



Environmental Protection Act 1990

1990 CHAPTER 43

PART IX

GENERAL

156 Power to give effect to [^{F1}retained EU obligations and] international obligations etc.

- (1) The Secretary of State may by regulations provide that the provisions to which this section applies shall have effect with such modifications as may be prescribed for the purpose of enabling Her Majesty's Government in the United Kingdom—
 - (a) to give effect to any [^{F2}retained EU obligation] or exercise any related right; or
 - (b) to give effect to any obligation or exercise any related right under any international agreement to which the United Kingdom is for the time being a party.
- (2) This section applies to the following provisions of this Act—
 - (a) Part I;
 - (b) Part II;
 - (c) Part VI; and
 - (d) in Part VIII, sections 140, 141 or 142

[^{F3}; and the provisions of the [^{F4}the ^{M1}[^{F5}Radioactive Substances Act 1993][^{F5}Environmental Authorisations (Scotland) Regulations 2018]]].
- (3) In this section—

“modifications” includes additions, alterations and omissions;

“prescribed” means prescribed in regulations under this section; and

“related right”, in relation to an obligation, includes any derogation or other right to make more onerous provisions available in respect of that obligation.
- (4) This section, in its application to Northern Ireland, has effect subject to the following modifications, that is to say—

Status: Point in time view as at 31/12/2020.

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- (a) in its application in relation to Part VI and sections 140, 141, and 142, the reference to Her Majesty's Government in the United Kingdom includes a reference to Her Majesty's Government in Northern Ireland; and
- (b) in its application in relation to the Radioactive Substances Act 1960, the reference to the Secretary of State shall be construed as a reference to the Department of the Environment for Northern Ireland and the reference to Her Majesty's Government in the United Kingdom shall be construed as a reference to Her Majesty's Government in Northern Ireland;

and regulations under it made by that Department shall be a statutory rule for the purposes of the ^{M2}Statutory Rules (Northern Ireland) Order 1979 and shall be subject to negative resolution within the meaning of section 41(6) of the ^{M3}Interpretation Act (Northern Ireland) 1954.

Textual Amendments

- F1** Words in s. 156 heading substituted (31.12.2020) by [The Environment \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/458\)](#), regs. 1(1), **2(8)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in s. 156(1)(a) substituted (31.12.2020) by [The Environment \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/458\)](#), regs. 1(1), **2(8)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in s. 156(2) repealed (E.W.) (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010 \(S.I. 2010/675\)](#), regs. 1(1)(b), 107, 109(1), Sch. 26 para. 5(13), **Sch. 28** (with Sch. 4)
- F4** Words in s. 156(2) substituted (27.8.1993) by [1993 c. 12](#), ss. 49(1), 51(2), **Sch. 4 para.9** (with ss. 42, 46)
- F5** Words in s. 156(2) substituted (S.) (1.9.2018) by [The Environmental Authorisations \(Scotland\) Regulations 2018 \(S.S.I. 2018/219\)](#), reg. 1, **sch. 6 para. 2(4)** (with reg. 78, sch. 5 para. 2)

Commencement Information

- I1** S. 156 wholly in force at 1.4.1991 see s. 164(3) and [S.I. 1991/1042](#), **art. 2**

Marginal Citations

- M1** [1960 c. 34](#).
- M2** [S.I. 1979/1573 \(N.I. 12\)](#).
- M3** [1954 c. 33 \(N.I.\)](#).

