



Food and Environment Protection Act 1985

1985 CHAPTER 48

PART II

DEPOSITS IN THE SEA

Modifications etc. (not altering text)

C1 Pt. II modified (1.3.1995) by S.R. 1995/12, reg. 9

Licensing

5 Requirement of licences for deposit of substances and articles in the sea etc.

Subject to the following provisions of this Part of this Act, a licence under this Part of this Act is needed—

- (a) for the deposit of substances or articles within the United Kingdom waters [^{F1}or United Kingdom controlled waters], either in the sea or under the seabed—
 - (i) from a vehicle, vessel, aircraft, hovercraft or marine structure ;
 - (ii) from a container floating in the sea ; or
 - (iii) from a structure on land constricted or adapted wholly or mainly for the purpose of depositing solids in the sea ;
- (b) for the deposit of substances or articles anywhere in the sea or under the sea-bed—
 - (i) from a British vessel, British aircraft, British hovercraft or British marine structure ; or
 - (ii) from a container floating in the sea, if the deposit is controlled from a British vessel, British aircraft, British hovercraft or British marine structure ;

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- (c) F2
- (e) for the scuttling of vessels—
- (i) in United Kingdom waters [^{F3}or United Kingdom controlled waters];
[^{F3}or]
- (ii) anywhere at sea, if the scuttling is controlled from a British vessel, British aircraft, British hovercraft or British marine structure ; or
- (iii) F4
- (f) for the loading of a vessel, aircraft, hovercraft, marine structure or floating container in the United Kingdom or United Kingdom waters with substances or articles for deposit anywhere in the sea or under the sea-bed ;
- (g) for the loading of a vehicle in the United Kingdom with substances or articles for deposit from that vehicle as mentioned in paragraph (a) ^{F5}. . . above ; and
- (h) for the towing or propelling from the United Kingdom or United Kingdom waters of a vessel for scuttling anywhere at sea.

Textual Amendments

F1 Words inserted by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 146(2)(a)

F2 S. 5(c)(d) repealed (1.4.2015 for S.) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 146(2)(b), 162, [Sch. 16 Pt. VIII](#); S.S.I. 2015/72, art. 2(3)

F3 Words inserted by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 146(2)(c)(i)

F4 S. 5(e)(iii) repealed (1.4.2015 for S.) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 146(2)(c)(ii), 162, [Sch. 16 Pt. VIII](#); S.S.I. 2015/72, art. 2(3)

F5 Words in s. 5(g) repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt. II](#)

Modifications etc. (not altering text)

C2 S. 5 power to transfer functions conferred (1.12.1998) by [1998 c. 38, s. 22\(1\)\(c\)\(5\)](#), [Sch. 3 Pt. I](#), para. 4(1)(a) (with ss. 139(2), 143(2)); S.I. 1998/2789, [art. 2](#)

S.5 amended (1.7.1999) by [S.I. 1999/1750, art. 4](#), [Sch. 3](#) (with s. 7); S.I. 1998/3178

6 Requirement for licences for incineration at sea etc.

- (1) Subject to the following provisions of this Part of this Act, a licence is needed—
- (a) for the incineration of substances or articles on a vessel or marine structure—
- (i) in United Kingdom waters [^{F6}or United Kingdom controlled waters];
[^{F6}or]
- (ii) anywhere at sea, if the incineration takes place on a British vessel or British marine structure ; or
- (iii) F7
- (b) for the loading of a vessel or marine structure in the United Kingdom or United Kingdom waters with substances or articles for incineration anywhere at sea.
- (2) In this Act “incineration” means any combustion of substances and materials for the purpose of their thermal destruction.

