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:—

Modifications etc. (not altering text)

C1 Act transitional provisions for effects of SI 2002/3150 (N.I.) (5.9.2003) by The Company Directors Disqualification (2002 Order) (Transitional Provisions) Order (Northern Ireland) 2003 (S.R. 2003/346), **arts. 3-6**

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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 I

DEREGULATION

CHAPTER I

GENERAL

Removal or reduction of burdens

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

[[F1](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 **[**[F2] and includes the Scottish Ministers where the functions of a Minister of the Crown under this section have transferred to them under section 53 of the Scotland Act 1998 **]** and " Minister " shall be construed accordingly;

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

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

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

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

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

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

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

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

Textual Amendments

F1 Ss. 1-5 repealed (S.) (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(3)(7)(7), **Sch. 7 para. 1(2)** (with Sch. 7 para. 1(4)); S.S.I. 2010/221, art. 3(2)

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

Marginal Citations

M1 1975 c. 26.

M2 1978 c. 30.

2 Limitations on the power under section 1.

[[F1](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

[F3]**[**(b) section 292(6) and (7) of the Criminal Procedure (Scotland) Act 1995,**]**

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

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

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

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

(b) compelling the giving of evidence,

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

Textual Amendments

F1 Ss. 1-5 repealed (S.) (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(3)(7)(7), **Sch. 7 para. 1(2)** (with Sch. 7 para. 1(4)); S.S.I. 2010/221, art. 3(2)

F3 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.

[[F1](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 **[**[F4]or, where the Minister is a Scottish Minister, before the Scottish Parliament**]** a document containing his proposals in the form of a draft of the order, together with details of the matters specified in subsection (4) below.

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

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

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

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

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

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

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

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

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

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

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

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

Textual Amendments

F1 Ss. 1-5 repealed (S.) (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(3)(7)(7), **Sch. 7 para. 1(2)** (with Sch. 7 para. 1(4)); S.S.I. 2010/221, art. 3(2)

F4 Words in s. 3(3) inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 117(3)** (with art. 5)

4 Parliamentary consideration of proposals.

[[F1](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 **[**[F5]and, in relation to the Scottish Parliament, no account shall be taken of any time during which the Parliament is dissolved or is in recess for more than 4 days.**]**.

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

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

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

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

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

Textual Amendments

F1 Ss. 1-5 repealed (S.) (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(3)(7)(7), **Sch. 7 para. 1(2)** (with Sch. 7 para. 1(4)); S.S.I. 2010/221, art. 3(2)

F5 Words in s. 4(3) inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 117(4)(b)** (with art. 5)

Enforcement procedures and appeals

5 Powers to improve enforcement procedures.

[[F1](1) If, with respect to any provision made by an enactment, a Minister of the Crown is of the opinion—

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

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

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

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

(3) Where the relevant enactment—

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

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

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

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

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

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

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(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

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

" enforcement officer " does not include—

(a) the Director of Public Prosecutions;

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

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

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

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

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

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

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

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

Textual Amendments

F1 Ss. 1-5 repealed (S.) (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(3)(7)(7), **Sch. 7 para. 1(2)** (with Sch. 7 para. 1(4)); S.S.I. 2010/221, art. 3(2)

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Marginal Citations

M4 1978 c. 30.

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

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

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

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

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

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

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

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

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

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

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

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

(5) Model provisions so prescribed may also—

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

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

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

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

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

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

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

(7) In this section—

"enactment" does not include anything contained in Northern Ireland legislation but, subject to that, includes an enactment contained in an Act

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(whenever passed) and an enactment contained in subordinate legislation (whenever made);

"enforcement action" has the same meaning as in **[**[F6]section 9 of the Regulatory Reform Act 2001**]**;

[[F7] " interested person " means—

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

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

(c) where the enforcement action which may be or has been taken relates specifically to goods or services which are to be or have been supplied by a person other than the one against whom enforcement action may be or has been taken, that person;**]**

"Northern Ireland legislation" means—

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

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

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

Extent Information

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

Textual Amendments

F6 Words in the definition of "enforcement action" in s. 6(7) substituted (10.4.2001) by 2001 c. 6, **s. 13(1)(a)**

F7 Definition of "interested person" in s. 6(7) substituted (10.4.2001) by 2001 c. 6, **s. 13(1)(b)**

Modifications etc. (not altering text)

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

Marginal Citations

M5 1978 c. 30.

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

6 Model provisions with respect to appeals. S

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

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

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

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

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

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

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

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

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

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

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

(5) Model provisions so prescribed may also—

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

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

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

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

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

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

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

(7) In this section—

"enactment" does not include anything contained in Northern Ireland legislation but, subject to that, includes an enactment contained in an Act (whenever passed) [F126]... an enactment contained in subordinate legislation (whenever made) **[**[F127], an enactment contained in an Act of the Scottish Parliament (whenever passed) and an enactment contained in an instrument made under an Act of the Scottish Parliament (whenever made)**]**;

[[F128] " enforcement action " means—

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

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

[[F129] " interested person " means—

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

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

(c) where the enforcement action which may be or has been taken relates specifically to goods or services which are to be or have been supplied by a person other than the one against whom enforcement action may be or has been taken, that person;**]**

"Northern Ireland legislation" means—

(a) Northern Ireland legislation within the meaning of section 24 of the Interpretation [M79]Act 1978; and

(b) instruments, within the meaning of the Interpretation [M80]Act (Northern Ireland) 1954, made under such legislation;

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

Extent Information

E3 This version of this provision extends to Scotland only; a separate version has been created for England and Wales and Northern Ireland only

Textual Amendments

F126 Word in s. 6(7) omitted (1.8.2010) by virtue of Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(3)(7)(7), **Sch. 7 para. 1(3)(a)(i)**; S.S.I. 2010/221, art. 3(2), Sch.

F127 Words in s. 6(7) inserted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(3)(7)(7), **Sch. 7 para. 1(3)(a)(ii)**; S.S.I. 2010/221, art. 3(2), Sch.

F128 Words in s. 6(7) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(3)(7)(7), **Sch. 7 para. 1(3)(b)**; S.S.I. 2010/221, art. 3(2), Sch.

F129 Words in s. 6(7) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(3)(7)(7), **Sch. 7 para. 1(3)(c)**; S.S.I. 2010/221, art. 3(2), Sch.

Modifications etc. (not altering text)

C30 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

M79 1978 c. 30.

M80 1954 c. 33 (N.I.).

CHAPTER II

MISCELLANEOUS DEREGULATORY PROVISIONS

[F8]7 Undertakings as alternative to monopoly reference by Director General of Fair Trading.

. . . . . .

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Textual Amendments

F8 S. 7(1) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1) (with art. 8)

[F9]8 Newspaper mergers: meaning of "newspaper proprietor" etc.

. . . . . .

