the prescribed form is given to the registrar of companies.

(7) In sections 652B and 652C, "disposal" includes part disposal.

(8) In sections 652B and 652C and this section, "creditor" includes a contingent or prospective creditor.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

652E Sections 652B and 652C: enforcement.

(1) A person who breaches or fails to perform a duty imposed on him by section 652B or 652C is guilty of an offence and liable to a fine.

(2) A person who fails to perform a duty imposed on him by section 652B(6) or 652C(2) with the intention of concealing the making of the application in question from the person concerned is guilty of an offence and liable to imprisonment or a fine, or both.

(3) In any proceedings for an offence under subsection (1) consisting of breach of a duty imposed by section 652B(1) or (3), it shall be a defence for the accused to prove that he did not know, and could not reasonably have known, of the existence of the facts which led to the breach.

(4) In any proceedings for an offence under subsection (1) consisting of failure to perform the duty imposed by section 652B(6), it shall be a defence for the accused to prove that he took all reasonable steps to perform the duty.

(5) In any proceedings for an offence under subsection (1) consisting of failure to perform a duty imposed by section 652C(2) or (5), it shall be a defence for the accused to prove—

(a) that at the time of the failure he was not aware of the fact that the company had made an application under section 652A, or

(b) that he took all reasonable steps to perform the duty.

652F Other offences connected with section 652A.

(1) Where a company makes an application under section 652A, any person who, in connection with the application, knowingly or recklessly furnishes any information to the registrar of companies which is false or misleading in a material particular is guilty of an offence and liable to a fine.

(2) Any person who knowingly or recklessly makes an application to the registrar of companies which purports to be an application under section 652A, but which is not, is guilty of an offence and liable to a fine.”

Marginal Citations

M97 1986 c. 45.
M98 1986 c. 45.
M99 1986 c. 45.
M100 1978 c. 30.

3 (1) Section 653 (objection to striking off by persons aggrieved) shall be amended as follows.

(2) In subsection (1)—

(a) for “The following” there shall be substituted “ Subsection (2) ”, and

(b) at the end there shall be inserted “ under section 652. ”

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

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"(2A) Subsections (2B) and (2D) apply if a company has been struck off the register under section 652A.

(2B) The court, on an application by a notifiable person made before the expiration of 20 years from publication in the Gazette of notice under section 652A(4), may, if satisfied—

(a) that any duty under section 652B or 652C with respect to the giving to that person of a copy of the company's application under section 652A was not performed,

(b) that the making of the company's application under section 652A involved a breach of duty under section 652B(1) or (3), or

(c) that it is for some other reason just to do so,

order the company's name to be restored to the register.

(2C) In subsection (2B), "notifiable person" means a person to whom a copy of the company's application under section 652A was required to be given under section 652B or 652C.

(2D) The court, on an application by the Secretary of State made before the expiration of 20 years from publication in the Gazette of notice under section 652A(4), may, if satisfied that it is in the public interest to do so, order the company's name to be restored."

(4) In subsection (3)—

(a) for "the order" there shall be substituted " an order under subsection (2), (2B) or (2D) ", and

(b) after "company", in the first place where it occurs, there shall be inserted " to which the order relates ".

4 In Schedule 24 (punishment of offences), there shall be inserted at the appropriate places—

"652E(1)	Person breaching or failing to perform duty imposed by section 652B or 652C.	1. On indictment. 2. Summary.	A fine. The statutory maximum.
652E(2)	Person failing to perform duty imposed by section 652B(6) or 652C(2) with intent to conceal the making of application under section 652A.	1. On indictment. 2. Summary.	7 years or a fine; or both. 6 months or the statutory maximum; or both.
652F(1)	Person furnishing false or misleading information in connection with	1. On indictment. 2. Summary.	A fine. The statutory maximum.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

	application under section 652A.		
652F(2)	Person making false application under section 652A.	1. On indictment. 2. Summary.	A fine. The statutory maximum.”

SCHEDULE 6

Section 13(2).

STRIKING OFF OF NON-TRADING PRIVATE COMPANIES: NORTHERN IRELAND

1 [M101]The Companies (Northern Ireland) Order 1986 shall be amended as follows.

Commencement Information

I8 Sch. 6 para. 1 wholly in force at 1.11.1995; Sch. 6 para. 1 not in force at Royal Assent see s. 84(2); Sch. 6 para. 1 in force for certain purposes at 1.7.1995 by S.I. 1995/1433, **art. 3(b)**; Sch. 6 in force at 1.11.1995 in so far as not already in force by S.I. 1995/1433, **art. 5(a)**

Marginal Citations

M101 S.I. 1986/1032 (N.I. 6).

2 After Article 603 there shall be inserted—

“Registrar may strike private company off register on application

603A(1) On application by a private company, the registrar may strike the company’s name off the register.

(2) An application by a company under this Article shall—
- (a) be made on its behalf by its directors or by a majority of them,
- (b) be in the prescribed form, and
- (c) contain the prescribed information.

(3) The registrar shall not strike a company off under this Article until after the expiration of 3 months from the publication by him in the Belfast Gazette of a notice—
- (a) stating that he may exercise his power under this Article in relation to the company, and
- (b) inviting any person to show cause why he should not do so.

(4) Where the registrar strikes a company off under this Article, he shall publish notice of that fact in the Belfast Gazette.

(5) On the publication in the Belfast Gazette of a notice under paragraph (4), the company to which the notice relates is dissolved.

(6) However, the liability (if any) of every director, managing officer and member of the company continues and may be enforced as if the company had not been dissolved.

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(7) Nothing in this Article affects the power of the court to wind up a company the name of which has been struck off the register.

Duties in connection with making application under Article 603A

603B(1) A person shall not make an application under Article 603A on behalf of a company if, at any time in the previous 3 months, the company has—

(a) changed its name,

(b) traded or otherwise carried on business,

(c) made a disposal for value of property or rights which, immediately before ceasing to trade or otherwise carry on business, it held for the purpose of disposal for gain in the normal course of trading or otherwise carrying on business, or

(d) engaged in any other activity, except one which is—

(i) necessary or expedient for the purpose of making an application under Article 603A, or deciding whether to do so,

(ii) necessary or expedient for the purpose of concluding the affairs of the company,

(iii) necessary or expedient for the purpose of complying with any statutory requirement, or

(iv) specified for the purposes of this head by the Department by order made subject to negative resolution.

(2) For the purposes of paragraph (1), a company shall not be treated as trading or otherwise carrying on business by virtue only of the fact that it makes a payment in respect of a liability incurred in the course of trading or otherwise carrying on business.

(3) A person shall not make an application under Article 603A on behalf of a company at a time when any of the following is the case—

(a) an application has been made to the court under Article 418 on behalf of the company for the sanctioning of a compromise or arrangement and the matter has not been finally concluded;

(b) a voluntary arrangement in relation to the company has been proposed under Part II of [M102] the Insolvency (Northern Ireland) Order 1989 and the matter has not been finally concluded;

(c) an administration order in relation to the company is in force under Part III of that Order or a petition for such an order has been presented and not finally dealt with or withdrawn;

(d) the company is being wound up under Part V of that Order, whether voluntarily or by the court, or a petition under that Part for the winding up of the company by the court has been presented and not finally dealt with or withdrawn;

(e) there is a receiver or manager of the company's property.

(4) For the purposes of paragraph (3)(a), the matter is finally concluded if—

(a) the application has been withdrawn,

(b) the application has been finally dealt with without a compromise or arrangement being sanctioned by the court, or

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(c) a compromise or arrangement has been sanctioned by the court and has, together with anything required to be done under any provision made in relation to the matter by order of the court, been fully carried out.

(5) For the purposes of paragraph (3)(b), the matter is finally concluded if—

(a) no meetings are to be summoned under Article 16 of the Insolvency [M103](Northern Ireland) Order 1989,

(b) meetings summoned under that Article fail to approve the arrangement with no, or the same, modifications,

(c) an arrangement approved by meetings summoned under that Article, or in consequence of a direction under Article 19(4)(b) of that Order, has been fully implemented, or

(d) the court makes an order under paragraph (5) of Article 19 of that Order revoking approval given at previous meetings and, if the court gives any directions under paragraph (6) of that Article, the company has done whatever it is required to do under those directions.

(6) A person who makes an application under Article 603A on behalf of a company shall secure that a copy of the application is given, within 7 days from the day on which the application is made, to every person who, at any time on that day, is—

(a) a member of the company,

(b) an employee of the company,

(c) a creditor of the company,

(d) a director of the company,

(e) a manager or trustee of any pension fund established for the benefit of employees of the company, or

(f) a person of a description specified for the purposes of this sub-paragraph by regulations made by the Department.

(7) Paragraph (6) shall not require a copy of the application to be given to a director who is a party to the application.

(8) The duty imposed by paragraph (6) shall cease to apply if the application is withdrawn before the end of the period for giving the copy application.

(9) The Department may by order, made subject to negative resolution, amend paragraph (1) for the purpose of altering the period in relation to which the doing of the things mentioned in sub-paragraphs (a) to (d) of that paragraph is relevant.

Directors' duties following application under Article 603A

603C(1) Paragraph (2) applies in relation to any time after the day on which a company makes an application under Article 603A and before the day on which the application is finally dealt with or withdrawn.