Textual Amendments

F6 Words inserted by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 146(3)(a)

F7 S. 6(1)(a)(iii) repealed (1.4.2015 for S.) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 146(3)(b), 162, [Sch. 16 Pt. VIII](#); S.S.I. 2015/72, art. 2(3)

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Modifications etc. (not altering text)

- C3** S. 6 power to transfer functions conferred (1.12.1998) by 1998 c. 38, s. 22(1)(c)(5), **Sch. 3 Pt. I**, para. 4(1)(a) (with ss. 139(2), 143(2)); S.I. 1998/2789, **art. 2**
S. 6 amended (1.7.1999) by S.I. 1999/1750, **art. 4**, **Sch. 3** (with s. 7); S.I. 1998/3178

7 Exemptions.

- (1) The Ministers may jointly by order made by statutory instrument specify operations—
 - (a) which are not to need a licence; or
 - (b) which are not to need a licence if they satisfy conditions specified in the order.
- (2) The conditions that an order under this section may specify include conditions enabling a licensing authority to require a person to obtain the authority's approval before he does anything for which a licence would be needed but for the order.
- (3) Approval under subsection (2) above may be without conditions or subject to such conditions as the authority considers appropriate.
- (4) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Modifications etc. (not altering text)

- C4** S. 7 power to transfer functions conferred (1.12.1998) by 1998 c. 38, s. 22(1)(c)(5), **Sch. 3 Pt. I**, para. 4(1)(a) (with ss. 139(2), 143(2)); S.I. 1998/2789, **art. 2**

VALID FROM 15/02/1999

[^{F8}7A Application of Part II: further provisions.

Nothing in this Part of this Act shall apply to anything done—

- (a) for the purpose of constructing or maintaining a pipeline as respects any part of which an authorisation (within the meaning of Part III of the Petroleum Act 1998) is in force; or
- (b) for the purpose of establishing or maintaining an offshore installation within the meaning of Part IV of that Act.]

Textual Amendments

- F8** S. 7A inserted (15.2.1999) by 1998 c. 17, s. 50, **Sch. 4 para. 20** (with Sch. 3 para. 5(1)); S.I. 1999/161, **art. 2(1)**

8 Licences.

- (1) In determining whether to issue a licence a licensing authority—
 - (a) shall have regard to the need—
 - (i) to protect the marine environment, the living resources which it supports and human health; and

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- (ii) to prevent interference with legitimate uses of the sea; and
 - (b) may have regard to such other matters as the authority considers relevant.
- (2) Without prejudice to the generality of subsection (1) above, where it appears to a licensing authority that an applicant for a licence has applied for the licence with a view to the disposal of the substances or articles to which it would relate, the authority, in determining whether to issue a licence, shall have regard to the practical availability of any alternative methods of dealing with them.
- (3) A licensing authority—
 - (a) shall include such provisions in a licence as appear to the authority to be necessary or expedient—
 - (i) to protect the marine environment, the living resources which it supports and human health; and
 - (ii) to prevent interference with legitimate uses of the sea; and
 - (b) may include in a licence such other provisions as the authority considers appropriate.
- (4) Without prejudice to the generality of subsection (3) above, a licensing authority—
 - (a) may include in any licence provisions requiring—
 - (i) that no operation authorised by the licence shall be carried out until the licensing authority has given such further consent to or approval of the operation as the licence may specify; and
 - (ii) that automatic equipment shall be used for recording such information relating to any operation of deposit, scuttling or incineration mentioned in the licence as the licensing authority may specify; and
 - (b) may include in a licence which only authorises operations such as are mentioned in section 5(f) or (h) above or section 6(1)(b) above provisions requiring that any operation of deposit, scuttling or incineration which is mentioned in it shall take place at a specified site, whether in United Kingdom waters or not.
- (5) A licensing authority may require an applicant for a licence to supply such information and permit such examinations and tests as in the opinion of the authority may be necessary or expedient to enable the authority to decide whether a licence should be issued to the applicant and the provisions which any licence that is issued to him ought to contain.
- (6) Where automatic recording equipment is used in accordance with a provision included in a licence by virtue of subsection (4)(a) above, any record produced by means of the equipment shall, in any proceedings under this Part of this Act, be evidence, and in Scotland sufficient evidence, of the matters appearing from the record.
- (7) A licensing authority may require an applicant for a licence, on making his application, to pay a reasonable fee in respect of the administrative expenses of processing his application.
- (8) A licensing authority may also require an applicant for a licence to pay a further reasonable fee towards the expense—
 - (a) of carrying out any examinations and tests which in the opinion of the authority are necessary or expedient to enable the authority to decide—
 - (i) whether to issue a licence to the applicant; and
 - (ii) the provisions which any licence issued to him ought to include;

