

Status: Point in time view as at 31/05/2006.

Changes to legislation: Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 27 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

[^{F1}SCHEDULE 1

Section 5.

POWERS TO IMPROVE ENFORCEMENT PROCEDURES]

Textual Amendments

- F1** Ss. 1-5 and Sch. 1 shall cease to have effect except for specified purposes (S.) (10.4.2001) by virtue of 2001 c. 6, s. 12(1) (with s. 12(2)-(4)) and are repealed (E.W.N.I.) (10.4.2001) by 2001 c. 6, s. 12(1) (with s. 2(2)-(4))

Explanation of suggested remedial action

- [^{F2}1 (1) This paragraph confers power to provide that, where an enforcement officer expresses to any person any opinion as to what remedial action should be taken by that person, then, if that person so requests, the officer—
- (a) shall as soon as practicable give to him a written notice which satisfies the requirements of sub-paragraph (2) below; and
 - (b) shall not take any enforcement action against him until after the end of such period beginning with the giving of the notice as may be determined by or under the order.
- (2) A notice satisfies the requirements of this sub-paragraph if it—
- (a) states the nature of the remedial action which in the officer's opinion should be taken, and explains why and within what period;
 - (b) explains what constitutes the failure to observe the restriction or to comply with the requirement or condition; and
 - (c) states the nature of the enforcement action which could be taken and states whether there is a right to make representations before, or a right of appeal against, the taking of such action.]

Textual Amendments

- F2** Ss. 1-5 and Sch. 1 shall cease to have effect except for specified purposes (S.) (10.4.2001) by virtue of 2001 c. 6, s. 12(1) (with s. 12(2)-(4)) and are repealed (E.W.N.I.) (10.4.2001) by 2001 c. 6, s. 12(1) (with s. 12(2)-(4))

Explanation of immediate enforcement action etc.

- [^{F3}2 (1) This paragraph confers power to provide that, where an enforcement officer—
- (a) takes immediate enforcement action against any person; or
 - (b) requires any person to take immediate remedial action,

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

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

Textual Amendments

F3 Ss. 1-5 and Sch. 1 shall cease to have effect except for specified purposes (S.) (10.4.2001) by virtue of 2001 c. 6, s. 12(1) (with s. 12(2)-(4)) and are repealed (E.W.N.I.) (10.4.2001) by 2001 c. 6, s. 12(1) (with s. 12(2)-(4))

Right to make representations

- [^{F4}3 This paragraph confers power to provide that, before an enforcement officer takes any enforcement action against any person, the officer—
- (a) shall give to that person a written notice stating—
- (i) that he is considering taking the action and the reasons why he is considering it; and
- (ii) that the person may, within a period specified in the notice, make written representations to him or, if the person so requests, make oral representations to him in the presence of a person determined by or under the order;
- and
- (b) shall consider any representations which are duly made and not withdrawn.]

Textual Amendments

F4 Ss. 1-5 and Sch. 1 shall cease to have effect except for specified purposes (S.) (10.4.2001) by virtue of 2001 c. 6, s. 12(1) (with s. 12(2)-(4)) and are repealed (E.W.N.I.) (10.4.2001) by 2001 c. 6, s.12(1) (with s. 12(2)-(4))

Explanation of right of appeal

- [^{F5}4 This paragraph confers power to provide that, where—
- (a) an enforcement officer has taken enforcement action against any person; and
- (b) the relevant enactment contains any provision conferring a right of appeal against such action,
- the officer shall as soon as practicable give to that person a written notice explaining how, where, within what period, and on what grounds, an appeal may be brought, and whether the enforcement action would be stayed or, in Scotland, suspended while an appeal were pending.]