(2) A person who is a director of the company at the end of a day on which a person other than himself becomes—

(a) a member of the company,

(b) an employee of the company,

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(c) a creditor of the company,
(d) a director of the company,
(e) a manager or trustee of any pension fund established for the benefit of employees of the company, or
(f) a person of a description specified for the purposes of this sub-paragraph by regulations made by the Department,

shall secure that a copy of the application is given to that person within 7 days from that day.

(3) The duty imposed by paragraph (2) shall cease to apply if the application is finally dealt with or withdrawn before the end of the period for giving the copy application.

(4) Paragraph (5) applies where, at any time on or after the day on which a company makes an application under Article 603A and before the day on which the application is finally dealt with or withdrawn—
(a) the company—
(i) changes its name,
(ii) trades or otherwise carries on business,
(iii) makes a disposal for value of any property or rights other than those which it was necessary or expedient for it to hold for the purpose of making, or proceeding with, an application under Article 603A, or
(iv) engages in any other activity, except one to which paragraph (6) applies;
(b) an application is made to the court under Article 418 on behalf of the company for the sanctioning of a compromise or arrangement;
(c) a voluntary arrangement in relation to the company is proposed under Part II of [M104] the Insolvency (Northern Ireland) Order 1989;
(d) a petition is presented for the making of an administration order under Part III of that Order in relation to the company;
(e) there arise any of the circumstances in which, under Article 70(1) of that Order, the company may be voluntarily wound up;
(f) a petition is presented for the winding up of the company by the court under Part V of that Order; or
(g) a receiver or manager of the company's property is appointed.

(5) A person who, at the end of a day on which an event mentioned in any of sub-paragraphs (a) to (g) of paragraph (4) occurs, is a director of the company shall secure that the company's application is withdrawn forthwith.

(6) This paragraph applies to any activity which is—
(a) necessary or expedient for the purpose of making, or proceeding with, an application under Article 603A,
(b) necessary or expedient for the purpose of concluding affairs of the company which are outstanding because of what has been necessary or expedient for the purpose of making, or proceeding with, such an application,
(c) necessary or expedient for the purpose of complying with any statutory requirement, or

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(d) specified for the purposes of this paragraph by the Department by order made subject to negative resolution.

(7) For the purposes of paragraph (4)(a), a company shall not be treated as trading or otherwise carrying on business by virtue only of the fact that it makes a payment in respect of a liability incurred in the course of trading or otherwise carrying on business.

Articles 603B and 603C: supplementary provisions

603D(1) For the purposes of section 24 of [M105] the Interpretation Act (Northern Ireland) 1954 (which relates to the service of documents by post) in its application to a document required to be given to any person under Article 603B(6) or 603C(2), the principal office of a body corporate or partnership which—

(a) is incorporated or formed under the law of a country or territory outside the United Kingdom, and

(b) has a place of business in the United Kingdom,

shall be taken to be its principal office in the United Kingdom.

(2) Where a creditor of the company has more than one place of business, section 24(2) of the Act of 1954 shall have effect, so far as concerns the giving of a document to him under Article 603B(6) or 603C(2), as if for paragraphs (b) and (c) there were substituted—

(") it is left, or sent by post to him in accordance with subsection (1), at each place of business of his with which the company has had dealings in relation to a matter by virtue of which he is a creditor of the company."

(3) An order or regulations under Article 603B or 603C may make such transitional provisions as the Department considers appropriate.

(4) For the purposes of Articles 603B and 603C, an application under Article 603A is withdrawn if notice of withdrawal in the prescribed form is given to the registrar.

(5) In Articles 603B and 603C, "disposal" includes part disposal.

(6) In Articles 603B and 603C and this Article, "creditor" includes a contingent or prospective creditor.

Articles 603B and 603C: enforcement

603E(1) A person who breaches or fails to perform a duty imposed on him by Article 603B or 603C is guilty of an offence and liable to a fine.

(2) A person who fails to perform a duty imposed on him by Article 603B(6) or 603C(2) with the intention of concealing the making of the application in question from the person concerned is guilty of an offence and liable to imprisonment or a fine, or both.

(3) In any proceedings for an offence under paragraph (1) consisting of breach of a duty imposed by Article 603B(1) or (3), it shall be a defence for the

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accused to prove that he did not know, and could not reasonably have known, of the existence of the facts which led to the breach.

(4) In any proceedings for an offence under paragraph (1) consisting of failure to perform the duty imposed by Article 603B(6), it shall be a defence for the accused to prove that he took all reasonable steps to perform the duty.

(5) In any proceedings for an offence under paragraph (1) consisting of failure to perform a duty imposed by Article 603C(2) or (5) it shall be a defence for the accused to prove—

(a) that at the time of the failure he was not aware of the fact that the company had made an application under Article 603A, or

(b) that he took all reasonable steps to perform the duty.

Other offences connected with Article 603A

603E(1) Where a company makes an application under Article 603A, any person who, in connection with the application, knowingly or recklessly furnishes any information to the registrar which is false or misleading in a material particular is guilty of an offence and liable to a fine.

(2) Any person who knowingly or recklessly makes an application to the registrar which purports to be an application under Article 603A, but which is not, is guilty of an offence and liable to a fine.”

Commencement Information

I9 Sch. 6 para. 2 wholly in force at 1.11.1995; Sch. 6 para. 2 not in force at Royal Assent see s. 84(2); Sch. 6 para. 2 in force for certain purposes at 1.7.1995 by S.I. 1995/1433, **art. 3(b)**; Sch. 6 para. 2 in force at 1.11.1995 in so far as not already in force by S.I. 1995/1433, **art. 5(a)**

Marginal Citations

M102 S.I. 1989/2405 (N.I. 19).
M103 S.I. 1989/2405 (N.I. 19).
M104 S.I. 1989/2405 (N.I. 19).
M105 1954 c. 33 (N.I.).

3 (1) Article 604 (objection to striking off by persons aggrieved) shall be amended as follows.

(2) In paragraph (1)—

(a) for “The following” there shall be substituted “ Paragraph (2) ”, and

(b) at the end there shall be inserted “ under Article 603. ”

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

“(2A) Paragraphs (2B) and (2D) apply if a company has been struck off the register under Article 603A.

(2B) The court, on an application by a notifiable person made before the expiration of 20 years from publication in the Belfast Gazette of notice under Article 603A(4), may, if satisfied—

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(a) that any duty under Article 603B or 603C with respect to the giving to that person of a copy of the company's application under Article 603A was not performed,

(b) that the making of the company's application under Article 603A involved a breach of duty under Article 603B(1) or (3), or

(c) that it is for some other reason just to do so,

order the company's name to be restored to the register.

(2C) In paragraph (2B), "notifiable person" means a person to whom a copy of the company's application under Article 603A was required to be given under Article 603B or 603C.

(2D) The court, on an application by the Department made before the expiration of 20 years from publication in the Belfast Gazette of notice under Article 603A(4), may, if satisfied that it is in the public interest to do so, order the company's name to be restored."

(4) In paragraph (3)—

(a) for "the order" there shall be substituted " an order under paragraph (2), (2B) or (2D) ", and

(b) after "company", in the first place where it occurs, there shall be inserted " to which the order relates ".

Modifications etc. (not altering text)

C7 Sch. 6 para. 3(2) amended (retrospective to 1.11.1995) by S.I. 1996/1632 (N.I. 11), art. 18, **Sch. 5 para. 6**

4 In Schedule 23 (punishment of offences), there shall be inserted at the appropriate places—

"603E(1)	Person breaching or failing to perform duty imposed by Article 603B or 603C.	1. On indictment. 2. Summary.	A fine. The statutory maximum.
603E(2)	Person failing to perform duty imposed by Article 603B(6) or 603C(2) with intent to conceal the making of application under Article 603A.	1. On indictment. 2. Summary.	7 years or a fine; or both. 6 months or the statutory maximum; or both.
603F(1)	Person furnishing false or misleading information in connection with application under Article 603A.	1. On indictment. 2. Summary.	A fine. The statutory maximum.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

603F(2)	Person making false application under Article 603A.	1. On indictment. 2. Summary.	A fine. The statutory maximum.”

SCHEDULE 7

Section 19.

CHILDREN'S CERTIFICATES: SUPPLEMENTARY PROVISIONS

“SCHEDULE 12A

CHILDREN'S CERTIFICATES: SUPPLEMENTARY PROVISIONS

Applications

1 (1) Licensing justices shall not entertain an application for a children's certificate unless the applicant has, at least 21 days before the commencement of the licensing sessions at which the application is to be made, given to the clerk to the justices and to the chief officer of police notice of his intention to make the application.

(2) Notice under sub-paragraph (1) of this paragraph shall—

(a) be in writing and be signed by the applicant or his authorised agent, and

(b) state the situation of the premises where the area to which the application relates is to be found.

(3) If the premises mentioned in sub-paragraph (2)(b) of this paragraph include a bar which is not included in the area to which the application relates, licensing justices may decline to entertain the application until the applicant has lodged a plan of the premises indicating the area to which the application relates.

2 (1) Where a chief officer of police wishes to oppose an application for a children's certificate, he must give notice of his intention to do so to the applicant and to the clerk to the licensing justices at least 7 days before the commencement of the licensing sessions at which the application is to be made.

(2) Notice under sub-paragraph (1) of this paragraph shall be in writing and specify in general terms the grounds of the opposition.

Refusal

3 Where licensing justices refuse an application for a children's certificate, they shall specify their reasons in writing to the applicant.