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- (b) of checking the manner in which operations for which a licence is needed have been or are being conducted; and
 - (c) of monitoring the effect of such operations.
- (9) Fees under this section shall be determined on principles settled by the Ministers with the consent of the Treasury and after consultation with organisations appearing to the Ministers to represent persons who are likely to apply for licences.
- (10) A licensing authority may vary or revoke a licence which the authority has issued if it appears to the authority that there has been a breach of any of its provisions.
- (11) A licensing authority may vary or revoke a licence which the authority has issued if it appears to the authority that the licence ought to be varied or revoked—
- (a) because of a change in circumstances relating to the marine environment, the living resources which it supports or human health; or
 - (b) because of increased scientific knowledge relating to any of those matters; or
 - (c) for any other reason that appears to the authority to be relevant.
- (12) Schedule 3 to this Act shall have effect.

Modifications etc. (not altering text)

- C5** S. 8 power to transfer functions conferred (1.12.1998) by 1998 c. 38, s. 22(1)(c)(5), **Sch. 3 Pt.I, para. 4(1)(a)** (with ss. 139(2), 143(2)); S.I. 1998/2789, **art. 2**
S. 8 modified (1.7.1999) by S.I. 1999/672, **art. 5, Sch. 2**

Offences relating to licensing system etc.

9 Offences relating to licensing system.

- (1) Subject to subsections (3) to (7) below, a person who—
- (a) except in pursuance of a licence and in accordance with its provisions, does anything for which a licence is needed; or
 - (b) causes or permits any other person to do any such thing except in pursuance of a licence and in accordance with its provisions,
- shall be guilty of an offence.
- (2) A person who for the purpose of procuring the issue of a licence, or in purporting to carry out any duty imposed on him by the provisions of a licence—
- (a) makes a statement which he knows to be false in a material particular;
 - (b) recklessly makes a statement which is false in a material particular; or
 - (c) intentionally fails to disclose any material particular,
- shall be guilty of an offence.
- (3) Subject to subsection (4) below, it shall be a defence for a person charged with an offence under subsection (1) above in relation to any operation to prove—
- (a) that the operation was carried out for the purpose of securing the safety of a vessel, aircraft, hovercraft or marine structure or of saving life; and
 - (b) that he took steps within a reasonable time to inform one or other of the Ministers—
- (i) of the operation;

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- (ii) of the locality and circumstances in which it took place; and
 - (iii) of any substances or articles concerned.
- (4) A person does not have the defence provided by subsection (3) above if the court is satisfied—
- (a) that the operation—
 - (i) was not necessary for any purpose mentioned in paragraph (a) of that subsection; and
 - (ii) was not a reasonable step to take in the circumstances; or
 - (b) that it was necessary for one of those purposes but the necessity was due to the fault of the defendant.
- (5) It shall be a defence for a person charged with an offence under subsection (1) above in relation to any operation—
- (a) which falls within section 5(b) or (e)(ii) or 6(1)(a)(ii) above; and
 - (b) which was carried out outside United Kingdom [^{F9}controlled waters (and not within United Kingdom waters)],
- to prove that subsections (6) and (7) below are satisfied in respect of that operation.
- (6) This subsection is satisfied—
- (a) in respect of an operation falling within section 5(b) above, if the vessel, aircraft, hovercraft, marine structure or container (as the case may be) was loaded in a Convention State or the national or territorial waters of a Convention State with the substances or articles deposited;
 - (b) in respect of an operation falling within section 5(e)(ii) above, if the vessel scuttled was towed or propelled from a Convention State or the national or territorial waters of a Convention State to the place where the scuttling was carried out; or
 - (c) in respect of an operation falling within section 6(1)(a)(ii) above, if the vessel or marine structure on which the incineration took place was loaded in a Convention State or the national or territorial waters of a Convention State with the substances or articles incinerated.
- (7) This subsection is satisfied in respect of an operation if the operation took place in pursuance of a licence issued by the responsible authority in the Convention State concerned and in accordance with the provisions of that licence.