Textual Amendments

F9 S. 8 repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 19(1)** Note 1 (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

[F10]9 Undertakings as alternative to merger reference: non-divestment matters.

. . . . . .

Textual Amendments

F10 S. 9 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1) (with art. 8)

[F11]10 . . . . . .

Textual Amendments

F11 S. 10 repealed (1.3.2000) by 1998 c. 41, s. 74(1)(3), Sch. 12 para. 19(2)(a), **Sch. 14 Pt. I** (with s. 73); S.I. 2000/344, art. 2, **Sch.**

[F12]11 . . . . . .

Textual Amendments

F12 S. 11 repealed (1.3.2000) by 1998 c. 41, s. 74(1)(3), Sch. 12 para. 19(2)(b), **Sch. 14 Pt. I** (with s. 73); S.I. 2000/344, art. 2, **Sch.**

12 Anti-competitive practices: competition references.

[F13](1) . . . . . .

[F13](2) . . . . . .

[F13](3) . . . . . .

[F13](4) . . . . . .

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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)*

[F13](5) . . . . . .

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

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

Textual Amendments

F13 S. 12(1)-(6) repealed (1.3.2000) by 1998 c. 41, s. 74(1)(3), Sch. 12 para. 19(3), **Sch. 14 Pt. I** (with s. 73); S.I. 2000/344, art. 2, **Sch.**

13 Striking off of non-trading private companies.

[F14](1) . . . . . .

[F15](2) . . . . . .

Textual Amendments

F14 S. 13(1) repealed (1.10.2009) by Companies Act 2006 (c. 46), s. 1300(2), **Sch. 16**; S.I. 2008/2860, art. 4, Sch. 1 Pt. 1 (with arts. 78Sch. 2) (which transitional provisions in Sch. 2 are amended (1.10.2009) by S.I. 2009/2476, arts. 1(3), 2(3)(4) and by S.I. 2009/1802, arts. 1, 18, Sch.)

F15 S. 13(1) repealed (1.10.2009) by Companies Act 2006 (c. 46), s. 1300(2), **Sch. 16**; S.I. 2008/2860, art. 4, Sch. 1 Pt. 2 (with arts. 78Sch. 2) (which transitional provisions in Sch. 2 are amended (1.10.2009) by S.I. 2009/2476, arts. 1(3), 2(3)(4) and by S.I. 2009/1802, arts. 1, 18, Sch.)

[F16]14 Repeal of section 43 of the Weights and Measures Act 1985.

. . . . . .

Textual Amendments

F16 S. 14(2) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

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

In section 7 of the [M7]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

M7 1986 c. 53.

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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)*

[F17]16 . . . . . .

Textual Amendments

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

[F18]17 . . . . . .

Textual Amendments

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

18 Licensed premises at international ports: permitted hours.

[F19](1) . . . . . .

(2) In the Licensing [M8](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.."

Textual Amendments

F19 S. 18(1) repealed (24.11.2005) by Licensing Act 2003 (c. 17), s. 201(2), **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, art. 2(2) (with art. 4)

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Marginal Citations

M8 1976 c. 66.

[F20]19 Bars in licensed premises in England and Wales: children's certificates.

. . . . . .

Textual Amendments

F20 S. 19 repealed (24.11.2005) by Licensing Act 2003 (c. 17), s. 201(2), **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, art. 2(2) (with art. 4)

[F21]20 Betting on Sundays.

. . . . . .

Textual Amendments

F21 S. 20 repealed (1.9.2007) by Gambling Act 2005 (c. 19), s. 358(1), **Sch. 17** (with ss. 352, 354); S.I. 2006/3272, art. 2(4)(5), Sch. 3B (with arts. 7-11arts. 7-12Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

[F22]21 Sporting events and activities on Sundays.

. . . . . .

Textual Amendments

F22 S. 21 repealed (24.11.2005) by Licensing Act 2003 (c. 17), s. 201(2), Sch. 6 para. 112, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, art. 2(2) (with art. 4)

[F23]22 Sunday opening of certain licensed premises in Scotland.

. . . . . .

Textual Amendments

F23 S. 22 repealed (1.9.2009 at 5.00 a.m.) by The Licensing (Scotland) Act 2005 (Consequential Provisions) Order 2009 (S.S.I. 2009/248), art. 1(1), **Sch. 2** (with art. 3)

[F24]23 Repeal of Part I of the Shops Act 1950.

. . . . . .

Textual Amendments

F24 S. 23 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

Status: *Point in time view as at 03/04/2017.*
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[F25]24 Repeal of remainder of the Shops Act 1950.

. . . . . .

Textual Amendments

F25 S. 24 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

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

(1) In Part II of the Charities Act [M9]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

M9 1992 c. 41.

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

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

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

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

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

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

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

[F26]28 Annual audit or examination of charity accounts.

. . . . . .

Status: *Point in time view as at 03/04/2017.*
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Textual Amendments

F26 S. 28 repealed (1.4.2008) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 9**; S.I. 2008/945, art. 2, Sch. 1

29 Annual reports of charities.

[F27](1) . . . . . .

[F27](2) . . . . . .

[F27](3) . . . . . .

[F27](4) . . . . . .

[F27](5) . . . . . .

[F27](6) . . . . . .

[F28](7) . . . . . .

[F28](8) . . . . . .

Textual Amendments

F27 S. 29(1)-(6) repealed (14.3.2012) by Charities Act 2011 (c. 25), s. 355, **Sch. 10** (with s. 20(2), Sch. 8)

F28 S. 29(7)(8) repealed (1.4.2008) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 9**; S.I. 2008/945, art. 2, Sch. 1

[F29]30 Annual returns by charities.

. . . . . .

Textual Amendments

F29 S. 30 repealed (14.3.2012) by Charities Act 2011 (c. 25), s. 355, **Sch. 10** (with s. 20(2), Sch. 8)

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 [M10]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—

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"(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

M10 1984 c. 55.

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

(1) In section 34 of the Environmental Protection Act [M11] 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.

(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

I1 S. 33 in force at Royal Assent (subject as mentioned in s. 33(2))

Marginal Citations

M11 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 [M12] 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—

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(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.

(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,

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(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.

Marginal Citations

M12 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.

[F30](1) . . . . . .

(2) Article 22C(1)(e) of [M13] the Industrial Relations (Northern Ireland) Order 1976 (corresponding provision for Northern Ireland) shall be omitted.