Conditions

4 (1) It shall be a condition of the grant of a children's certificate that meals and beverages other than intoxicating liquor are available for sale for consumption in the area to which the certificate relates at all times when the certificate is operational.

(2) Licensing justices may impose such other conditions on the grant of a children's certificate as they think fit.

Status: *Point in time view as at 01/04/1999.*
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(3) Without prejudice to the generality of sub-paragraph (2) of this paragraph, conditions under that sub-paragraph may restrict the hours during which, or days on which, the certificate is operational.

When operational

5 (1) Subject to any condition attached by the licensing justices and to sub-paragraph (2) of this paragraph, a children's certificate shall be operational at any time up to nine in the evening.

(2) Licensing justices may, in relation to a children's certificate, approve a later time than nine in the evening as the time when the certificate ceases to be operational, and may do so either generally or for particular days or periods.

(3) Licensing justices may only act under sub-paragraph (2) of this paragraph on the application of the appropriate person, but an approval under that provision need not correspond with the applicant's proposals.

(4) In sub-paragraph (3) of this paragraph, the reference to the appropriate person is—

(a) in the case of an application with respect to an existing children's certificate, to the holder of the justices' licence for the licensed premises to which the certificate relates, and

(b) in the case of an application made in conjunction with an application for a children's certificate, to the applicant for the certificate.

Duration

6 A children's certificate shall remain in force until revoked.

7 (1) Licensing justices may, on their own motion or on application by the chief officer of police, revoke a children's certificate if they are satisfied—

(a) that the area to which the certificate relates does not constitute an environment in which it is suitable for persons under fourteen to be present, or

(b) that there has been a serious or persistent failure to comply with one or more conditions attached to the certificate.

(2) When acting on their own motion, licensing justices may only revoke a children's certificate if, at least 21 days before the commencement of the licensing sessions at which they propose to revoke the certificate, they have given notice of their intention to do so to the holder of the justices' licence for the licensed premises to which the certificate relates.

(3) When acting on application by the chief officer of police, licensing justices may only revoke a children's certificate if, at least 21 days before the commencement of the licensing sessions at which the application is to be made, the chief officer of police has given—

(a) to the clerk to the licensing justices, and

(b) to the holder of the justices' licence for the licensed premises to which the certificate relates, notice of his intention to apply for the revocation of the certificate.

(4) Notice under sub-paragraph (2) or (3) of this paragraph shall be in writing and specify in general terms the grounds for the proposed revocation.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

8 If the holder of the justices' licence for the licensed premises to which a children's certificate relates gives—

(a) to the clerk to the licensing justices, and

(b) to the chief officer of police,

at least fourteen days notice in writing of a day on which he wishes the certificate to cease to be in force, it shall be treated as revoked on that day.

9 A children's certificate shall be treated as revoked on the day on which the area to which it relates ceases to be comprised in premises for which a justices' licence is in force.

Appeals

10 (1) Any applicant for a children's certificate who is aggrieved by a decision of licensing justices—

(a) refusing to grant a certificate, or

(b) as to the conditions attached to the grant of a certificate,

may appeal to the Crown Court against the decision.

(2) Any applicant for an extension of the time when a children's certificate is operational who is aggrieved by a decision of licensing justices with respect to his application may appeal to the Crown Court against the decision.

(3) Any holder of a justices' licence who is aggrieved by a decision of licensing justices revoking a children's certificate relating to the licensed premises may appeal to the Crown Court against the decision.

(4) The judgment of the Crown Court on any appeal under this paragraph shall be final.

11 Where the Crown Court—

(a) has awarded costs against an appellant under paragraph 10 of this Schedule, and

(b) is satisfied that the licensing justices cannot recover those costs from him,

it shall order payment out of central funds of such sums as appear to it sufficient to indemnify the licensing justices from all costs and charges whatever to which they have been put in consequence of the appellant's notice of appeal."

[F9]SCHEDULE 8

Textual Amendments

F9 Sch. 8 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-5, 202)

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

SCHEDULE 9

Section 31.

SLAUGHTERHOUSES AND KNACKERS' YARDS: UNITING OF ENFORCEMENT FUNCTIONS

Powers to transfer enforcement functions to agriculture Ministers

1 (1) This paragraph applies to the following provisions of [M106]the Slaughter of Poultry Act 1967—

(a) section 3 (power to make regulations for securing humane conditions of slaughter),

(b) section 4 (power to authorise persons to exercise rights of entry), and

(c) section 6 (duty to execute and enforce the provisions of that Act and of regulations under section 3 of that Act).

(2) The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for Wales acting jointly may by regulations provide for any functions under a provision to which this paragraph applies, so far as exercisable by local authorities, to be transferred—

(a) so far as exercisable by local authorities in England, to the Minister of Agriculture, Fisheries and Food, and

(b) so far as exercisable by local authorities in Scotland or Wales, to the Secretary of State.

Modifications etc. (not altering text)

C8 Sch. 9 para. 1: transfer of functions, property, rights and liabilities (27.12.1999) by S.I. 1999/3141 , **arts. 2(4)(5)** , 3 (with arts. 3 , 5)

Marginal Citations

M106 1967 c. 24 .

2 (1) This paragraph applies to the following provisions of the Slaughterhouses [M107]Act 1974—

[F10](a) . . . . . .

(b) section 38 (power to make regulations for securing humane conditions of slaughter),

[F10](c) . . . . . .

[F10](d) . . . . . .

(e) section 41 (duty to execute and enforce the provisions of, and of regulations under, Part II of that Act), and

(f) section 42(1) (power to appoint persons for the purpose of exercising powers of entry).

(2) The Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly may by regulations provide for any functions under a provision to which this paragraph applies, so far as exercisable by local authorities, to be transferred—

(a) so far as exercisable by local authorities in England, to the Minister of Agriculture, Fisheries and Food, and

(b) so far as exercisable by local authorities in Wales, to the Secretary of State.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

Textual Amendments

F10 Sch. 9 para. 2(1)(a)(c)(d) repealed (1.4.1995) by S.I. 1995/731, reg. 28(1), **Sch. 13**

Marginal Citations

M107 1974 c. 3.

3 (1) This paragraph applies to the following provisions of [M108]the Slaughter of Animals (Scotland) Act 1980 (which correspond to the provisions to which paragraph 2 above applies)—

(a) section 9,

[F11](b) . . . . . .

(c) section 14(3)(c),

[F11](d) . . . . . .

[F11](e) . . . . . .

(f) section 19(1).

(2) The Secretary of State may by regulations provide for any functions under a provision to which this paragraph applies, so far as exercisable by local authorities, to be transferred to the Secretary of State.

Textual Amendments

F11 Sch. 9 para. 3(1)(b)(d)(e) repealed (1.4.1995) by S.I. 1995/731, regs. 1, 28(1), **Sch 13**

Marginal Citations

M108 1980 c. 13.

4 No functions under the Slaughterhouses [M109]Act 1974 or the Slaughter of Animals (Scotland) Act 1980 relating to knackers' yards (within the meaning of the Act concerned) shall be transferred under this Schedule unless the transferee has, in relation to the yards to which the transferred functions relate, functions with respect to the enforcement of law relating to animal health.

Marginal Citations

M109 1974 c. 3.

5 (1) Regulations under paragraph 1(2), 2(2) or 3(2) above may contain such supplemental, incidental, consequential and transitional provisions and savings as the authority making the regulations considers appropriate and may, in particular, contain such amendments or repeals of any enactment or subordinate legislation (within the meaning of [M110] the Interpretation Act 1978) as that authority considers appropriate in consequence of a transfer of functions under that sub-paragraph.

(2) The power to make regulations under paragraph 1(2), 2(2) or 3(2) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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
M110 1978 c. 30.

Territorial division of enforcement functions under the Food Safety Act 1990

6 In section 6(4)(a) of [M111] the Food Safety Act 1990 (which lists authorities from which regulations or orders under the Act must select the authority to enforce and execute them) for "the Minister" there shall be substituted " the Minister of Agriculture, Fisheries and Food, the Secretary of State ".

Marginal Citations
M111 1990 c. 16.

SCHEDULE 10

Section 35.

EMPLOYMENT AGENCIES ETC.: REPLACEMENT OF LICENSING

PART I

GENERAL

Great Britain

1 (1) [M112] The Employment Agencies Act 1973 shall be amended as follows.

(2) Sections 1 to 3 (licences) shall cease to have effect.

(3) After section 3 there shall be inserted—

" Prohibition orders

3A Power to make orders.

(1) On application by the Secretary of State, an **[**[F12]employment tribunal**]** may by order prohibit a person from carrying on, or being concerned with the carrying on of—
(a) any employment agency or employment business; or
(b) any specified description of employment agency or employment business.

(2) An order under subsection (1) of this section (in this Act referred to as "a prohibition order") may either prohibit a person from engaging in an activity altogether or prohibit him from doing so otherwise than in accordance with specified conditions.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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) A prohibition order shall be made for a period beginning with the date of the order and ending—

(a) on a specified date, or

(b) on the happening of a specified event,

in either case, not more than ten years later.

(4) Subject to subsections (5) and (6) of this section, an **[**[F12]employment tribunal**]** shall not make a prohibition order in relation to any person unless it is satisfied that he is, on account of his misconduct or for any other sufficient reason, unsuitable to do what the order prohibits.