157 Offences by bodies corporate.

- (1) Where an offence under any provision of this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Modifications etc. (not altering text)

- C1** [S. 157](#) applied (1.5.1994) by [S.I. 1994/1056](#), **regs. 1(1), 20(6)**

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S. 157: powers to make corresponding provisions conferred (27.7.1999) by 1999 c. 24, s. 2, **Sch. 1 Pt. I para. 20(1)(a)**

C2 S. 157 applied (S.) (27.3.2011) by **The Waste Management Licensing (Scotland) Regulations 2011** (S.S.I. 2011/228), regs. 1(1), **30(5)** (with regs. 31-33)

158 Offences under Parts I, II, IV, VI, etc. due to fault of others.

Where the commission by any person of an offence under Part I, II, IV, or VI, or section 140, 141 or 142 above is due to the act or default of some other person, that other person may be charged with and convicted of the offence by virtue of this section whether or not proceedings for the offence are taken against the first-mentioned person.

Modifications etc. (not altering text)

C3 S. 158: power to make corresponding provisions conferred (27.7.1999) by 1999 c. 24, s. 2, **Sch. 1 Pt. I para. 20(1)(a)**

Commencement Information

I2 S. 158 wholly in force at 1.4.1991 see s. 164(3) and S.I. 1991/1042, **art. 2**

159 Application to Crown.

- (1) Subject to the provisions of this section, the provisions of this Act and of regulations and orders made under it shall bind the Crown.
- (2) No contravention by the Crown of any provision of this Act or of any regulations or order made under it shall make the Crown criminally liable; but the High Court or, in Scotland, the Court of Session may, on the application of any public or local authority charged with enforcing that provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) Notwithstanding anything in subsection (2) above, the provisions of this Act and of regulations and orders made under it shall apply to persons in the public service of the Crown as they apply to other persons.
- (4) If the Secretary of State certifies that it appears to him, as respects any Crown premises and any powers of entry exercisable in relation to them specified in the certificate that it is requisite or expedient that, in the interests of national security, the powers should not be exercisable in relation to the premises, those powers shall not be exercisable in relation to those premises; and in this subsection “Crown premises” means premises held or used by or on behalf of the Crown.
- (5) Nothing in this section shall be taken as in any way affecting Her Majesty in her private capacity; and this subsection shall be construed as if section 38(3) of the ^{M4}Crown Proceedings Act 1947 (interpretation of references in that Act to Her Majesty in her private capacity) were contained in this Act.
- (6) References in this section to regulations or orders are references to regulations or orders made by statutory instrument.
- (7) For the purposes of this section in its application to Part II and Part IV the authority charged with enforcing the provisions of those Parts in its area is—

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- (a) in the case of Part II, any waste regulation authority, and
- (b) in the case of Part IV, any principal litter authority.

Modifications etc. (not altering text)

C4 S. 159(4): functions exercisable concurrently (1.7.1999) by the Scottish Ministers and Ministers of the Crown after consultation with the Secretary of State by S.I. 1999/1750, art. 3, Sch. 2

Marginal Citations

M4 1947 c. 44.

160 Service of notices.

- (1) Any notice required or authorised by or under this Act to be served on or given to an inspector may be served or given by delivering it to him or by leaving it at, or sending it by post to, his office.
- (2) Any such notice required or authorised to be served on or given to a person other than an inspector may be served or given by delivering it to him, or by leaving it at his proper address, or by sending it by post to him at that address.
- (3) Any such notice may—
 - (a) in the case of a body corporate, be served on or given to the secretary or clerk of that body;
 - (b) in the case of a partnership, be served on or given to a partner or a person having the control or management of the partnership business.
- (4) For the purposes of this section and of section 7 of the ^{M5}Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of any person on or to whom any such notice is to be served or given shall be his last known address, except that—
 - (a) in the case of a body corporate or their secretary or clerk, it shall be the address of the registered or principal office of that body;
 - (b) in the case of a partnership or person having the control or the management of the partnership business, it shall be the principal office of the partnership; and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be their principal office within the United Kingdom.
- (5) If the person to be served with or given any such notice has specified an address in the United Kingdom other than his proper address within the meaning of subsection (4) above as the one at which he or someone on his behalf will accept notices of the same description as that notice, that address shall also be treated for the purposes of this section and section 7 of the Interpretation Act 1978 as his proper address.
- (6) The preceding provisions of this section shall apply to the sending or giving of a document as they apply to the giving of a notice.