Textual Amendments

F9 Words substituted by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), [s. 146\(4\)](#)

Modifications etc. (not altering text)

C6 [S. 9](#) power to transfer functions conferred (1.12.1998) by [1998 c. 38, s. 22\(1\)\(c\)\(5\)](#), [Sch. 3 Pt. I](#), para. [4\(1\)\(a\)](#) (with [ss. 139\(2\)](#), [143\(2\)](#)); [S.I. 1998/2789](#), [art. 2](#)

10 Power to take remedial action.

- (1) Either of the Ministers may carry out any operation which appears to him to be necessary or expedient for the purpose of protecting the marine environment, the living resources which it supports and human health, or of preventing interference with legitimate use of the sea, in any case where anything for which a licence is needed

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appears to have been done otherwise than in pursuance of a licence and in accordance with its provisions.

- (2) If either of the Ministers carries out an operation under subsection (1) above, he may recover any expenses reasonably incurred by him in carrying it out from any person who has been convicted of an offence in consequence of the act or omission which made it appear to the Minister to be necessary or expedient to carry out the operation.

Modifications etc. (not altering text)

C7 S. 10 power to transfer functions conferred (1.12.1998) by 1998 c. 38, s. 22(1)(c)(5), Sch. 3 Pt. I, para. 4(1)(a) (with ss. 139(2), 143(2)); S.I. 1998/2789, art. 2

10 Power to take remedial action. U.K.

- (1) Either of the Ministers may carry out any operation which appears to him to be necessary or expedient for the purpose of protecting the marine environment, the living resources which it supports and human health, or of preventing interference with legitimate use of the sea, in any case where anything for which a licence is needed appears to have been done otherwise than in pursuance of a licence and in accordance with its provisions.

- (2) If either of the Ministers carries out an operation under subsection (1) above, he may recover any expenses reasonably incurred by him in carrying it out from any person who has been convicted of an offence in consequence of the act or omission which made it appear to the Minister to be necessary or expedient to carry out the operation.

Modifications etc. (not altering text)

C15 S. 10 power to transfer functions conferred (1.12.1998) by 1998 c. 38, s. 22(1)(c)(5), Sch. 3 Pt. I, para. 4(1)(a) (with ss. 139(2), 143(2)); S.I. 1998/2789, art. 2

Enforcement

11 Powers of officers.

- (1) Either of the Ministers may authorise any person, subject to such limitations as may be specified in the instrument authorising him, to enforce this Part of this Act; and the following provisions of this Act shall be construed, in reference to a person so authorised, as subject to any such limitations.

- (2) Subject to the following provisions of this Act, a person so authorised may enter—
- (a) land and vehicles in the United Kingdom;
 - (b) foreign vessels, foreign aircraft, foreign hovercraft and foreign marine structures in the United Kingdom or within [^{F10}United Kingdom waters or United Kingdom controlled waters;];
 - (c) British vessels, British aircraft, British hovercraft and British marine structures, wherever they may be,

if he has reasonable grounds for believing that any substances or articles intended to be deposited in the sea or under the sea-bed or incinerated on a vessel or marine structure at sea are or have been present there.