(5) An **[**[F12]employment tribunal**]** may make a prohibition order in relation to a body corporate if it is satisfied that—

(a) any director, secretary, manager or similar officer of the body corporate,

(b) any person who performs on behalf of the body corporate the functions of a director, secretary, manager or similar officer, or

(c) any person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act,

is unsuitable, on account of his misconduct or for any other sufficient reason, to do what the order prohibits.

(6) An **[**[F12]employment tribunal**]** may make a prohibition order in relation to a partnership if it is satisfied that any member of the partnership, or any manager employed by the partnership, is unsuitable, on account of his misconduct or for any other sufficient reason, to do what the order prohibits.

(7) For the purposes of subsection (4) of this section, where an employment agency or employment business has been improperly conducted, each person who was carrying on, or concerned with the carrying on of, the agency or business at the time, shall be deemed to have been responsible for what happened unless he can show that it happened without his connivance or consent and was not attributable to any neglect on his part.

(8) A person shall not be deemed to fall within subsection (5)(c) of this section by reason only that the directors act on advice given by him in a professional capacity.

(9) In this section—

"director", in relation to a body corporate whose affairs are controlled by its members, means a member of the body corporate; and

"specified", in relation to a prohibition order, means specified in the order.

3B Enforcement.

Any person who, without reasonable excuse, fails to comply with a prohibition order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

3C Variation and revocation of orders.

(1) On application by the person to whom a prohibition order applies, an **[**[F12]employment tribunal**]** may vary or revoke the order if the tribunal is satisfied that there has been a material change of circumstances since the order was last considered.

(2) An **[**[F12]employment tribunal**]** may not, on an application under this section, so vary a prohibition order as to make it more restrictive.

(3) The Secretary of State shall be a party to any proceedings before an **[**[F12]employment tribunal**]** with respect to an application under this section, and be entitled to appear and be heard accordingly.

(4) When making a prohibition order or disposing of an application under this section, an **[**[F12]employment tribunal**]** may, with a view to preventing the making of vexatious or frivolous applications, by order prohibit the making of an application, or further application, under this section in relation to the prohibition order before such date as the tribunal may specify in the order under this subsection.

3D Appeals.

(1) An appeal shall lie to the Employment Appeal Tribunal on a question of law arising from any decision of, or arising in proceedings before, an **[**[F12]employment tribunal**]** under section 3A or 3C of this Act.

(2) No other appeal shall lie from a decision of an **[**[F12]employment tribunal**]** under section 3A or 3C of this Act; and section 11 of the Tribunals and Inquiries [M113]Act 1992 (appeals from certain tribunals to High Court or Court of Session) shall not apply to proceedings before an **[**[F12]employment tribunal**]** under section 3A or 3C of this Act."

(4) In section 9(4)(a)(iv) (circumstances in which information obtained in exercise of statutory powers may be disclosed) for "hearing under section 3(7) of this Act" there shall be substituted " proceedings under section 3A, 3C or 3D of this Act ".

(5) In section 13(1) (interpretation) after the definition of "prescribed" there shall be inserted—

""prohibition order" has the meaning given by section 3A(2) of this Act;".

Textual Amendments

F12 Words in Sch.10 para. 1(3) substituted (E.W.S.) (1.8.1998) by 1998 c. 8, **s. 1(2)(a)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**

Marginal Citations

M112 1973 c35.
M113 1992 c. 53.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

Northern Ireland

2 (1) Articles 3 to 5 of [M114] the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981 shall cease to have effect.

(2) After Article 5 of that Order there shall be inserted—

" Prohibition orders

Power to make orders

5A (1) On application by the Department, an industrial tribunal may by order prohibit a person from carrying on, or being concerned with the carrying on of—

(a) any employment agency or employment business; or

(b) any specified description of employment agency or employment business.

(2) An order under paragraph (1) (in this Order referred to as "a prohibition order") may either prohibit a person from engaging in an activity altogether or prohibit him from doing so otherwise than in accordance with specified conditions.

(3) A prohibition order shall be made for a period beginning with the date of the order and ending—

(a) on a specified date, or

(b) on the happening of a specified event,

in either case, not more than ten years later.

(4) Subject to paragraphs (5) and (6), an industrial tribunal shall not make a prohibition order in relation to any person unless it is satisfied that he is, on account of his misconduct or for any other sufficient reason, unsuitable to do what the order prohibits.

(5) An industrial tribunal may make a prohibition order in relation to a body corporate if it is satisfied that—

(a) any director, secretary, manager or similar officer of the body corporate,

(b) any person who performs on behalf of the body corporate the functions of a director, secretary, manager or similar officer, or

(c) any person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act,

is unsuitable, on account of his misconduct or for any other sufficient reason, to do what the order prohibits.

(6) An industrial tribunal may make a prohibition order in relation to a partnership if it is satisfied that any member of the partnership, or any manager employed by the partnership, is unsuitable, on account of his misconduct or for any other sufficient reason, to do what the order prohibits.

(7) For the purposes of paragraph (4), where an employment agency or employment business has been improperly conducted, each person who was carrying on, or concerned with the carrying on of, the agency or business at

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Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

the time, shall be deemed to have been responsible for what happened unless he can show that it happened without his connivance or consent and was not attributable to any neglect on his part.

(8) A person shall not be deemed to fall within paragraph (5)(c) by reason only that the directors act on advice given by him in a professional capacity.

(9) In this Article—

"director", in relation to a body corporate whose affairs are controlled by its members, means a member of the body corporate; and

"specified", in relation to a prohibition order, means specified in the order.

Enforcement

5B Any person who, without reasonable excuse, fails to comply with a prohibition order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Variation and revocation of orders

5C (1) On application by the person to whom a prohibition order applies, an industrial tribunal may vary or revoke the order if the tribunal is satisfied that there has been a material change of circumstances since the order was last considered.

(2) An industrial tribunal may not, on an application under this Article, so vary a prohibition order as to make it more restrictive.

(3) The Department shall be a party to any proceedings before an industrial tribunal with respect to an application under this Article, and be entitled to appear and be heard accordingly.

(4) When making a prohibition order or disposing of an application under this Article, an industrial tribunal may, with a view to preventing the making of vexatious or frivolous applications, by order prohibit the making of an application, or further application, under this Article in relation to the prohibition order before such date as the tribunal may specify in the order under this paragraph."

(3) In Article 11(1) of that Order (interpretation) after the definition of "prescribed" there shall be inserted—

""prohibition order" has the meaning given by Article 5A(2);".

Marginal Citations

M114 S.I. 1981/839 (N.I. 20).

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

PART II

SEAMEN

United Kingdom

3 Sections 110 to 112 of [M115] the Merchant Shipping Act 1894 (licences to supply seamen) shall cease to have effect.

Marginal Citations
M115 1894 c. 60.

Great Britain

4 In [M116] the Employment Agencies Act 1973, in section 13(7) (exceptions from the Act) paragraph (e) (exception for the making of arrangements for finding seamen for persons to employ or for finding employment for seamen) shall be omitted.

Marginal Citations
M116 1973 c. 35.

Northern Ireland

5 In [M117] the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981, in Article 11(5) (exceptions from Part II of the Order), sub-paragraph (d) shall be omitted.

Marginal Citations
M117 S.I. 1981/839 (N.I. 20).

SCHEDULE 11

Section 39.

MISCELLANEOUS DEREGULATORY PROVISIONS: CONSEQUENTIAL AMENDMENTS

Licensing Act 1964 (c. 26)

1 (1) The Licensing Act 1964 shall be amended as follows.

(2) In section 179(1)(b), after "if" there shall be inserted " subsections (3A) to (3C) of section 168, section 168A, ".

(3) In section 196A(1)—

(a) in paragraph (a), after sub-paragraph (iii) there shall be inserted "or (iv) for the grant or revocation of a children's certificate;", and

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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) in paragraph (b), for "or canteen licence" there shall be substituted " , canteen licence or children's certificate ".

(4) In section 201(1), there shall be inserted at the appropriate place in alphabetical order—

""chilrdren's certificate" has the meaning assigned to it by section 168A(2) of this Act;"

(5) In section 202(1)(b), after "Part III of this Act" there shall be inserted " , under section 168A of this Act ".

Fair Trading Act 1973 (c. 41)

2 (1) The Fair Trading Act 1973 shall be amended as follows.

(2) In section 77—

(a) in subsection (1)(a), after "57(1)" there shall be inserted " or (1A) ", and

(b) in subsection (5)(a), after "having a" there shall be inserted " primary ".

(3) In section 93A(1)(a), for "under section" there shall be substituted " pursuant to a proposal under section 56A of this Act or under section 56F or ".

(4) In section 133(4)(a), there shall be inserted at the end " or a notice published by the Director under section 56B of this Act ".

Commencement Information

I10 Sch. 11 para. 2 wholly in force; Sch. 11 para. 2(1)(3)(4) in force at 3.1.1995 see s. 82(2)(e); Sch. 11 para. 2(2) in force at 3.1.1995 by S.I. 1994/3188, **arts. 2**, 3(q)

Energy Act 1976 (c. 76)

3 In section 5(6) of the Energy Act 1976, for "under", in the third place where it occurs, there shall be substituted " in accordance with section 24 of and Schedule 2 to ".

Competition Act 1980 (c. 21)

4 (1) The Competition Act 1980 shall be amended as follows.

(2) Section 2(5) shall cease to have effect.