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Textual Amendments

- F5** ss. 1-5 and Sch. 1 shall cease to have effect except for specified purposes (S.) (10.4.2001) by virtue of 2001 c. 6, s. 12(1) (with s. 12(2)-(4)) and are repealed (E.W.N.I.) (10.4.2001) by 2001 c. 6, s. 12(1) (with s. 12(2)-(4))

Application of provisions to other interested persons

- [^{F6}5 (1) This paragraph confers power to provide that, where—
- (a) a third person will or may be required to meet or make a significant contribution towards the cost of observing the restriction or complying with the requirement or condition; or
 - (b) the enforcement action which may be or has been taken specifically relates to goods or services which are to be or have been supplied by a third person, any relevant provision shall, with any modifications specified in the order, apply in relation to that person.
- (2) In this paragraph—
- “relevant provision” means any provision made by virtue of paragraphs 1 to 4 above or any provision of the relevant enactment which is to the like effect;
 - “third person” means any person other than the one against whom enforcement action may be or has been taken.]

Textual Amendments

- F6** Ss. 1-5 and Sch. 1 shall cease to have effect except for specified purposes (S.) (10.4.2001) by virtue of 2001 c. 6, s. 12(1) (with s. 12(2)-(4)) and are repealed (E.W.N.I.) (10.4.2001) by 2001 c. 6, s. 12(1) (with s. 12(2)-(4))

^{F7}SCHEDULE 2

Section 7.

Textual Amendments

- F7** 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 ^{M1}Restrictive Trade Practices Act 1976 shall be amended as follows.

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Marginal Citations

M1 1976 c. 34.

- 2 In section 1 (registration of agreements) after subsection (2) there shall be inserted—
- “(2A) In the case of a non-notifiable agreement, subsection (2)(a) and (b) above shall only apply where the Director considers that any restrictions or information provisions by virtue of which this Act applies to the agreement are of such significance as to call for investigation by the Court.”
- 3 (1) Section 24 (particulars and time for registration) shall be amended as follows.
- (2) In subsection (1) (duty to furnish particulars of agreements subject to registration under the Act) after “under this Act” there shall be inserted “, other than a non-notifiable agreement, ”.
- (3) In subsection (2) (additional provisions about particulars to be furnished)—
- (a) in paragraph (a), after “under this Act” there shall be inserted “ and is not a non-notifiable agreement ”, and
- (b) in paragraph (b), for “such an agreement” there shall be substituted “ an agreement which, at the time of the variation or determination, falls within paragraph (a) above ”.
- (4) After that subsection there shall be inserted—
- “(2A) Subsections (1) and (2)(a) above shall not apply in relation to an agreement which ceases to be a non-notifiable agreement by virtue of the Director entering or filing particulars of it under section 1(2)(b) above.”
- 4 After section 25 there shall be inserted—
- “25A Registration of non-notifiable agreement: duty to inform parties.**
- (1) Where an agreement ceases to be a non-notifiable agreement by virtue of the Director entering or filing particulars of it under section 1(2)(b) above, he shall give notice of that fact to each of the parties to the agreement.
- (2) Regulations under section 27 below may prescribe how notice under subsection (1) above is to be given and who is to be treated as a party to an agreement for the purposes of that subsection.”
- 5 (1) Section 26 shall be amended as follows.
- (2) In subsection (2) (power of the Restrictive Practices Court to make declarations as to certain matters) for the words from “and” to the end there shall be substituted “, declare whether or not it is subject to registration under this Act and declare whether or not it is a non-notifiable agreement. ”
- (3) For subsection (3) there shall be substituted—
- “(3) Where a party to an agreement makes an application for a declaration under subsection (2) above, the Director shall not enter or file particulars of the agreement in the register during the time during which the proceedings and any appeal therein are pending.

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

- (a) the only question in relation to which the declaration is sought is whether or not the agreement is a non-notifiable agreement, and
- (b) the Director considers that any restrictions or information provisions by virtue of which this Act applies to the agreement are of such significance as to call for investigation by the Court.

(3B) Where—

- (a) a party to an agreement makes an application for a declaration under subsection (2) above,
- (b) the question in relation to which the declaration is sought is relevant to the existence of a duty to furnish particulars of the agreement under section 24 above, and
- (c) the application is made before the expiry of the time within which particulars of the agreement are required to be furnished if the duty to furnish particulars under that section applies,

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

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

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

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

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

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

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

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

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

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

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

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(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.”
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SCHEDULE 4

Section 12.