Modifications etc. (not altering text)

C5 S. 160: power to make corresponding provisions conferred (27.7.1999) by 1999 c. 24, s. 2, Sch. 1 Pt. I para. 20(1)(a)

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- C6** S. 160 modified (E.W.) (31.3.2004 for E. for certain purposes, 31.3.2004 for W. and 6.4.2006 otherwise for E.) by Anti-social Behaviour Act 2003 (c. 38), **ss. 49(3), 93**; S.I. 2004/690, **art. 4**; S.I. 2004/999, **art. 2**; S.I. 2006/393, **art. 2**
- C7** S. 160(2)-(5) applied (S.) (28.10.2004) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), **ss. 60, 61, 145(2)**; S.S.I. 2004/420, **art. 3, Sch. 1**

Marginal Citations

- M5** 1978 c. 30.

161 Regulations, orders and directions.

- (1) Any power of the Secretary of State [^{F6}, National Assembly for Wales] or the Minister of Agriculture, Fisheries and Food under this Act to make regulations or orders shall be exercisable by statutory instrument; but this subsection does not apply to orders under section 72 above or paragraph 4 of Schedule 3.
- (2) [^{F7}Subject to subsection (2B) below,] a statutory instrument containing regulations under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- [^{F8}(2ZA) Subsection (2) does not apply to a statutory instrument containing regulations under paragraph 11 of Schedule 2AA to this Act to which paragraph 16(5) of that Schedule applies.]
- [^{F9}(2ZB) Subsection (2) does not apply to a statutory instrument containing regulations under section 88A if the regulations—
- (a) are the first set of regulations to be made under that section, or
 - (b) include provision falling within subsection (3)(a) or (6) of that section.
- (2ZC) A statutory instrument to which subsection (2) does not apply by virtue of subsection (2ZB) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.]
- [^{F10}(2A) Subsection (2) does not apply to a statutory instrument made solely by the National Assembly for Wales.]
- [^{F11}(2B) No statutory instrument containing regulations made under section 79(1ZA) or 80ZA(11) above may be made unless a draft of it has been laid before, and approved by resolution of, the Scottish Parliament.]
- (3) Except in the cases specified in subsection (4) below, a statutory instrument containing an order under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Subsection (3) above does not apply to [^{F12}a statutory instrument—
- (a) which contains an order under section 78M(4) above, or
 - [which contains—
 - ^{F13}(aa) (i) an order under paragraph 2(3), 6(2) or 15(2) of Schedule 2AA to this Act, or
 - (ii) an order under paragraph 5(1) of that Schedule to which paragraph 16(3) of that Schedule applies, or]
 - (b) by reason only that it contains] an order under section [^{F14}128(3)] 130(4), 131(3) or 138(2) above or section 164(3) below. [^{F15} or

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- (c) which is made solely by the National Assembly for Wales.]
- (5) Any power conferred by this Act to give a direction shall include power to vary or revoke the direction.
- (6) Any direction given under this Act shall be in writing.