Textual Amendments

F30 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

I2 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**

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Marginal Citations

M13 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 [M14] 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,

[[F31](ba) any of the relevant nuclear provisions,

(bb) any provision of regulations under section 74 of the Energy Act 2013 which has effect in place of any of the relevant nuclear provisions,**]**

(c) any provision which is an existing statutory provision for the purposes of [M15] 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—

[[F32](a) in the case of regulations under paragraph (a) of that subsection repealing or revoking a provision specified in section 117(4) of the Railways Act 1993, **[**[F33]the Office of Rail and Road**]** ,

(aa) in the case of regulations under paragraph (a) of that subsection not falling within paragraph (a) of this subsection, **[**[F34] the Health and Safety Executive **]**,

(ab) in the case of regulations under paragraph (b) of that subsection revoking a provision of regulations which make provision exclusively in relation to transport systems falling within paragraph 1(3) of Schedule 3 to the Railways Act 2005, **[**[F33]the Office of Rail and Road**]**,

(ac) in the case of regulations under paragraph (b) of that subsection not falling within paragraph (ab) of this subsection, **[**[F34] the Health and Safety Executive **],]**

[[F35](ad) in the case of regulations under paragraph (ba) or (bb) of that subsection, the Office for Nuclear Regulation,**]**

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

and, in **[**[F36]either**]****[**[F36] any **]** 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 **[**[F37] the Health and Safety Commission or, as the case may be, the Health and Safety Agency for Northern Ireland **][**[F37] the required consultee **]** to consult such persons as it considers appropriate for the purpose of deciding how it should respond to consultation under that subsection.

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(4) Instead of consulting a person whom the appropriate authority considers it appropriate to consult under subsection (2) above, the authority may require **[**[F38] the Health and Safety Commission or, as the case may be, the Health and Safety Agency for Northern Ireland **][**[F38] the required consultee **]** to consult the person for the purpose of deciding how it should respond to consultation under that subsection.

[[F39](4A) In subsections (3) and (4), " the required consultee " means the body which the appropriate authority is required to consult by virtue of subsection (2)(a) to (b). **]**

(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) **[**[F40] (b), (ba) or (bb) **]** 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 [M16] the Statutory Rules (Northern Ireland) Order 1979, and

(b) shall be subject to affirmative resolution, as defined in section 41(4) of [M17] 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) **[**[F41](b), (ba) or (bb)**]** 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).

[[F42](10) In subsection (1), " the relevant nuclear provisions " means—

(a) sections 1, 3 to **[**[F43]5**]**, 22 and 24A of the Nuclear Installations Act 1965,

[[F44](aa) section 6 of that Act, so far as it relates to sites in respect of which nuclear site licences (within the meaning of that Act) have been granted,**]** and

(b) any regulations made under any of those sections,

so far as they have effect in England and Wales or Scotland.**]**

Textual Amendments

F31 S. 37(1)(ba)(bb) inserted (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), **Sch. 12 para. 71(2)**; S.I. 2014/251, art. 4

F32 S. 37(2)(a)-(ac) substituted for s. 37(2)(a) (E.W.S.) (1.4.2006) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 12 para. 12(2)(a)**; S.I. 2006/266, art. 2(2)

F33 Words in s. 37(2) substituted (E.W.S.) (16.10.2015) by The Office of Rail Regulation (Change of Name) Regulations 2015 (S.I. 2015/1682), reg. 1(2), **Sch. para. 4(k)**

F34 Words in s. 37(2)(aa)(ac) substituted (1.4.2008) by Legislative Reform (Health and Safety Executive) Order 2008 (S.I. 2008/960), art. 1, **Sch. 3** (with art. 21, Sch. 2)

F35 S. 37(2)(ad) inserted (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), **Sch. 12 para. 71(3)**; S.I. 2014/251, art. 4

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F36 Word in s. 37(2) substituted (E.W.S.) (1.4.2006) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 12 para. 12(2)(b)**; S.I. 2006/266, art. 2(2)

F37 Words in s. 37(3) substituted (E.W.S.) (1.4.2006) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 12 para. 12(3)**; S.I. 2006/266, art. 2(2)

F38 Words in s. 37(4) substituted (E.W.S.) (1.4.2006) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 12 para. 12(3)**; S.I. 2006/266, art. 2(2)

F39 S. 37(4A) inserted (E.W.S.) (1.4.2006) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 12 para. 12(4)**; S.I. 2006/266, art. 2(2)

F40 Words in s. 37(7) substituted (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), **Sch. 12 para. 71(4)**; S.I. 2014/251, art. 4

F41 Words in s. 37(9)(a) substituted (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), **Sch. 12 para. 71(5)**; S.I. 2014/251, art. 4

F42 S. 37(10) inserted (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), **Sch. 12 para. 71(6)**; S.I. 2014/251, art. 4

F43 Word in s. 37(10)(a) substituted (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by The Nuclear Installations (Liability for Damage) Order 2016 (S.I. 2016/562), art. 1(2), **Sch. 2 para. 3(a)** (with art. 40)

F44 S. 37(10)(aa) inserted (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by The Nuclear Installations (Liability for Damage) Order 2016 (S.I. 2016/562), art. 1(2), **Sch. 2 para. 3(b)** (with art. 40)

Marginal Citations

M14 1974 c. 37.

M15 S.I. 1978/1039 (N.I. 9).

M16 S.I. 1979/1573 (N.I. 12).

M17 1954 c. 33 (N.I.).

38 Inspection of independent schools.

After section 87 of the Children Act [M18]1989 there shall be inserted—

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

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

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

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

(2) Where—

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

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

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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)*

(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 [M19]Education Act 1944, and

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

87B Duties of inspectors under section 87A.

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

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

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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, 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 [M20]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

M18 1989 c. 41.
M19 1944 c. 31.
M20 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

I3 S. 39 wholly in force at 1.1.1996; s. 39 in force for certain purposes at Royal Assent see s. 82(2)(3); s. 39 in force for certain purposes at 3.1.1995 by S.I. 1994/3188, **arts. 2**, 3; s. 39 in force for certain purposes at 1.7.1995 by S.I. 1995/1433, **art. 3(c)**; s. 39 in force for certain purposes at 1.11.1995 by S.I. 1995/1433, **arts. 4**, 5(b); s. 39 in force at 1.1.1996 in so far as not already in force by S.I. 1995/2835, **art. 2** (with transitional provisions in Sch.)

40 Extent of Chapter II.

(1) The following provisions of this Chapter extend to England and Wales only—

sections 18(1), 19, 20(3), 21, 25 to 30, 32, 34 and 38,
paragraphs 8 to 10 of Schedule 2,
Schedules 7 and 8, and
paragraph 2 of Schedule 9.

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

(3) The following provisions of this Chapter extend to Northern Ireland only—

sections 13(2) and 36(2),

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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.

[F45 CHAPTER III]

Textual Amendments

F45 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 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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 [M32] the Public Passenger Vehicles Act 1981.

Marginal Citations
M32 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."

(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."

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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 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."

62 Suspension of licences.

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

[F46](2) . . . . . .

(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."

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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

F46 S. 62(2) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

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.

(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."

Status: *Point in time view as at 03/04/2017.*
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[F47]64 Repeal of section 27 of the 1981 Act.

. . . . . .

Textual Amendments

F47 S. 64 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

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."

(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."