(3) In section 5(3)—

(a) after "made" there shall be inserted " by virtue of subsection (1)(b) or (c) above ",

(b) after "reference be" there shall be inserted " so ", and

(c) the words from the beginning of paragraph (a) to "notice reference" shall be omitted.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

(4) In section 15(4) for the words from the beginning to "that investigation" there shall be substituted " On making a competition reference in relation to any course of conduct being pursued by a person falling within section 11(3)(d) above ".

(5) In section 16, at the end there shall be inserted—

"(3) For the purposes of this section, the publication by the Director of a notice under section 4(2)(a) above shall be treated as the making by him of a report under this Act."

(6) In section 19(5)(a), after "Act" there shall be inserted " or in anything published under section 4(2)(a) above ".

(7) In section 29(1)—

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

"(za) accepted pursuant to a proposal under section 56A of the Fair Trading Act 1973 (within the meaning of that Act) or under section 56F of that Act, or", and

(b) in that paragraph, for "the Fair Trading Act 1973" there shall be substituted " the said Act of 1973 ".

Road Traffic Regulation Act 1984 (c. 27)

5 In Schedule 9 to the Road Traffic Regulation Act 1984, in paragraph 28, after sub-paragraph (d) there shall be inserted;" or

"(e) an order under section 34 of the Deregulation and Contracting Out Act 1994."

Company Directors Disqualification Act 1986 (c. 46)

6 In the Company Directors Disqualification Act 1986, in section 2(1), for "or liquidation" there shall be substituted " , liquidation or striking off ".

Building Societies Act 1986 (c. 53)

7 (1) The Building Societies Act 1986 shall be amended as follows.

(2) In section 10(5) for "borrower" there shall be substituted " mortgagor ".

(3) In section 11(7), after "(2)(b)" there shall be inserted " or (2)(ba)(i) or (ii) ".

(4) In section 13(2), at the end there shall be inserted—

"(e) where the advance is to be made in connection with a disposition of other land to the borrower, any person having a financial interest in the disposition of the other land and any director, other officer or employee of his or of an associated employer; and

(f) where the advance is to be made in connection with a disposition of other land to the borrower, any person receiving a commission for introducing the parties to the transaction involving the disposition and any director, other officer or employee of his."

(5) In section 13(3)—

(a) after "following a disposition of the land" there shall be inserted " or in connection with a disposition of other land to the borrower ", and

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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) in paragraph (a), the words "of the land" shall be omitted.

[F13](6) . . . . . .

Textual Amendments

F13 Sch. 11 para. 7(6) 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**

Financial Services Act 1986 (c. 60)

8 In section 125(7) of the Financial Services Act 1986, the words "section 24 of" shall be omitted.

Companies Act 1989 (c. 40)

9 In Schedule 14 to the Companies Act 1989, in paragraph 9(6), the words "section 24 of" shall be omitted.

Companies (Northern Ireland) Order 1989 (N.I. 18)

10 In the Companies (Northern Ireland) Order 1989, in Article 5(1), for "or liquidation" there shall be substituted " , liquidation or striking off ".

Companies (Northern Ireland) Order 1990 (N.I. 5)

11 In Schedule 14 to the Companies (Northern Ireland) Order 1990, in paragraph 9(6), the words "section 24 of" shall be omitted.

Charities Act 1993 (c. 10)

12 In section 47(3) of the Charities Act 1993—

(a) paragraph (a) shall be omitted, and

(b) in paragraph (b), for the words from "such" to "46(3) above" there shall be substituted " a charity other than one falling within paragraph (c) or (d) below ".

[F14]SCHEDULE 12

. . .

Textual Amendments

F14 Sch. 12 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.)

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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]SCHEDULE 13

. . . . . .

Textual Amendments

F15 Sch. 13 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.)

SCHEDULE 14

Section 68.

PSV Operator Licensing etc: Minor and Consequential Amendments

1 The 1981 Act shall be amended as follows.

Commencement Information

I12 Sch. 14 para. 1 partly in force; Sch. 14 para. 1 not in force at Royal Assent see s. 82(4); Sch. 14 para. 1 in force for certain purposes at 3.1.1995 by S.I. 1994/3188, **arts. 2**, 3(r); Sch. 14 para. 1 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.)

2 In section 14(4) for "the provisions of sections 15 and 16" there shall be substituted " section 16 ".

3 Section 14A(3) shall be omitted.

4 In section 16(6) the word "or" immediately before paragraph (b) shall be omitted.

5 (1) Section 17(2)(c) shall be omitted.

(2) In section 17(3)—

(a) in paragraph (a) the words "intention or" shall be omitted, and

(b) in paragraph (c) for "section 9 of this Act" there shall be substituted " section 69 of [M124] the Road Traffic Act 1988 " and for "subsection (9) of that section" there shall be substituted " section 71(1)(a) or (b) of that Act arising out of the contravention of such a prohibition ".

Commencement Information

I13 Sch. 14 para. 5 wholly in force at 1.1.1996; Sch. 14 para. 5 not in force at Royal Assent see s. 82(4); Sch. 14 para. 5(2)(b) in force at 3.1.1995 by S.I. 1994/3188, **arts. 2**, 3(r); Sch. 14 para. 5(1) and (2)(a) in force at 1.1.1996 by S.I. 1995/2835, **art. 2** (with transitional provisions in Sch.)

Marginal Citations

M124 1988 c. 52.

6 In section 18(3)(d)—

(a) after "discs" there shall be inserted " on their expiry or otherwise ceasing to have effect, ", and

(b) for "expiration" there shall be substituted " on termination "

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

7 (1) Section 50(2) shall be omitted.

(2) In section 50(4)—

(a) at the end of paragraph (a) there shall be added " or any undertaking recorded in it ", and

(b) in paragraph (c) the words "or to curtail its period of validity" shall be omitted.

8 In section 12 of [M125] the Transport Act 1985 subsection (3) shall be omitted.

Marginal Citations

M125 1985 c. 67.

SCHEDULE 15

Section 75.

RESTRICTIONS ON DISCLOSURE OF INFORMATION

Modifications etc. (not altering text)

C9 Sch. 15 modified (3.1.1995) by 1984 c. 58, **s. 43C** (as inserted (3.1.1995) by 1994 c. 40, ss. 76, 82(2), **Sch. 16 para. 7**)

Preliminary

1 (1) Paragraphs 2 to 5, 7 and 8 below apply where—

(a) a person (contractor A) is authorised, whether by virtue of an order made under section 69 or 70 above or otherwise, to exercise any function (the relevant function) of a Minister, office-holder or local authority (authority A); and

(b) the disclosure of relevant information, that is, information obtained, whether before or after the commencement of this Part of this Act, in or in connection with the exercise of the relevant function or a related function, is restricted by any enactment or by any obligation of confidentiality.

(2) Paragraphs 6 to 8 below apply where—

(a) a person (contractor A) is authorised, whether by virtue of an order made under section 69 or 70 above or otherwise, to exercise any function (the relevant function) of a Minister, office-holder or local authority (authority A); and

(b) the disclosure of relevant information, that is, information obtained, whether before or after the commencement of this Part of this Act, in or in connection with the exercise of any function of another Minister, office-holder or local authority (authority E), is restricted by any enactment or by any obligation of confidentiality.

Status: *Point in time view as at 01/04/1999.*
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Disclosures between contracting parties etc.

2 The enactment or obligation shall not prevent or penalise the disclosure of relevant information—

(a) between contractor A or an employee of his and authority A or an authorised officer of that authority;

(b) between contractor A and an employee of his or between one such employee and another; or

(c) where the relevant function has been delegated to authority A by another Minister, office-holder or local authority (authority B), between contractor A or an employee of his and authority B or an authorised officer of that authority,

if the disclosure is necessary or expedient in or in connection with, or for the purpose of facilitating, the exercise of the relevant function or a related function, or the performance of ancillary services.

Disclosures by contracting parties to contractor B

3 (1) This paragraph applies where another person (contractor B) is authorised, whether by virtue of an order under section 69 or 70 above or otherwise, to exercise the relevant function or a related function.

(2) The enactment or obligation shall not prevent or penalise the disclosure of relevant information by contractor A or an employee of his, or authority A or an authorised officer of that authority, to contractor B or an employee of his if—

(a) the disclosure is necessary or expedient for the purpose of facilitating the exercise of the relevant function or a related function; and

(b) where the disclosure is by contractor A or an employee of his, the disclosure falls within a description of disclosures certified by authority A (whether in the authorisation or otherwise) to be capable of being so necessary or expedient.

Disclosures by contracting parties to contractor C

4 (1) This paragraph applies where another person (contractor C) is authorised, whether by virtue of an order under section 69 or 70 above or otherwise, to exercise a function of another Minister, office-holder or local authority (authority C).

(2) The enactment or obligation shall not prevent or penalise the disclosure of relevant information by contractor A or an employee of his, or authority A or an authorised officer of that authority, to contractor C or an employee of his if—

(a) the disclosure is necessary or expedient for the purpose of facilitating the exercise of the relevant function, a related function or a function of authority C;

(b) where the disclosure is by contractor A or an employee of his, the disclosure falls within a description of disclosures certified by authority A (whether in the authorisation or otherwise) to be capable of being so necessary or expedient; and

(c) the information could be lawfully disclosed, for that purpose, by authority A to authority C.

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Disclosures by contractor A to authority D

5 The enactment or obligation shall not prevent or penalise the disclosure of relevant information by contractor A or an employee of his to another Minister, office-holder or local authority (authority D) or an authorised officer of that authority if—

(a) the disclosure is necessary or expedient for the purpose of facilitating the exercise of the relevant function, a related function or a function of authority D;

(b) the disclosure falls within a description of disclosures certified by authority A (whether in the authorisation or otherwise) to be capable of being so necessary or expedient; and

(c) the information could be lawfully disclosed, for that purpose, by authority A to authority D.