Textual Amendments

- F6** Words in s. 161(1) inserted (E.W.) (7.4.2005) by [Clean Neighbourhoods and Environment Act 2005](#) (c. 16), s. 106, **Sch. 4 para. 10(2)**
- F7** Words in s. 161(2) inserted (S.) (26.1.2009) by [Public Health etc. \(Scotland\) Act 2008](#) (asp 5), **ss. 114(2), 128(2)** (with s. 127); S.S.I. 2009/9, **art. 2(a)**, Sch. 1
- F8** S. 161(2ZA) inserted (E.W.) by [Climate Change Act 2008](#) (c. 27), ss. 71, 100, **Sch. 5 para. 4(2)** (the amendment coming into force in accordance with ss. 72-75 of the amending Act, see s. 100(2)(5))
- F9** S. 161(2ZB)(2ZC) inserted (E.W.) (25.10.2017) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), **ss. 154(3), 185(1)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2017/1018, art. 2
- F10** S. 161(2A) inserted (E.W.) (7.4.2005) by [Clean Neighbourhoods and Environment Act 2005](#) (c. 16), s. 106, **Sch. 4 para. 10(3)**
- F11** S. 161(2B) inserted (S.) (26.1.2009) by [Public Health etc. \(Scotland\) Act 2008](#) (asp 5) {ss. 114(3)}, 128(2) (with s. 127); S.S.I. 2009/9, **art. 2(a)**, Sch. 1
- F12** Words in s. 161(4) inserted (1.4.2000 for E., 14.7.2000 for S. and 15.9.2001 for W.) by 1995 c. 25, s. 120(1), **Sch. 22 para.92** (with ss. 7(6), 115, 117); S.I. 2000/340, **art. 2(b)** (with art. 3); S.S.I. 2000/180, **art. 2(1)(b)** (with art. 3); S.I. 2001/3211, **art. 2(b)** (with saving in art. 3)
- F13** S. 161(4)(aa) inserted (E.W.) by [Climate Change Act 2008](#) (c. 27), ss. 71, 100, **Sch. 5 para. 4(3)** (the amendment coming into force in accordance with ss. 72-75 of the amending Act, see s. 100(2)(5))
- F14** Words in s. 161(4)(b) inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), ss. 105(1), 107, **Sch. 11 para. 125**; S.I. 2006/2541, **art. 2**
- F15** S. 161(4)(c) and preceding word inserted (E.W.) (7.4.2005) by [Clean Neighbourhoods and Environment Act 2005](#) (c. 16), s. 106, **Sch. 4 para. 10(4)**

162 Consequential and minor amendments and repeals.

- (1) The enactments specified in Schedule 15 to this Act shall have effect subject to the amendments specified in that Schedule.
- (2) The enactments specified in Schedule 16 to this Act are hereby repealed subject to section 77 above, Schedule 11 to this Act and any provision made by way of a note in Schedule 16.
- (3) The repeal of section 124 of the ^{M6}Civic Government (Scotland) Act 1982 shall not affect a compulsory purchase order made for the purposes of that section under the ^{M7}Local Government (Scotland) Act 1973 before the coming into force of the repeal and such compulsory purchase order may be proceeded with and shall have effect as if the said section 124 had not been repealed.
- (4) The Secretary of State may by order repeal or amend any provision of any local Act passed before this Act (including an Act confirming a provisional order) or of any order or other instrument made under an Act so passed if it appears to him that the provision is inconsistent with, or has become unnecessary or requires alteration in consequence of, any provision of this Act or corresponds to any provision repealed by this Act.

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- (5) Any regulations made under section 100 of the ^{M8}Control of Pollution Act 1974 shall have effect after the repeal of that section by subsection (2) above as if made under section 140 of this Act.

Commencement Information

- I3** S. 162 partly in force; s. 162 partly in force at Royal Assent, see s. 164(2); s. 162 partly in force at: 1.1.1991 by S.I. 1990/2635, **art. 3**; 14.1.1991 by S.I. 1991/96, **art. 2**; 1.4.1991 by S.I. 1991/685, **art. 3**; 1.4.1991 by S.I. 1991/1042, **art. 2**; 31.5.1991 by S.I. 1991/1319, **art. 2**; 1.1.1992 and 1.4.1992 by S.I. 1991/2829, **arts. 3, 4**; 1.4.1992 by S.I. 1992/266, **art. 3**; s. 162(3) in force 1.4.1992 by S.I. 1992/266, **art. 3**; s. 162(1) in force for certain purposes at 18.2.1993 by S.I. 1993/274, **art. 2(1)**; s. 162(2) in force at 18.2.1993 and 1.5.1993 for certain purposes by S.I. 1993/274, **arts. 2(1), 3**; s. 162(1)(2) in force at 1.5.1994 and other ascertainable dates for limited purposes by S.I. 1994/1096, **arts. 2(1)(2)(3), 3**; s. 162(2) in force at 1.12.1994, or certain later ascertainable dates, for limited purposes by S.I. 1994/2854, **art. 2**; s. 162(2) in force at 16.12.1996 for certain purposes by S.I. 1996/3056, **art. 2**
- I4** S. 162(2) in force at 1.4.2012 for specified purposes by S.I. 2012/898, **art. 2**
- I5** S. 162(2) in force at 1.4.2015 for specified purposes for S. by S.I. 2015/72, **art. 2**