Status: *Point in time view as at 03/04/2017.*
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(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—

(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.

Status: *Point in time view as at 03/04/2017.*
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(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 [M33]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—

"(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—

Status: *Point in time view as at 03/04/2017.*
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"(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

M33 1985 c. 67.

68 Chapter IV: minor and consequential amendments.

The 1981 Act and [M34] the Transport Act 1985 shall have effect with the further amendments set out in Schedule 14 to this Act.

Commencement Information

I5 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

M34 1985 c. 67.

PART II

CONTRACTING OUT

Modifications etc. (not altering text)

C3 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**

C4 Pt. II modified (29.12.2003) by Communications Act 2003 (c. 21), **ss. 1(7)**, 411(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

C5 Pt. II applied (with modifications) (E.W.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **34**

C6 Pt. II modified (E.W.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **34**

Status: *Point in time view as at 03/04/2017.*
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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)

C7 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**

C8 S. 69(5)(a) modified (1.10.2016) by Energy Act 2016 (c. 20), **ss. 7(1)**(2), 84(3); S.I. 2016/920, reg. 2(a)

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 [M35] the Local Government Act 1972 or section 56 of [M36] the Local Government (Scotland) Act 1973 **[**[F48] or an enactment mentioned in subsection (1ZA) below**]**, 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 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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)*

[[F49](1A) This section also applies to any function of a local authority—

(a) if, and to the extent that, it is the responsibility of an executive of that local authority under executive arrangements, within the meaning of Part II of the Local Government Act 2000;

(b) which is conferred by or under any enactment;

(c) which, by virtue of any of sections 14 to 16, or any provisions made under sections 17 to 20, of the Local Government Act 2000 (provisions with respect to executive arrangements—discharge of functions etc.), may be exercised by an officer of the local authority; and

(d) which is not excluded by section 71 below.**]**

[[F50](1ZA) The enactments referred to in subsection (1)(b) above are—

[F51](a) . . . . . .

(b) section 38 or 380 of the Greater London Authority Act 1999 (delegation of functions exercisable by the Mayor of London);

(c) paragraph 7 of Schedule 10 to that Act (delegation by Transport for London).

(1ZB) In its application in relation to a local authority which is a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies **[**[F52]or a fire and rescue authority created by an order under section 4A of that Act**]**, subsection (1) above has effect as if paragraph (b) were omitted.**]**

(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 [M37] the Local Government Act 1972 or section 56 of [M38] 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.

[F53][(6) Any reference in subsection (5) above to arrangements under section 101 of the [M39] Local Government Act 1972 includes a reference to an authorisation under section 38 or 380 of the Greater London Authority Act 1999.]

[[F54](7) Where at any time—

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

(b) that function, to any extent, is the responsibility of an executive of authority A under executive arrangements, within the meaning of Part II of the Local Government Act 2000; and

(c) arrangements are in force under regulations made under section 19 of the Local Government Act 2000 (discharge of functions of and by another local authority) for the exercise of that function, to any extent, by another local authority ("authority B") or by any executive of authority B,

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

Textual Amendments

F48 Words in s. 70(1)(b) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 239(1)(a)**, 245(5); S.I. 2008/917, art. 2(1)(u) (with art. 6(6))

F49 S. 70(1A) inserted (E.) (11.7.2001) by S.I. 2001/2237, **art. 29**, and the same subsection inserted (W.) (1.4.2002) by S.I. 2002/808, **art. 28(a)**

F50 S. 70(1ZA)(1ZB) inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 239(1)(b)**, 245(5); S.I. 2008/917, art. 2(1)(u) (with art. 6(6))

F51 S. 70(1ZA)(a) repealed (1.7.2012 at 0.02 a.m.) by Public Bodies Act 2011 (c. 24), s. 38(3), **Sch. 6**; S.I. 2012/1662, art. 2(2)(b)

F52 Words in s. 70(1ZB) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 74**; S.I. 2017/399, reg. 2, Sch. para. 38

F53 S. 70(6) inserted (8.5.2000) by 1999 c. 29, **s. 40(3)**; S.I. 2000/801, art. 2(2)(b), **Sch. Part 2**

F54 S. 70(7) inserted (E.) (11.7.2001) by S.I. 2001/2237, **art. 29**, and the same subsection inserted (W.) (1.4.2002) by S.I. 2002/808, **art. 28(b)**

Modifications etc. (not altering text)

C9 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 27.7.2000 otherwise) by 1999 c. 27, **ss. 18**, 27(1)(2)(c); S.I. 1999/2169, **art. 3(1)**
S. 70 extended (*prosp.*) by 2002 c. 32, **ss. 183(4)(a)**, 216 (with ss. 210(8), 214(4))

C10 S. 70 extended (1.9.2003) by Education Act 2002 (c. 32), **ss. 183(4)(a)**, 216(4) (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2003/1718, art. 5, Sch. Pt. II

Marginal Citations

M35 1972 c.70.

M36 1973 c.65.

M37 1972 c.70.

M38 1973 c.65.

M39 1972 c. 70.

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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 19 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)*

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.

(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 [M40] the Local Government (Scotland) Act 1947 (enforcement of non-domestic rates);

(b) Part VI of [M41] the General Rate Act 1967 (distress for general rates);

(c) paragraphs 7 and 7A of Schedule 2 and paragraph 11 of Schedule 5 to [M42] 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 [M43] 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);

[[F55](ea) section 48 of the Local Government Act 2003 (administration etc of BID levy) if the function corresponds to any function falling within paragraph (e) above,. **]**

(f) paragraphs 5 to 7 of Schedule 4 to [M44] 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); [F56]...

(h) paragraph 2 of Schedule 10 to the Local [M45]Government etc. (Scotland) Act 1994 (enforcement of water and sewerage charges);**[**[F57] and

(i) sections 217 and 218 of the Planning Act 2008 (Community Infrastructure Levy: collection and enforcement).**]**

Textual Amendments

F55 S. 71(3)(ea) inserted (18.11.2003 for E., 27.11.2003 for W.) by Local Government Act 2003 (c. 26), s. 128(6), **Sch. 7 para. 59**; S.I. 2003/2938, art. 3(a) (with art. 8Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

F56 Word in s. 71(3)(g) omitted (6.4.2010) by virtue of Planning Act 2008 (c. 29), **ss. 224(3)**, 241(8) (with s. 226); S.I. 2010/566, art. 2

F57 S. 71(3)(i) and word inserted (6.4.2010) by Planning Act 2008 (c. 29), **ss. 224(3)**, 241(8) (with s. 226); S.I. 2010/566, art. 2

Marginal Citations

M40 1947 c.43.

M41 1967 c.9.

M42 1987 c.47.

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M43 1988 c.41.
M44 1992 c.14.
M45 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

(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).