Disclosures to contractor A by authority E

6 The enactment or obligation shall not prevent or penalise the disclosure of relevant information by authority E or an authorised officer of that authority to contractor A or an employee of his if—

(a) the disclosure is necessary or expedient for the purpose of facilitating the exercise of the relevant function, a related function or a function of authority E; and

(b) the information could be lawfully disclosed, for that purpose, by authority E to authority A.

Disclosures for audit purposes

7 (1) Where authority A is a Minister or office-holder, the enactment or obligation shall not prevent or penalise the disclosure of relevant information by contractor A or an employee of his if—

(a) the disclosure is to the Comptroller, or a person exercising an audit function of his, and the information could lawfully be disclosed to the Comptroller or that person by authority A; or

(b) the disclosure is to an accounting officer, or a person exercising an audit function of his, and the information could lawfully be disclosed to that officer or person by authority A.

(2) Where authority A is a local authority, the enactment or obligation shall not prevent or penalise the disclosure of relevant information by contractor A or an employee of his if—

(a) the disclosure is to the authority's chief finance officer, or a person exercising an audit function of his; and

(b) the information could lawfully be disclosed to that officer or person by the authority.

(3) In this paragraph—

"accounting officer" means an officer appointed by the Treasury under section 22 of the Exchequer and Audit Departments Act [M126] 1866 or section 4 of the Government Trading Funds Act [M127] 1973;

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"audit function", in relation to the Comptroller, includes any function under Part II of the National Audit Act [M128] 1983 or Part III of the Audit (Northern Ireland) Order [M129] 1987 (examinations into economy, efficiency and effectiveness);

"chief finance officer" has the same meaning as in section 5 of the Local Government and Housing Act [M130] 1989;

"Comptroller" means the Comptroller and Auditor General or the Comptroller and Auditor General for Northern Ireland.

Marginal Citations

M126 1866 c. 39.
M127 1973 c. 63.
M128 1983 c. 44.
M129 S.I. 1987/460 (N.I. 5).
M130 1989 c. 42.

Implied term of contractor A's contract

8 It shall be an implied term of any contract made between contractor A and authority A and relating to the exercise of the relevant function that contractor A shall take all reasonable steps to secure that any relevant information—

(a) which is obtained by him or an employee of his; and

(b) the disclosure of which is restricted by any enactment or obligation,

is not disclosed at any time (whether or not during the subsistence of the contract) to any other person in contravention of the enactment or in breach of the obligation.

Unauthorised disclosures

9 (1) This paragraph applies where—

(a) any information is disclosed to any person in accordance with paragraphs 2 to 7 above (the original disclosure); and

(b) that person, or any other person to whom the information is subsequently so disclosed, discloses the information otherwise than in accordance with paragraphs 2 to 7 above (the unauthorised disclosure).

(2) If the original disclosure was restricted by an enactment, the enactment shall apply in relation to the person making the unauthorised disclosure as if—

(a) he had obtained the information by virtue of the same provision as the person who made the original disclosure; and

(b) where the enactment would not have restricted that disclosure if the person who made it had not fallen within a particular class, he fell within that class.

(3) If the original disclosure was restricted by an obligation, the person making the unauthorised disclosure shall be treated for all purposes as if he were subject to that obligation.

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Interpretation: general

10 (1) In this Schedule—

"ancillary services" means services certified by authority A (whether in the authorisation or otherwise) to be services appearing to it to be calculated to facilitate, or to be conducive or incidental to, the exercise of the relevant function;

"authorised officer", in relation to a Minister, office-holder or local authority, means any officer of the Minister, office-holder or local authority who is authorised by him or it to disclose or (as the case may be) obtain the information in question;

"employee", in relation to contractor A, includes any person who performs ancillary services for that contractor, and any employee of such a person;

"related function" means any function of authority A which is certified by that authority (whether in the authorisation or otherwise) to be a function appearing to it to be a function which is related to the relevant function.

(2) For the purposes of sub-paragraph (1) above a function of authority A is related to another function of that authority if information—

(a) which is obtained in or in connection with the exercise of either function; and

(b) the disclosure of which is restricted by any enactment or by any obligation of confidentiality,

can lawfully be used by that authority for the purpose of facilitating the exercise of the other function.

(3) In this Schedule—

(a) any reference to another person is a reference to a person other than contractor A; and

(b) any reference to another Minister, office-holder or local authority is a reference to a Minister, office-holder or local authority other than authority A.

SCHEDULE 16

Section 76.

AMENDMENTS ETC. FOR FACILITATING CONTRACTING OUT

Newspaper Libel and Registration Act 1881 (c.60) and Limited Partnerships Act 1907 (c.24)

1 (1) This paragraph applies where by virtue of an order made under section 69 of this Act a person is authorised by the registrar of companies to accept delivery of any class of documents which are under any provision of the Newspaper Libel and Registration Act 1881 or the Limited Partnerships Act 1907 to be delivered to the registrar.

(2) If—

(a) the registrar directs that documents of that class shall be delivered to a specified address of the authorised person; and

(b) the direction is printed and made available to the public (with or without payment),

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any document of that class which is delivered to an address other than the specified address shall be treated for the purposes of that Act as not having been delivered.

(3) In this paragraph "the registrar of companies" and "the registrar" have the same meanings as in [M131] the Companies Act 1985.

Marginal Citations
M131 1985 c.6.

Courts Act 1971 (c.23)

2 For section 27 of the Courts [M132]Act 1971 there shall be substituted the following section—

"**27 Administrative and other court staff.**

(1) The Lord Chancellor may, with the concurrence of the Treasury as to numbers and salaries, appoint such officers and other staff for the Supreme Court and county courts as appear to him appropriate for the following purposes, namely—
   (a) maintaining an administrative court service;
   (b) discharging any functions in those courts conferred by or under this or any other Act on officers so appointed; and
   (c) generally carrying out the administrative work of those courts.

(2) The principal civil service pension scheme within the meaning of section 2 of the Superannuation [M133]Act 1972 and for the time being in force shall, with the necessary adaptations, apply to officers and staff appointed under subsection (1) above as it applies to other persons employed in the civil service of the State.

(3) If and to the extent that an order made by the Lord Chancellor so provides, the Lord Chancellor may enter into contracts with other persons for the provision for the purposes mentioned in subsection (1) above, whether by those persons or by sub-contractors of theirs, of officers and staff for the Supreme Court and county courts.

(4) No order under subsection (3) above shall authorise the contracting out of any functions the discharge of which would constitute—
   (a) making judicial decisions or advising persons making such decisions;
   (b) exercising any judicial discretion or advising persons exercising any such discretion; or
   (c) exercising any power of arrest.

(5) An order under subsection (3) above may authorise the contracting out of any functions—
   (a) either wholly or to such extent as may be specified in the order;
   (b) either generally or in such cases or areas as may be so specified; and

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(c) either unconditionally or subject to the fulfilment of such conditions as may be so specified.

(6) Before making an order under subsection (3) above, the Lord Chancellor shall consult with the senior judges as to what effect (if any) the order might have on the proper and efficient administration of justice.

(7) An order under subsection (3) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(8) References in this section to the contracting out of any functions are references to the Lord Chancellor entering into contracts for the provision of officers and staff for the purpose of discharging those functions.

(9) In this section—

"the senior judges" means the Lord Chief Justice, the Master of the Rolls, the Vice-Chancellor and the President of the Family Division;

"the Supreme Court" includes the district probate registries."

Marginal Citations

M132 1971 c. 23.

M133 1972 c. 11.

Local Government Act 1972 (c.70)

3 If and to the extent that an order under section 70 of this Act so provides, section 223 of the Local Government Act 1972 (appearance of local authorities in legal proceedings) shall have effect as if—

(a) any person authorised by virtue of the order to exercise a function of a local authority, and

(b) any employee of a person so authorised,

were an officer of the authority.

Patents Act 1977 (c.37)

4 If and to the extent that an order under section 69 of this Act so provides, section 112 of the Patents Act 1977 (misuse of title "Patent Office") shall not apply in relation to anything done by a person who is authorised by virtue of the order to exercise any function of the Comptroller-General of Patents, Designs and Trade Marks.

Rent (Scotland) Act 1984 (c.58)

5 At the beginning of subsection (3) of section 43 of the Rent (Scotland) Act 1984 (registration of rents under regulated tenancies) there shall be inserted the words " Subject to section 43A below, "

6 After section 43 of that Act there shall be inserted the following section—

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"**43A Rent registration service providers.**

(1) The Secretary of State may, if he thinks fit, make arrangements ("rent registration arrangements") with another person (a "rent registration service provider") for the performance by that person in accordance with the arrangements of the functions mentioned in subsection (2) below.

(2) Those functions are the functions, under this Part of this Act and section 70 of [M134] the Housing (Scotland) Act 1988, of the rent officer for such registration area or areas as are specified in the rent registration arrangements.

(3) While rent registration arrangements are in force in relation to a registration area, section 43(3) above shall not apply in respect of that area.

(4) The appointment of any rent officer appointed for a registration area in relation to which rent registration arrangements have been made shall terminate on the date on which the arrangements come into force.