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- (3) A person so authorised may board—
- (a) any vessel within [^{F11}United Kingdom waters or United Kingdom controlled waters;]; and
 - (b) any British vessel wherever it may be, if it appears to him that it is intended to be scuttled.
- (4) A person so authorised shall not enter premises used only as a dwelling for the purpose of enforcing this Part of this Act.
- (5) Schedule 2 to this Act shall have effect with respect to persons authorised to enforce this Part of this Act.

Textual Amendments

F10 Words substituted by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 146(5)(a)

F11 Words substituted by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 146(5)(b)

Modifications etc. (not altering text)

C8 [S. 11](#) power to transfer functions conferred (1.12.1998) by [1998 c. 38, s. 22\(1\)\(c\)\(5\)](#), [Sch. 3 Pt. I, para. 4\(1\)\(a\)](#) (with [ss. 139\(2\), 143\(2\)](#)); [S.I. 1998/2789](#), [art. 2](#)

12 Enforcement of Conventions.

- (1) The Ministers may jointly by order made by statutory instrument—
- (a) declare that any procedure which has been developed for the effective application of the London Convention or the Oslo Convention and is specified in the order is an agreed procedure as between Her Majesty's Government in the United Kingdom and the Government of any Convention State so specified; and
 - (b) specify any of the powers conferred by this Act for the purpose of enforcing this Part of this Act as a power that may be exercised, by such persons in such circumstances and subject to such conditions or modifications as may be specified, for the purpose of enforcing that procedure.
- (2) A person who exercises any powers by virtue of an order under this section shall have the same rights and liabilities in relation to their exercise that a person authorised under section 11 above would have in relation to the exercise of any powers for the purpose of enforcing this Part of this Act.
- (3) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Modifications etc. (not altering text)

C9 [S. 12](#) power to transfer functions conferred (1.12.1998) by [1998 c. 38, s. 22\(1\)\(c\)\(5\)](#), [Sch. 3 Pt. I, para. 4\(1\)\(a\)](#) (with [ss. 139\(2\), 143\(2\)](#)); [S.I. 1998/2789](#), [art. 2](#)

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Miscellaneous

13 Powers of Ministers to test and to charge for testing.

- (1) At the request of any person either of the Ministers may conduct tests for the purpose of ascertaining the probable effect on the marine environment and the living resources which it supports of using for the purpose of treating oil on the surface of the sea any substance produced for that purpose.
- (2) If either of the Ministers conducts any tests under this section, he may recover any expenses reasonably incurred by him in conducting them from any person at whose request they were conducted.

Modifications etc. (not altering text)

C10 S. 13 power to transfer functions conferred (1.12.1998) by 1998 c. 38, s. 22(1)(c)(5), **Sch. 3 Pt. I, para. 4(1)(a)** (with ss. 139(2), 143(2)); S.I. 1998/2789, **art. 3**

[^{F12}14 Duty of licensing authority to keep public registers of information.

- (1) It shall be the duty of each licensing authority, as respects licences for which it is the licensing authority, to maintain, in accordance with regulations, a register containing prescribed particulars of or relating to—
 - (a) applications for licences made to that authority;
 - (b) the licences issued by that authority;
 - (c) variations of licences effected by that authority;
 - (d) revocations of licences effected by that authority;
 - (e) convictions for any offences under section 9 above;
 - (f) information obtained or furnished in pursuance of section 8(3), (4) or (5) above;
 - (g) the occasions on which either of the Ministers has carried out any operation under section 10 above; and
 - (h) such other matters relating to operations for which licences are needed under this Part of this Act as may be prescribed.
- (2) No information shall be included in any register which, in the opinion of either of the Ministers, is such that its disclosure on the register—
 - (a) would be contrary to the interests of national security, or
 - (b) would prejudice to an unreasonable degree some person's commercial interests.
- (3) Information excluded from a register by virtue of subsection (2)(b) above shall be treated as ceasing to prejudice a person's commercial interests at the expiry of the period of four years beginning with the date on which the Minister made his decision under that subsection; but, on the application of any person to whom it relates, the Minister shall decide whether the information should be included or continue to be excluded from the register.
- (4) Where information of any description is excluded from a register by virtue of subsection (2)(b) above, a statement shall be entered in the register indicating the existence of information of that description.