Modifications etc. (not altering text)

C11 S. 72 applied by 1998 c. 37, s. 1F(7)(a) (as inserted (E.W.) (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 142(1)**, 178(8); S.I. 2005/1521, art. 3(1)(s))

C12 S. 72 applied by 2003 c. 38, s. 28A(7) (as inserted (1.8.2007 for E.) by Police and Justice Act 2006 (c. 48), **ss. 25**, 53(1); S.I. 2007/1614, art. 3(a))

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.

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Modifications etc. (not altering text)

C13 S. 73 applied by 1998 c. 37, s. 1F(7)(b) (as inserted (E.W.) (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 142(1)**, 178(8); S.I. 2005/1521, art. 3(1)(s))

C14 S. 73 applied by 2003 c. 38, s. 28A(7) (as inserted (1.8.2007 for E.) by Police and Justice Act 2006 (c. 48), **ss. 25**, 53(1); S.I. 2007/1614, art. 3(a))

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—

[[F58](a) the registrar of companies for England and Wales, Scotland or Northern Ireland;**]**

(b) the official receiver attached to any court;

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

(d) the Public Trustee;

[[F59](e) a traffic commissioner;**]**

(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.

Textual Amendments

F58 S. 74(4)(a) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 148(2)** (with art. 10)

F59 S. 74(4)(e) substituted (3.7.2013) by The Local Transport Act 2008 (Traffic Commissioners) (Consequential Amendments) Order 2013 (S.I. 2013/1644), art. 1(1), **Sch. 1** (with arts. 1(3), 2, 7)

Modifications etc. (not altering text)

C15 S. 74(4)(a) applied (3.12.1998) by 1998 c. 48, ss. 23, 25(3), **Sch. 3 para. 4**

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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.

Modifications etc. (not altering text)

C16 S. 75 applied by 1998 c. 37, s. 1F(7)(c) (as inserted (E.W.) (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 142(1)**, 178(8); S.I. 2005/1521, art. 3(1)(s))

C17 S. 75 applied by 2003 c. 38, s. 28A(7) (as inserted (1.8.2007 for E.) by Police and Justice Act 2006 (c. 48), **ss. 25**, 53(1); S.I. 2007/1614, art. 3(a))

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—

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"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);

"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 [M46] the Local Government Act 1972, or a joint planning board within the meaning of section 2 of [M47] the Town and Country Planning Act 1990;

(b) in relation to Scotland, has the same meaning as in the Local [M48]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, **[**[F60] has the meaning given by section 79A; **]**

(b) in relation to Wales, **[**[F61] has the meaning given by section 79B; **]**

(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 [M49]of the Crown Act 1975;

"Northern Ireland legislation" means—

(a) Northern Ireland legislation within the meaning of section 24 of [M50]the Interpretation Act 1978; and

(b) instruments, within the meaning of [M51] the Interpretation Act (Northern Ireland) 1954, made under such legislation;

"office-holder" does not include a Minister, an officer of either House of Parliament, **[**[F62]the Auditor General for Wales,**]** the Parliamentary Commissioner for Administration , **[**[F63] the Public Services Ombudsman for Wales **]**[F64]...**[**[F65], the Health Service Commissioner for England [F66]... or the Scottish Public Services Ombudsman**]** 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) **[**[F67]the registrar of companies for England and Wales, Scotland or Northern Ireland; 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;

(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 [M52] the Road Traffic Act 1962 is compiled and maintained;

"subordinate legislation" has the same meaning as in the Interpretation [M53]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—

[[F68](a) any reference to a Minister included a reference to the Forestry Commissioners or to the Charity Commission;**]**

[[F68](b) any reference to an officer in relation to the Charity Commission were a reference to a member or member of staff of the Commission; and.**]**

(4) Nothing in subsection (3) above shall be construed as enabling those Commissioners **[**[F69] or that Commission **]**[F70]. . . to make an order under section 69 or 70 above [F70]. . ..

(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

F60 Words in s. 79(1) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 239(2)(a)**, 245(5); S.I. 2008/917, art. 2(1)(u) (with art. 6(6))

F61 Words in s. 79(1) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 239(2)(b)**, 245(5); S.I. 2008/917, art. 2(1)(u) (with art. 6(6))

F62 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**

F63 Words in s. 79(1) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 55(a)**; S.I. 2005/2800, art. 5(1)(3)

F64 Words in s. 79(1) omitted (14.7.2004) by virtue of Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), arts. 1, **18**

F65 Words in s. 79(1) substituted (14.7.2004) by Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), arts. 1, **18**

F66 Words in s. 79(1) repealed (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, Sch. 6 para. 55(b), **Sch. 7**; S.I. 2005/2800, art. 5(1)(3)

F67 Words in s. 79(1) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 148(3)** (with art. 10)

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F68 S. 79(3)(a)(b) substituted for s. 79(3)(a) (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 179(2)**; S.I. 2007/309, art. 2

F69 Words in s. 79(4) inserted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 179(3)**; S.I. 2007/309, art. 2

F70 Words in s. 79(4) repealed (15.11.2001) by S.I. 2001/3686, **regs. 1(1)**, 6(11)(b)

Modifications etc. (not altering text)

C18 S. 79(1) extended (1.7.1999) by S.I. 1999/1351, **arts. 1**, 17(2)(f) (with art. 8)

Marginal Citations

M46 1972 c.70.
M47 1990 c.8.
M48 1973 c.65.
M49 1975 c. 26.
M50 1978 c.30.
M51 1954 c.33 (N.I.).
M52 1962 c.59.
M53 1978 c.30.

[F71 79A "Local authority": England

In this Part, "local authority" in relation to England means—

(a) a county council;
(b) a district council;
(c) a London borough council;
(d) the Greater London Authority acting through the Mayor of London;
(e) the Common Council of the City of London;
(f) the sub-treasurer of the Inner Temple;
(g) the under treasurer of the Middle Temple;
(h) the Council of the Isles of Scilly;
(i) a parish council;
(j) a National Park authority;
(k) a functional body within the meaning of the Greater London Authority Act 1999;
(l) an authority established under section 10 of the Local Government Act 1985 (waste disposal authorities);
(m) a joint authority established by Part 4 of that Act (fire and rescue services and transport);
F72 [(ma) an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009;
(mb) a combined authority established under section 103 of that Act;]
(n) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;
F73 [(na) a fire and rescue authority created by an order under section 4A of that Act;]
F74 (o) . . . . . .
F75 (p) . . . . . .

(q) any body specified for the purposes of this paragraph by regulations under section 79C.