(5) Rent registration arrangements shall not include any provision calculated to influence the exercise of the rent registration service provider's judgment in the performance of his functions.

(6) A rent registration service provider performing functions in pursuance of rent registration arrangements shall not be regarded as a servant or agent of the Crown and shall not have any status, immunity or privilege of the Crown.

(7) References in this Part [M135] of this Act (other than sections 43, 43B, 43C and this section), section 70 of the Housing (Scotland) Act 1988 and any other enactment (including an enactment contained in subordinate legislation) to a rent officer shall, as respects a registration area in relation to which rent registration arrangements are in force, be construed as references to the rent registration service provider responsible for the performance of the functions of the rent officer for that area.

(8) A rent registration service provider may perform his functions through an employee or agent and, if he does so—

(a) any decision of, and anything else done or omitted to be done by or in relation to, the employee or agent shall, for the purposes of any enactment (including an enactment contained in subordinate legislation), be deemed to be a decision of or, as the case may be, done or omitted to be done by or in relation to the rent registration service provider; and

(b) where any enactment refers to the personal knowledge, experience or opinion of a rent officer the knowledge, experience or opinion of the employee or agent shall be deemed to be that of the rent registration service provider.

(9) Subsection (8)(a) above is without prejudice to section 43C below."

Marginal Citations

M134 1988 c.43.

M135 1988 c.43.

Status: *Point in time view as at 01/04/1999.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 10 June 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)*

7 After section 43A of that Act there shall be inserted the following sections—

"**43B Supplementary provisions regarding rent registration service providers.**

(1) Where—

(a) rent registration arrangements are in force in relation to a registration area ("existing arrangements"); and

(b) the Secretary of State decides not to make further such arrangements in relation to that area in respect of the period following the expiry or termination of the existing arrangements,

then, notwithstanding section 43A(3) above, he may under section 43(3) above appoint rent officers for the area, such appointments taking effect on the expiry or, as the case may be, the termination of the existing arrangements.

(2) For the purposes of subsections (3) and (4) below, a change of responsibility takes place where—

(a) under rent registration arrangements in relation to a registration area, a rent registration service provider assumes responsibility for the performance of functions which, immediately prior to the coming into force of the arrangements, were performed by a rent officer for the area or by another rent registration service provider; or

(b) a rent officer is appointed for a registration area in relation to which, immediately prior to the coming into force of the appointment, rent registration arrangements were in force.

(3) Where a change of responsibility takes place the Secretary of State shall publish, in such manner as he considers appropriate, a notice specifying—

(a) the registration area concerned;

(b) the date when the change takes effect; and

(c) the name and official address of the person who is rent officer or, as the case may be, rent registration service provider after that date.

(4) Where a change of responsibility takes place—

(a) any decision taken, and anything else done or omitted to be done in the performance of the functions mentioned in section 43A(2) above by or in relation to the person previously responsible for the performance of those functions shall have effect as if taken or, as the case may be, done or omitted to be done by or in relation to the person currently so responsible; and

(b) any court proceedings by or against the person previously so responsible and relating to the performance by him of those functions shall continue by or against the person currently so responsible.

43C Rent registration service providers: restrictions on disclosure of information.

(1) Schedule 15 to the Deregulation and Contracting Out Act 1994 (restrictions on disclosure of information) shall, where contractor A within the meaning of that Schedule is a rent registration service provider, apply with the following modifications.

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(2) Without prejudice to paragraph 10(1), references to an employee of contractor A and, where contractor B within the meaning of that Schedule is also a rent registration service provider, to an employee of contractor B shall be taken to include references to an agent, and the employee of an agent, of contractor A or, as the case may be, of contractor B.

(3) Subject to subsections (4) to (6) below, references to authority A shall be taken to be references to the rent officer for any registration area specified in the rent registration arrangements.

(4) In paragraph 2(a), the reference to authority A shall be taken to be a reference to such a rent officer or the Secretary of State.

(5) In paragraphs 3(2)(b), 4(2)(b), 5(b) and 8 and, in paragraph 10(1), in the definition of "ancillary services", the reference to authority A shall be taken to be a reference to the Secretary of State.

(6) In the definition of "related function" in paragraph 10(1), the reference to a function of authority A which is certified by that authority shall be taken to be a reference to a function of a rent officer which is certified by the Secretary of State."

Companies Act 1985 (c.6)

8 After subsection (6) of section 704 of the Companies Act 1985 (registration offices) there shall be inserted the following subsections—

"(7) Subsection (8) below applies where by virtue of an order made under section 69 of the Deregulation and Contracting Out Act 1994 a person is authorised by the registrar of companies to accept delivery of any class of documents which are under any provision of the Companies Acts to be delivered to the registrar.

(8) If—

(a) the registrar directs that documents of that class shall be delivered to a specified address of the authorised person; and

(b) the direction is printed and made available to the public (with or without payment),

any document of that class which is delivered to an address other than the specified address shall be treated for the purposes of those Acts as not having been delivered."

9 In section 735A(2) of that Act (relationship of Act to Insolvency Act), for the words "sections 704(5)" there shall be substituted the words " sections 704(5), (7) and (8) ".

10 In section 735B of that Act (relationship of Act to Parts IV and V of Financial Services Act 1986), for the words "sections 704(5)" there shall be substituted the words " sections 704(5), (7) and (8) ".

Gas Act 1986 (c.44)

F16 11 . . . . . .

Status: *Point in time view as at 01/04/1999.*
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Textual Amendments

F16 Sch. 16 paras. 11-13 repealed (1.3.1996) by 1995 c. 45, s. 17(5), **Sch. 6**; S.I. 1996/218, **art. 2**

F17 12 . . . . . .

Textual Amendments

F17 Sch. 16 paras. 11-13 repealed (1.3.1996) by 1995 c. 45, s. 17(5), **Sch. 6**; S.I. 1996/218, **art. 2**

F18 13 . . . . . .

Textual Amendments

F18 Sch. 16 paras. 11-13 repealed (1.3.1996) by 1995 c. 45, s. 17(5), **Sch. 6**; S.I. 1996/218, **art. 2**

Agriculture Act 1986 (c.49)

14 For subsection (3) of section 1 of the Agriculture Act 1986 (provision of services and goods connected with agriculture and countryside) there shall be substituted the following subsection—

"(3) The provision which may be made under this section includes provision for any services or goods mentioned in subsection (1) above to be supplied—

(a) through any person with whom the Minister enters into a contract for the making of the supply; or

(b) through any organisation established by him for the purposes of this section."

European Economic Interest Grouping Regulations 1989

15 In paragraph 16 of Schedule 4 to M136 the European Economic Interest Grouping Regulations 1989 (provisions of Companies Act 1985 applying to EEIGs and their establishments), for the words "section 704(5)" there shall be substituted the words " section 704(5), (7) and (8) ".

Marginal Citations

M136 S.I. 1989/638.

Food Safety Act 1990 (c.16)

16 After subsection (5) of section 6 of the Food Safety Act 1990 (enforcement of Act) there shall be inserted the following subsection—

"(6) In this Act "authorised officer", in relation to an enforcement authority, means any person (whether or not an officer of the authority) who is authorised by the authority in writing, either generally or specially, to act in matters arising under this Act and regulations and orders made under it; but if regulations made by the Ministers so provide, no person shall be so

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authorised unless he has such qualifications as may be prescribed by the regulations."

17 In subsection (1) of section 42 of that Act (default powers)—

(a) for the words "one of his officers" there shall be substituted the words " a person (whether or not an officer of his) who is authorised by him in writing to do so "; and

(b) there shall be inserted at the end th e words " but if regulations made by the Ministers so provide, no person shall be so authorised unless he has such qualifications as may be prescribed by the regulations. "

18 In subsection (1) of section 50 of that Act (service of documents), for the words "any officer" there shall be substituted the words " an authorised officer ".

19 In subsection (2) of section 53 of that Act (general interpretation), after the first entry there shall be inserted the following entry—

"Authorised officer of an enforcement authority	section 6(6)".

Social Security Administration Act 1992 (c.5)

20 (1) After subsection (7) of section 54 of the Social Security Administration Act 1992 (claims relating to attendance allowance, disability living allowance and disability working allowance) there shall be inserted the following subsection—

"(7A) Any reference in subsections (3) to (7) above to a medical practitioner who is an officer of the Secretary of State includes a reference to a medical practitioner who is provided by any person in pursuance of a contract entered into with the Secretary of State."

(2) Sub-paragraph (3) below applies where a consent given before the commencement of this Part authorises the disclosure of any information to the Secretary of State, or to a medical practitioner who is an officer of the Secretary of State.

(3) The consent shall have effect as if it also authorised the disclosure of the information—

(a) to a medical practitioner who is provided by any person in pursuance of a contract entered into with the Secretary of State, and

(b) if and to the extent that the Secretary of State so directs, to any employee of such a practitioner.

(4) In this paragraph—

"employee", in relation to a medical practitioner, includes any person who performs ancillary services for the practitioner, and any employee of such a person;

"medical practitioner" has the same meaning as in that Act.

21 After subsection (6) of section 123 of that Act (disclosure of information relating to particular persons) there shall be inserted the following subsection—

"(6A) Subsection (6) above shall have effect as if any medical practitioner who, for the purposes of section 54 above, is provided by any person in pursuance

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of a contract entered into with the Secretary of State were specified in Part I of Schedule 4 to this Act."

F19 22 . . . . . .