Marginal Citations

- M6** 1982 c. 45.
M7 1973 c. 65.
M8 1974 c. 40.

163 Financial provisions.

- (1) There shall be paid out of money provided by Parliament—
- (a) any administrative or other expenses incurred by any Minister of the Crown in consequence of the provisions of this Act; and
 - (b) any increase attributable to this Act in the sums payable out of money so provided under any other Act.
- (2) Any fees or other sums received by any Minister of the Crown by virtue of any provisions of this Act shall be paid into the Consolidated Fund.

[^{F16}163A Application of Part VI: England and Wales

- [^{F17}(1) The amendments made to the provisions of Part VI by the 2002 Regulations, other than the amendment of section 127(2) as it relates to the continental shelf, have effect in relation to England only, and accordingly, in the application of that Part in relation to Wales, the provisions listed in subsection (2) below continue to have effect without the amendments made by the 2002 Regulations.
- (2) The provisions referred to in subsection (1) above are—
- (a) section 106(1) and (4) to (6);
 - (b) section 107(2), (3), (6), (9) and (11);
 - (c) section 111(6);
 - (d) section 112(1) and (5);
 - (e) section 119(1);
 - (f) section 123(7);

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(g) section 127(2) in so far as it relates to the territorial sea.

(3) In this section “the 2002 Regulations” means the Genetically Modified Organisms (Deliberate Release) Regulations 2002.]]

Textual Amendments

F16 S. 163A inserted (E.W.) (17.10.2002) by [Genetically Modified Organisms \(Deliberate Release\) Regulations 2002 \(S.I. 2002/2443\)](#), regs. 1(2)(3), **39**

F17 S. 163A ceases to have effect (W.) (31.12.2002) by virtue of [Genetically Modified Organisms \(Deliberate Release\) \(Wales\) Regulations 2002 \(S.I. 2002/3188\)](#), **reg. 41**

164 Short title, commencement and extent.

- (1) This Act may be cited as the Environmental Protection Act 1990.
- (2) The following provisions of the Act shall come into force at the end of the period of two months beginning with the day on which it is passed, namely—
 - sections 79 to 85;
 - section 97;
 - section 99;
 - section 105 in so far as it relates to paragraphs 7, 13, 14 and 15 of Schedule 5;
 - section 140;
 - section 141;
 - section 142;
 - section 145;
 - section 146;
 - section 148;
 - section 153;
 - section 154;
 - section 155;
 - section 157;
 - section 160;
 - section 161;
 - section 162(1) in so far as it relates to paragraphs 4, 5, 7, 8, 9, 18, 22, 24 and 31(4)(b) of Schedule 15; but, in the case of paragraph 22, in so far only as that paragraph inserts a paragraph (m) into section 7(4) of the Act of 1984;
 - section 162(2) in so far as it relates to Part III of Schedule 16 and, in Part IX of that Schedule, the repeal of section 100 of the ^{M9}Control of Pollution Act 1974;
 - section 162(5);
 - section 163.
- (3) The remainder of this Act (except this section) shall come into force on such day as the Secretary of State may by order appoint and different days may be appointed for different provisions or different purposes.
- (4) Only the following provisions of this Act (together with this section) extend to Northern Ireland, namely—
 - section 3(5) to (8);