Textual Amendments

F71 Ss. 79A-79C inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 239(3)**, 245(5); S.I. 2008/917, art. 2(1)(u) (with art. 6(6))

F72 S. 79A(ma)(mb) inserted (17.12.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), s. 148(6), **Sch. 6 para. 87**; S.I. 2009/3318, art. 2(c)

F73 S. 79A(na) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 75**; S.I. 2017/399, reg. 2, Sch. para. 38

F74 S. 79A(o) omitted (22.11.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 215**; S.I. 2012/2892, art. 2(i)

F75 S. 79A(p) omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 13 para. 6(27)**; S.I. 2015/994, art. 6(g)

79B "Local authority": Wales

In this Part, " local authority " in relation to Wales means—

(a) a county council;

(b) a county borough council;

(c) a community council;

(d) a National Park authority;

(e) a joint planning board constituted for an area in Wales outside a National Park by an order under section 2(1B) of the Town and Country Planning Act 1990;

(f) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;

F76(g) . . . . . .

(h) any body specified for the purposes of this paragraph by regulations under section 79C.

Textual Amendments

F71 Ss. 79A-79C inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 239(3)**, 245(5); S.I. 2008/917, art. 2(1)(u) (with art. 6(6))

F76 S. 79B(g) omitted (22.11.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 216**; S.I. 2012/2892, art. 2(i)

79C Regulations for the purposes of section 79A and 79B

(1) The Secretary of State may by regulations made by statutory instrument specify for the purposes of section 79A(q) or 79B(h) any body which is (or any class of bodies each of which is)–

(a) a levying body, within the meaning of section 74 of the Local Government Finance Act 1988;

(b) a body to which section 75 of that Act applies (bodies with power to issue special levies);

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(c) a body to which section 118 of that Act applies (other bodies with levying powers);

(d) a local precepting authority as defined in section 69 of the Local Government Finance Act 1992.

(2) Regulations under subsection (1)—

(a) may provide for this Part to have effect, in relation to a body specified under that subsection, subject to exceptions or modifications;

(b) may contain transitional provisions and savings.

(3) Any such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]**

Textual Amendments

F71 Ss. 79A-79C inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 239(3)**, 245(5); S.I. 2008/917, art. 2(1)(u) (with art. 6(6))

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 **[**[F77]or the Forestry Commissioners**]** 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 [M54] the Ministers of the Crown Act 1975;

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

Textual Amendments

F77 Words in s. 80(1)(a) substituted (15.11.2001) by S.I. 2001/3686, **regs. 1(1)**, 6(11)(c)

Marginal Citations

M54 1975 c. 26.

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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)*

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

I6 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.

F78(2) . . . . . .

F78(3) . . . . . .

F78(4) . . . . . .

F78(5) . . . . . .

F78(6) . . . . . .

F78(7) . . . . . .

(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.)

Textual Amendments

F78 S. 82(2)-(7) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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

[F79]SCHEDULE 1

Section 5.

. . . . . .

Textual Amendments

F79 Sch. 1 repealed (S.) (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(3)(7)(7), **Sch. 7 para. 1(2)** (with Sch. 7 para. 1(4)); S.S.I. 2010/221, art. 3(2), Sch.(repealed for E.W.S. by Regulatory Reform Act 2001 (c. 6), s 12(1) (itself repealed (1.8.2007) by Legislative and Regulatory Reform Act 2006 (c. 51), Sch.))

[F80]SCHEDULE 2

Section 7.

. . . . . .

Textual Amendments

F80 Sch. 2 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1) (with art. 8)

SCHEDULE 3

Section 10.

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

1 The [M55]Restrictive Trade Practices Act 1976 shall be amended as follows.

Marginal Citations

M55 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.

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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 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.

(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,

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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) 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) ".

(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."

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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 4

Section 12.

SECTION 12: SECTORAL REGULATORS AND TRANSITION

Extent Information

E2 Sch. 4: certain amendments are co-extensive with the enactments they affect see s. 40.

Sectoral regulators

[F81] 1 . . . . . .

Textual Amendments

F81 Sch. 4 para. 1 repealed (1.3.2000) by 1998 c. 41, s. 74(1)(3), Sch. 12 para. 19(4), **Sch. 14 Pt. I** (with s. 73); S.I. 2000/344, art. 2, **Sch.**

[F82] 2 . . . . . .

Textual Amendments

F82 Sch. 4 para. 2 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1) (with art. 8)

3 In each of the following, namely—

[F83] (a) . . . . . .

(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.

Textual Amendments

F83 Sch. 4 para. 3(a) repealed (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 19(1)** Note 1 (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3))

4 In section 67(8) of the Railways Act 1993 (corresponding provision in relation to the jurisdiction of the **[**[F84] Office of Rail Regulation **]**) 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.

Status: *Point in time view as at 03/04/2017.*
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Textual Amendments

F84 Words in Sch. 4 substituted (5.7.2004) by Railways and Transport Safety Act 2003 (c. 20), **Sch. 2 para. 19(n)**; S.I. 2004/827, art. 4(g)

Transition

[F85]5 . . . . . .

Textual Amendments

F85 Sch. 4 paras. 5-8 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

[F85]6 . . . . . .

Textual Amendments

F85 Sch. 4 paras. 5-8 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

[F85]7 . . . . . .

Textual Amendments

F85 Sch. 4 paras. 5-8 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

[F85]8 . . . . . .

Textual Amendments

F85 Sch. 4 paras. 5-8 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

[F86]SCHEDULE 5

Section 13(1).

. . . . . .

Textual Amendments

F86 Sch. 5 repealed (1.10.2009) by Companies Act 2006 (c. 46), s. 1300(2), **Sch. 16**; S.I. 2008/2860, art. 4, Sch. 1 Pt. 1 (with arts. 78Schs. 2) (which transitional provisions in Sch. 2 are amended (1.10.2009) by S.I. 2009/2476, arts. 1(3), 2(3)(4) and by S.I. 2009/1802, arts. 1, 18, Sch.)

[F87]SCHEDULE 6

Section 13(2).

. . . . . .

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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

F87 Sch. 6 repealed (1.10.2009) by Companies Act 2006 (c. 46), s. 1300(2), **Sch. 16**; S.I. 2008/2860, art. 4, Sch. 1 Pt. 2 (with arts. 78Schs. 2) (which transitional provisions in Sch. 2 are amended (1.10.2009) by S.I. 2009/2476, arts. 1(3), 2(3)(4) and by S.I. 2009/1802, arts. 1, 18, Sch.)

[F88]SCHEDULE 7

Section 19.

CHILDREN'S CERTIFICATES: SUPPLEMENTARY PROVISIONS

Textual Amendments

F88 Sch. 7 repealed (24.11.2005) by Licensing Act 2003 (c. 17), s. 201(2), **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, art. 2(2) (with art. 4)

"SCHEDULE 12A

. . . . . .

[F89]SCHEDULE 8

Textual Amendments

F89 Sch. 8 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-5, 202)

SCHEDULE 9

Section 31.