Textual Amendments

F19 Sch. 16 para. 22 repealed (1.7.1997) by 1997 c. 47, s. 22, **Sch. 2**; S.I. 1997/1577, art. 2, **Sch.**

F20 23 . . . . . .

Textual Amendments

F20 Sch. 16 para. 23 repealed (1.7.1997) by 1997 c. 47, s. 22, **Sch. 2**; S.I. 1997/1577, art. 2, **Sch.**

Social Security Administration (Northern Ireland) Act 1992 (c.8)

24 (1) After subsection (7) of section 52 of the Social Security Administration (Northern Ireland) Act 1992 (claims relating to attendance allowance, disability living allowance and disability working allowance) there shall be inserted the following subsection—

"(7A) Any reference in subsections (3) to (7) above to a medical practitioner who is an officer of the Department includes a reference to a medical practitioner who is provided by any person in pursuance of a contract entered into with the Department."

(2) Sub-paragraph (3) below applies where a consent given before the commencement of this Part authorises the disclosure of any information to the Department, or to a medical practitioner who is an officer of the Department.

(3) The consent shall have effect as if it also authorised the disclosure of the information—

(a) to a medical practitioner who is provided by any person in pursuance of a contract entered into with the Department, and

(b) if and to the extent that the Department so directs, to any employee of such a practitioner.

(4) In this paragraph—

"the Department" means the Department of Health and Social Services for Northern Ireland;

"employee", in relation to a medical practitioner, includes any person who performs ancillary services for the practitioner, and any employee of such a person;

"medical practitioner" has the same meaning as in that Act.

25 After subsection (6) of section 117 of that Act (disclosure of information relating to particular persons) there shall be inserted the following subsection—

"(6A) Subsection (6) above shall have effect as if any medical practitioner who, for the purposes of section 52 above, is provided by any person in pursuance

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of a contract entered into with the Department were specified in Part I of Schedule 4 to this Act".

SCHEDULE 17

Section 81

REPEALS

Commencement Information

I14 Sch. 17 wholly in force at 1.1.1996; Sch. 17 in force for certain purposes at Royal Assent and at 3.1.1995 see s. 82(2)(3); Sch. 17 in force for certain purposes at 1.12.1994 by S.I. 1994/3037, **art. 2**, 3; Sch. 17 in force for certain purposes at 3.1.1995 by S.I. 1994/3188, **arts. 2**, 3(s); Sch. 17 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.).

Chapter or Number	Title	Extent of repeal
57 & 58 Vict. c. 60.	The Merchant Shipping Act 1894.	Sections 110 to 112.
14 Geo. 6. c. 28.	The Shops Act 1950.	The whole Act.
1962 c. 35.	The Shops (Airports) Act 1962.	The whole Act.
1964 c. 26.	The Licensing Act 1964.	In section 196A(1), the word "or" at the end of paragraph (a)(ii).
1965 c. 35.	The Shops (Early Closing Days) Act 1965.	The whole Act.
1968 c. 73.	The Transport Act 1968.	In section 62(2), the words from "which" to the end of paragraph (c). In section 62(4)(b), the words "(or, so long as those sections remain in force, sections 73 and 186 of the Act of 1960)". Section 63(5). In section 63(6), the definition of "statutory provision". In section 69(4), in paragraph (b)(ii) the word "authorisations" and in paragraph (c) the words "or section 73 or 186 of the Act of 1960". In section 69(6), the words "premature termination". Section 69B(7). Section 69F.

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		In section 87(3), the words "or 69F". In section 91(1), the words following paragraph (g). In section 91(4), the words from "and different" to the end. In section 92(1), the definition of "authorised vehicle". Sections 93 and 94(1), (2), (9) and (10).
1969 c. 48.	The Post Office Act 1969.	In Schedule 4, paragraph 51.
1972 c. 70.	The Local Government Act 1972.	In Schedule 29, paragraph 43.
1973 c. 35.	The Employment Agencies Act 1973.	Sections 1 to 3 and 7. In section 9(1)(a), the words from "by" to "Act". Section 10(1). In section 13, in subsection (1), the definitions of "current licence", "holder" and "seaman", and subsection (7)(e).
1973 c. 41.	The Fair Trading Act 1973.	In section 75G, in subsection (1), the words "complying with subsections (2) and (3) of this section", and subsections (2) and (3).
1973 c. 65.	The Local Government (Scotland) Act 1973.	Section 157.
1974 c. 50.	The Road Traffic Act 1974.	In Schedule 4, paragraphs 2, 3, 4(1), (3) and (5), and 5.
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Part III of Schedule 1, the entry relating to persons appointed under section 3(4)(b) of the Employment Agencies Act 1973.
1975 c. 71.	The Employment Protection Act 1975.	In Schedule 13, paragraphs 1 to 4, and, in paragraph 6(3), the words from "and in sub-paragraph (iv)" to the end.
S.I. 1976/1043 (N.I. 9).	The Industrial Relations (Northern Ireland) Order 1976.	In Article 22C(1), the word "or" immediately preceding sub-paragraph (e) and that sub-paragraph.
1978 c. 44.	The Employment Protection (Consolidation) Act 1978.	In section 59(1), the word "either", the word "or"

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		immediately preceding paragraph (b) and that paragraph.
1979 c. 39.	The Merchant Shipping Act 1979.	In Schedule 6, in Part I, the entries relating to sections 111(4) and 112(2) of the Merchant Shipping Act 1894.
1980 c. 21.	The Competition Act 1980.	Section 2(5). Section 3(2) to (6), (9) and (10). In section 5, subsection (2), in subsection (3), the words from the beginning of paragraph (a) to "notice reference" and subsection (5). Section 6(2). In section 13(1), the words "(subject to subsection (5) of that section)". In section 15(2), paragraph (a) and the word "or" immediately following it.
1980 c. 65.	The Local Government, Planning and Land Act 1980.	In Schedule 4, paragraph 1(4).
1981 c. 14.	The Public Passenger Vehicles Act 1981.	Section 14A(3). In section 16(6), the word "or" immediately before paragraph (b). In section 17(2)(b), the words "(during which time it shall be of no effect)". Section 17(2)(c). In section 17(3)(a), the words "intention or". Section 27. Section 50(2). In section 50(4)(c), the words "or to curtail its period of validity".
S.I. 1981/839 (N.I. 20).	The Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981.	Articles 3 to 5 and 8. Article 9(1). In Article 11, in paragraph (1), the definitions of "current licence", "holder" and "seaman" and paragraph (5)(d).
1982 c. 49.	The Transport Act 1982.	Section 21(5). In Schedule 4, in Part II, paragraphs 2 to 5 and 6(b).

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1984 c. 12.	The Telecommunications Act 1984.	In section 50(6), the words "applies to any particular case".
1984 c. 27.	The Road Traffic Regulation Act 1984.	In Schedule 9, in paragraph 28, the word "or" immediately preceding sub-paragraph (d).
1984 c. 32.	The London Regional Transport Act 1984.	In Schedule 6, paragraph 22.
1985 c. 13.	The Cinemas Act 1985.	In Schedule 2, paragraphs 4 and 5.
1985 c. 65.	The Insolvency Act 1985.	In Schedule 8, paragraph 16.
1985 c. 67.	The Transport Act 1985.	Section 12(3). Section 24(2). In Schedule 2, paragraph 4(6) and (9).
1985 c. 72.	The Weights and Measures Act 1985.	Section 43. In section 86, in subsections (2)(a) and (5), "43(2),". In section 99(2), the words "Except as provided by section 43(2) above,".
1986 c. 44.	The Gas Act 1986.	In section 17(8), paragraph (d) and the word "and" immediately preceding that paragraph.
1986 c. 53.	The Building Societies Act 1986.	In section 13, in subsection (2), the word "and" immediately preceding paragraph (d), and in subsection (3)(a), the words "of the land".
1986 c. 60.	The Financial Services Act 1986.	In section 125(7), the words "section 24 of".
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 201A, in subsection (2)(c), the words "and holds a current licence for the agency", and, in subsection (3), paragraph (b) and the word "and" immediately preceding it.
1988 c. 54.	The Road Traffic (Consequential Provisions) Act 1988.	In Schedule 3, paragraph 6(4).

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1989 c. 29.	The Electricity Act 1989.	In section 43(6), the words "applies to any particular case".
1989 c. 38.	The Employment Act 1989.	In Schedule 6, paragraphs 3 to 5.
1989 c. 40.	The Companies Act 1989.	In Schedule 14, in paragraph 9(6), the words "section 24 of".
1990 c. 43.	The Environmental Protection Act 1990.	In Schedule 15, paragraph 10(2)(a).
S.I. 1990/593 (N.I. 5).	The Companies (Northern Ireland) Order 1990.	In Schedule 14, in paragraph 9(6), the words "section 24 of".
1992 c. 41.	The Charities Act 1992.	Section 67(3)(b) and the word "but" immediately preceding it.
S.I. 1992/231 (N.I. 1).	The Electricity (Northern Ireland) Order 1992.	In Article 46(6), the words "applies to any particular case".
1993 c. 10.	The Charities Act 1993.	Section 47(3)(a).
1993 c. 19.	The Trade Union Reform and Employment Rights Act 1993.	In Schedule 8, paragraph 14(b).
1993 c. 43.	The Railways Act 1993.	In section 67(8), the words "applies to any particular case".
1994 c. 20.	The Sunday Trading Act 1994.	Section 5. In Schedule 4, paragraph 23.

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