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- (5) It shall be the duty of each licensing authority—
- (a) to secure that the register maintained by the authority under this section is available, at all reasonable times, for inspection by the public free of charge; and
 - (b) to afford to members of the public facilities for obtaining copies of entries, on payment of reasonable charges.
- (6) Registers under this section may be kept in any form.
- (7) In this section “prescribed” means prescribed in regulations.
- (8) Either of the Ministers may exercise any power to make regulations under this section and any such power shall be exercisable by statutory instrument, subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F12 S. 14 substituted (31.5.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 147, S.I. 1991/1319, art.2

Modifications etc. (not altering text)

C11 S. 14 extended (with modifications) (22.8.1997) by [S.I. 1997/1770](#), art. 3

C12 S. 14 extended (with modifications) (22.8.1997) by [S.I. 1997/1771](#), art. 3

C13 S. 14 power to transfer functions conferred (1.12.1998) by [1998 c. 38, s. 22\(1\)\(c\)\(5\)](#), [Sch. 3 Pt. I](#), para. 4(1)(a) (with [ss. 139\(2\), 143\(2\)](#)); [S.I. 1998/2789](#), art. 2

15 Repeal of Dumping at Sea Act 1974, consequential amendments and transitional provisions.

- (1) The ^{M1}Dumping at Sea Act 1974 is hereby repealed.
- (2) Notwithstanding that repeal, Her Majesty’s Government in the United Kingdom may continue to make payments to the international organisations.
- (3) In each of the enactments to which this subsection applies for the words “the Dumping at Sea Act 1974” there shall be substituted the words “Part II of the Food and Environment Protection Act 1985”.
- (4) The enactments to which subsection (3) above applies are—
- [^{F13}(a) sections 31(2)(b)(iii) and 32(4)(b) of the Control of Pollution Act ^{M2} 1974;]
 - (b) section 45(3) of the ^{M3}Petroleum and Submarine Pipe-lines Act 1975;
 - (c) section 16 of the ^{M4}Deep Sea Mining (Temporary Provisions) Act 1981.
- (5) In section 18 of the ^{M5}Offshore Petroleum Development (Scotland) Act 1975—
- (a) paragraph (h) shall cease to have effect; and
 - (b) the following paragraph shall be added after paragraph (i)—
 - “(j) Part II of the Food and Environment Protection Act 1985.”.
- (6) The following paragraph shall be substituted for section 42(1)(d) of the ^{M6}Local Government (Miscellaneous Provisions) Act 1976—
- “(d) Part II of the Food and Environment Protection Act 1985 (which relates to deposits in the sea).”.

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- (7) Without prejudice to section 17(2) of the ^{M7}Interpretation Act 1978 (repeal and re-enactment) any licence under the Dumping at Sea Act 1974 which is in force immediately before the commencement of this Part of this Act—
- (a) shall have effect as from the commencement of this Part of this Act as if granted under this Part of this Act; and
 - (b) in the case of a licence for a specified period, shall remain in force, subject to the provisions of this Part of this Act, for so much of that period as falls after the commencement of this Part of this Act.

Textual Amendments

- F13** S. 15(4)(a) repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(3), [Sch. 27 Pt. I](#), (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)

Modifications etc. (not altering text)

- C14** S. 15. power to transfer functions conferred (1.12.1998) by [1998 c. 38, s. 22\(1\)\(c\)\(5\)](#), [Sch. 3 Pt. I](#), para. 4(1)(a) (with ss. 139(2), 143(2)); S.I. 1998/2789, [art. 2](#)

Marginal Citations

- M1** 1974 c. 20.
M2 1974 c. 40
M3 1975 c. 74.
M4 1981 c. 53.
M5 1975 c. 8.
M6 1976 c. 57.
M7 1978 c. 30.

Status:

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