SLAUGHTERHOUSES AND KNACKERS' YARDS: UNITING OF ENFORCEMENT FUNCTIONS

Powers to transfer enforcement functions to agriculture Ministers

1 **[**[F90](1) This paragraph applies to the following provisions of [M56] 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

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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.**]**

Textual Amendments

F90 Sch. 9 para. 1 repealed (S.) (1.1.2013) by The Welfare of Animals at the Time of Killing (Scotland) Regulations 2012 (S.S.I. 2012/321) , reg. 1(b) , **Sch. 5 Pt. 1**

Modifications etc. (not altering text)

C19 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

M56 1967 c. 24 .

2 **[**[F91](1) This paragraph applies to the following provisions of the Slaughterhouses [M57]Act 1974—

[F92](a) . . . . . .

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

[F92](c) . . . . . .

[F92](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.**]**

Textual Amendments

F91 Sch. 9 para. 2 repealed (S.) (1.1.2013) by The Welfare of Animals at the Time of Killing (Scotland) Regulations 2012 (S.S.I. 2012/321), reg. 1(b), **Sch. 5 Pt. 1**

F92 Sch. 9 para. 2(1)(a)(c)(d) repealed (1.4.1995) by S.I. 1995/731, reg. 28(1), **Sch. 13**

Marginal Citations

M57 1974 c. 3.

3 (1) This paragraph applies to the following provisions of [M58]the Slaughter of Animals (Scotland) Act 1980 (which correspond to the provisions to which paragraph 2 above applies)—

Status: *Point in time view as at 03/04/2017.*
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(a) section 9,

[F93](b) . . . . . .

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

[F93](d) . . . . . .

[F93](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

F93 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

M58 1980 c. 13.

4 No functions under the Slaughterhouses [M59]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

M59 1974 c. 3.

5 **[**[F94](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 [M60] 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.**]**

Textual Amendments

F94 Sch. 9 para. 5 repealed (S.) (1.1.2013) by The Welfare of Animals at the Time of Killing (Scotland) Regulations 2012 (S.S.I. 2012/321), reg. 1(b), **Sch. 5 Pt. 1**

Marginal Citations

M60 1978 c. 30.

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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)*

Territorial division of enforcement functions under the Food Safety Act 1990

6 In section 6(4)(a) of [M61] 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

M61 1990 c. 16.

SCHEDULE 10

Section 35.

EMPLOYMENT AGENCIES ETC.: REPLACEMENT OF LICENSING

PART I

GENERAL

Great Britain

1 (1) [M62] The Employment Agencies Act 1973 shall be amended as follows.

[F95](2) . . . . . .

(3) After section 3 there shall be inserted—

" Prohibition orders

3A Power to make orders.

(1) On application by the Secretary of State, an **[**[F96]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.

(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.

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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) Subject to subsections (5) and (6) of this section, an **[**[F96]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 **[**[F96]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 **[**[F96]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.

3C Variation and revocation of orders.

(1) On application by the person to whom a prohibition order applies, an **[**[F96]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.

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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) An **[**[F96]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 **[**[F96]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 **[**[F96]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 **[**[F96]employment tribunal**]** under section 3A or 3C of this Act.

(2) No other appeal shall lie from a decision of an **[**[F96]employment tribunal**]** under section 3A or 3C of this Act; and section 11 of the Tribunals and Inquiries [M63]Act 1992 (appeals from certain tribunals to High Court or Court of Session) shall not apply to proceedings before an **[**[F96]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

F95 Sch. 10 para. 1(2) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

F96 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

M62 1973 c35.

M63 1992 c. 53.

Northern Ireland

2 [F97](1) . . . . . .

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

Status: *Point in time view as at 03/04/2017.*
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" 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 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.

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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)*

(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);".

Textual Amendments

F97 Sch. 10 para. 2(1) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

PART II

SEAMEN

United Kingdom

F98 3 . . . . . .

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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

F98 Sch. 10 paras. 3-5 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

Great Britain

F98 4 . . . . . .

Textual Amendments

F98 Sch. 10 paras. 3-5 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

Northern Ireland

F98 5 . . . . . .

Textual Amendments

F98 Sch. 10 paras. 3-5 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

SCHEDULE 11

Section 39.

MISCELLANEOUS DEREGULATORY PROVISIONS: CONSEQUENTIAL AMENDMENTS

Licensing Act 1964 (c. 26)

F99 1 . . . . . .

Textual Amendments

F99 Sch. 11 para. 1 repealed (24.11.2005) by Licensing Act 2003 (c. 17), s. 201(2), **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, art. 2(2) (with art. 4)

Fair Trading Act 1973 (c. 41)

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

F100 (2) . . . . . .

F101 (3) . . . . . .

F101 (4) . . . . . .

Textual Amendments

F100 Sch. 11 para. 2(2) repealed (29.12.2003) by Enterprise Act 2002 and Media Mergers (Consequential Amendments) Order 2003 (S.I. 2003/3180), arts. 1(1), 2, **Sch. para. 5(2)** (with art. 3)

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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)*

F101 Sch. 11 para. 2(3)(4) repealed (20.6.2003 for specified purposes) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1) (with arts. 3(1)8)

Commencement Information

I7 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.

F102(2) . . . . . .

F103(3) . . . . . .

F103(4) . . . . . .

F103(5) . . . . . .

F103(6) . . . . . .

F104(7) . . . . . .

Textual Amendments

F102 Sch. 11 para. 4(2) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

F103 Sch. 11 para. 4(3)-(6) repealed (1.3.2000) by 1998 c. 41, s. 74(1)(3), Sch. 12 para. 19(5), **Sch. 14 Pt. I** (with s. 73); S.I. 2000/344, art. 2, **Sch.**
Sch. 11 para. 4(6) expressed to be repealed (*prosp*) by 2002 c. 40, ss. 278, 279, **Sch. 26**

F104 Sch. 11 para. 4(7) omitted (1.3.2000) by virtue of 1998 c. 41, s. 74(1)(3), **Sch. 12 para. 19(5)**; S.I. 2000/344, art. 2, **Sch.**

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 ".

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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)*

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

F105(b) . . . . . .

F106(6) . . . . . .

Textual Amendments

F105 Sch. 11 para. 7(5)(b) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

F106 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)

F107 8 . . . . . .

Textual Amendments

F107 Sch. 11 para. 8 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

Companies Act 1989 (c. 40)

F108 9 . . . . . .

Textual Amendments

F108 Sch. 11 para. 9 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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)*

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

10 **[**[F109]In the Companies (Northern Ireland) Order 1989, in Article 5(1), for "or liquidation" there shall be substituted " , liquidation or striking off ".**]**

Textual Amendments

F109 Sch. 11 para. 10 repealed (N.I.) (5.9.2003) by The Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150), art. 1(2), **Sch. 4** (with Sch. 2); S.R. 2003/345, art. 3(2) (subject to S.R. 2003/346, arts. 3-6)

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

[F110]11 . . . . . .

Textual Amendments

F110 Sch. 11 para. 11 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

Charities Act 1993 (c. 10)

[F111]12 . . . . . .