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section 62(2)(e) in so far as it relates to importation;
Part V;
^{F18} . . . , section 127(2) in so far as it relates to the continental shelf;
section 140 in so far as it relates to importation;
section 141;
section 142 in so far as it relates to importation;
section 146;
section 147;
section 148;
section 153 except subsection (1)(k) and (m);
section 156 in so far as it relates to Part VI and sections 140, 141 and 142 in so far as they extend to Northern Ireland and in so far as it relates to the ^{M10}Radioactive Substances Act 1960;
section 158 in so far as it relates to Part VI and sections 140, 141 and 142 in so far as they extend to Northern Ireland.

[^{F19}(4A) Sections 45A, 45B and 47A do not extend to Scotland.]

(5) Where any enactment amended or repealed by this Act extends to any part of the United Kingdom, the amendment or repeal extends to that part, subject, however, to any express provision in Schedule 15 or 16.

Subordinate Legislation Made

- P1** S. 164(3) power partly exercised by: [S.I. 1990/2226](#), 1990/2243, 1990/2565, 1990/2635, 1991/96
S. 164(3): s. 130(4) (with ss. 131(3) and 164(3)) power partly exercised: 1.4.1991 appointed for specified provisions by [S.I. 1991/685](#), **art. 3**
S. 164(3) power partly exercised : 1.4.1991 and 1.6.1991 appointed for specified provisions by [S.I. 1991/1042](#), **art. 2** and art. 3
S. 164(3) power partly exercised: 31.5.1991 appointed for specified provisions by [S.I. 1991/1319](#), **art. 2**
S. 164(3) power partly exercised: 10.7.1991 and 1.8.1991 appointed for specified provisions by [S.I. 1991/1577](#), **arts. 2, 3**
S. 164(3) power partly exercised: 13.12.1991, 1.1.1992 and 1.4.1992 appointed for specified provisions by [S.I. 1991/2829](#), **arts. 2, 3, 4**
S. 164(3) power partly exercised (13.2.1992): different dates appointed for specified provisions by [S.I. 1992/266](#), **arts. 2, 3**
S. 164(3) power partly exercised (18.12.1992): different dates appointed for specified provisions by [S.I. 1992/3253](#), **arts. 2, 3**
S. 164(3) power partly exercised (15.2.1993): different dates appointed for specified provisions by [S.I. 1993/274](#), **arts. 2, 3**
S. 164(3) power partly exercised (15.3.1994): 16.3.1994 appointed for s. 41 by [S.I. 1994/780](#), **art. 2**
S. 164(3) power partly exercised (14.4.1994): 1.5.1994 (and other ascertainable dates for limited purposes) appointed for specified provisions by [S.I. 1994/1096](#), **arts. 2, 3** (amended by [S.I. 1994/2487](#), 1994/3234)
S. 164(3) power partly exercised (6.11.1994): 1.12.1994 (or certain later ascertainable dates for limited purposes) appointed for s. 162(2) by [S.I. 1994/2854](#), **art. 2**
S. 164(3) power partly exercised (10.8.1995): 11.8.1995 appointed for s. 62 by [S.I. 1995/2152](#), **art. 2**
S. 164(3) power partly exercised (28.11.1996): 16.12.1996 appointed for s. 162(2) for certain purposes by [S.I. 1996/3056](#), **art. 2**

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Textual Amendments

F18 Words in s. 164(4) repealed (1.6.1994) by S.I. 1991/1714 (N.I. 19), **art.25**; S.R. 1994/141, **art.2**

F19 S. 164(4A) inserted (E.W.) (30.12.2003) by Household Waste Recycling Act 2003 (c. 29), **ss. 4, 5(2)**

Marginal Citations

M9 1974 c. 40.

M10 1960 c. 34.

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