Textual Amendments

F111 Sch. 11 para. 12 repealed (14.3.2012) by Charities Act 2011 (c. 25), s. 355, **Sch. 10** (with s. 20(2), Sch. 8)

[F112]SCHEDULE 12

. . .

Textual Amendments

F112 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.)

[F113]SCHEDULE 13

. . . . . .

Textual Amendments

F113 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.)

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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 14

Section 68.

PSV Operator Licensing etc: Minor and Consequential Amendments

1 The 1981 Act shall be amended as follows.

Commencement Information

I9 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 [M70] 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

I10 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

M70 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 "

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 [M71] the Transport Act 1985 subsection (3) shall be omitted.

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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

M71 1985 c. 67.

SCHEDULE 15

Section 75.

RESTRICTIONS ON DISCLOSURE OF INFORMATION

Modifications etc. (not altering text)

C20 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**)

C21 Sch. 15 applied by 1998 c. 37, s. 1F(7)(c) (as inserted (E.W.) (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 142(1)**, 178(8); S.I. 2005/1521, art. 3(1)(s))

C22 Sch. 15 applied (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), **ss. 85(4)**, 107(6)(a); S.I. 2006/1382, art. 2

C23 Sch. 15 applied by 2003 c. 38, s. 28A(7) (as inserted (1.8.2007 for E.) by Police and Justice Act 2006 (c. 48), **ss. 25**, 53(1); S.I. 2007/1614, art. 3(a))

C24 Sch. 15 applied (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 21(4)**, 324(3); S.I. 2009/3345, art. 2, Sch. para. 2

C25 Sch. 15 applied (1.4.2011) by Marine and Coastal Access Act 2009 (c. 23), **ss. 171(4)**, 324(3) (with ss. 172(3), 185); S.I. 2011/556, art. 2(2)(e)

C26 Sch. 15 applied (5.3.2015) by Infrastructure Act 2015 (c. 7), **ss. 8(4)**, 57(1); S.I. 2015/481, reg. 2(a)

C27 Sch. 15 applied (E.W.) (1.4.2015) by Care Act 2014 (c. 23), **ss. 79(8)**, 127(1); S.I. 2015/993, art. 2(t) (with transitional provisions in S.I. 2015/995)

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 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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)*

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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Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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)*

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 **[**[F114]section 5(6) or (8) of the Government Resources and Accounts Act 2000 (resource accounts)**]** or section 4 of the Government Trading Funds Act [M72] 1973;

"audit function", in relation to the Comptroller, includes any function under Part II of the National Audit Act [M73] 1983 or Part III of the Audit

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(Northern Ireland) Order [M74] 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 [M75] 1989;

"Comptroller" means the Comptroller and Auditor General or the Comptroller and Auditor General for Northern Ireland.

Textual Amendments

F114 Words in Sch. 15 para. 7(3) substituted (1.4.2001) by 2000 c. 20, s. 29, **Sch. 1 para. 20**; S.I. 2000/3349, **art. 3(1)(a)** (with art. 5)

Marginal Citations

M72 1973 c. 63.
M73 1983 c. 44.
M74 S.I. 1987/460 (N.I. 5).
M75 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.

Status: *Point in time view as at 03/04/2017.*
Changes to legislation: *Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 19 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)*

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 **[**[F115] the registrar **]** 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.

[[F116](3) In this paragraph "the registrar" has the same meaning as in the Newspaper Libel and Registration Act 1881 or the Limited Partnerships Act 1907 (as the case may be).**]**

Textual Amendments

F115 Words in Sch. 16 para. 1(1) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 148(4)(a)** (with art. 10)

F116 Sch. 16 para. 1(3) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 148(4)(b)** (with art. 10)

Courts Act 1971 (c.23)

[F117]2 . . . . . .

Textual Amendments

F117 Sch. 16 para. 2 repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 10**; S.I. 2005/910, art. 3(aa)

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.

Modifications etc. (not altering text)

C28 Sch. 16 para. 3 applied by 1998 c. 37, s. 1F(7)(d) (as inserted (E.W.) (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 142(1)**, 178(8); S.I. 2005/1521, art. 3(1)(s))

C29 Sch. 16 para. 3 applied by 2003 c. 38, s. 28A(7) (as inserted (1.8.2007 for E.) by Police and Justice Act 2006 (c. 48), **ss. 25**, 53(1); S.I. 2007/1614, art. 3(a))

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.

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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—

"**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 [M76] 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 [M77] 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."

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Marginal Citations

M76 1988 c.43.

M77 1988 c.43.

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.

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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.

(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)

F118 8 . . . . . .

Textual Amendments

F118 Sch. 16 paras. 8-10 repealed (1.10.2009) by Companies Act 2006 (c. 46), s. 1300(2), **Sch. 16**; S.I. 2008/2860, art. 4, Sch. 1 Pt. 1 (with arts. 78Schs. 2) (which transitional provisions in Sch. 2 are amended (1.10.2009) by S.I. 2009/2476, arts. 1(3), 2(3)(4) and by S.I. 2009/1802, arts. 1, 18, Sch.)

F118 9 . . . . . .

Textual Amendments

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F118 10 . . . . . .

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Gas Act 1986 (c.44)

F119 11 . . . . . .

Textual Amendments

F119 Sch. 16 paras. 11-13 repealed (1.3.1996) by 1995 c. 45, s. 17(5), **Sch. 6**; S.I. 1996/218, **art. 2**

F120 12 . . . . . .

Textual Amendments

F120 Sch. 16 paras. 11-13 repealed (1.3.1996) by 1995 c. 45, s. 17(5), **Sch. 6**; S.I. 1996/218, **art. 2**

F121 13 . . . . . .

Textual Amendments

F121 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 M78 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

M78 S.I. 1989/638.

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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 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 F122(1) . . . . . .

(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.

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Textual Amendments

F122 Sch. 16 para. 20(1) repealed (29.11.1999) by 1998 c. 14, s. 86(2), **Sch. 8**; S.I. 1999/3178, art. 2, **Sch. 1** (subject to transitional provisions in Schs. 21-23)

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 of a contract entered into with the Secretary of State were specified in Part I of Schedule 4 to this Act."

[F123]22 . . . . . .

Textual Amendments

F123 Sch. 16 para. 22 repealed (1.7.1997) by 1997 c. 47, s. 22, **Sch. 2**; S.I. 1997/1577, art. 2, **Sch.**

[F124]23 . . . . . .

Textual Amendments

F124 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 **[**[F125](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;

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"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.

Textual Amendments

F125 Sch. 16 para. 24(1) repealed (N.I.) (29.11.1999) by S.I. 1998/1506 (N.I. 10), art. 78(2), **Sch. 7**; S.R. 1999/472, art. 2(1), **Sch. 1**

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 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

I11 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

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		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. 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.

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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" 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).

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		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).
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

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		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).
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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