SECTION 12: SECTORAL REGULATORS AND TRANSITION

Extent Information

E1 Sch. 4: certain amendments are co-extensive with the enactments they affect see s. 40.

Sectoral regulators

F8₁

Textual Amendments

F8 Sch. 4 para. 1 repealed (1.3.2000) by 1998 c. 41, s. 74(1)(3), Sch. 12 para. 19(4), **Sch. 14 Pt. 1** (with s. 73); S.I. 2000/344, art. 2, **Sch.**

F9₂

Textual Amendments

F9 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—

- F10**(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

F10 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))

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- 4 In section 67(8) of the Railways Act 1993 (corresponding provision in relation to the jurisdiction of the [^{F11} 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.

Textual Amendments

- F11** 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

^{F12}5

Textual Amendments

- F12** Sch. 4 paras. 5-8 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

^{F12}6

Textual Amendments

- F12** Sch. 4 paras. 5-8 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

^{F12}7

Textual Amendments

- F12** Sch. 4 paras. 5-8 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

^{F12}8

Textual Amendments

- F12** Sch. 4 paras. 5-8 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 16** Group 2

SCHEDULE 5

Section 13(1).

STRIKING OFF OF NON-TRADING PRIVATE COMPANIES: GREAT BRITAIN

- 1 The ^{M2}Companies Act 1985 shall be amended as follows.

Marginal Citations

- M2** 1985 c. 6.

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2 After section 652 there shall be inserted—

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

- (1) On application by a private company, the registrar of companies may strike the company’s name off the register.
- (2) An application by a company under this section shall—
 - (a) be made on its behalf by its directors or by a majority of them,
 - (b) be in the prescribed form, and
 - (c) contain the prescribed information.
- (3) The registrar shall not strike a company off under this section until after the expiration of 3 months from the publication by him in the Gazette of a notice—
 - (a) stating that he may exercise his power under this section in relation to the company, and
 - (b) inviting any person to show cause why he should not do so.
- (4) Where the registrar strikes a company off under this section, he shall publish notice of that fact in the Gazette.
- (5) On the publication in the Gazette of a notice under subsection (4), the company to which the notice relates is dissolved.
- (6) However, the liability (if any) of every director, managing officer and member of the company continues and may be enforced as if the company had not been dissolved.
- (7) Nothing in this section affects the power of the court to wind up a company the name of which has been struck off the register.

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

- (1) A person shall not make an application under section 652A on behalf of a company if, at any time in the previous 3 months, the company has—
 - (a) changed its name,
 - (b) traded or otherwise carried on business,
 - (c) made a disposal for value of property or rights which, immediately before ceasing to trade or otherwise carry on business, it held for the purpose of disposal for gain in the normal course of trading or otherwise carrying on business, or
 - (d) engaged in any other activity, except one which is—
 - (i) necessary or expedient for the purpose of making an application under section 652A, or deciding whether to do so,
 - (ii) necessary or expedient for the purpose of concluding the affairs of the company,
 - (iii) necessary or expedient for the purpose of complying with any statutory requirement, or
 - (iv) specified by the Secretary of State by order for the purposes of this sub-paragraph.

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- (2) For the purposes of subsection (1), a company shall not be treated as trading or otherwise carrying on business by virtue only of the fact that it makes a payment in respect of a liability incurred in the course of trading or otherwise carrying on business.
- (3) A person shall not make an application under section 652A on behalf of a company at a time when any of the following is the case—
 - (a) an application has been made to the court under section 425 on behalf of the company for the sanctioning of a compromise or arrangement and the matter has not been finally concluded;
 - (b) a voluntary arrangement in relation to the company has been proposed under Part I of ^{M3} the Insolvency Act 1986 and the matter has not been finally concluded;
 - (c) an administration order in relation to the company is in force under Part II of that Act or a petition for such an order has been presented and not finally dealt with or withdrawn;
 - (d) the company is being wound up under Part IV of that Act, whether voluntarily or by the court, or a petition under that Part for the winding up of the company by the court has been presented and not finally dealt with or withdrawn;
 - (e) there is a receiver or manager of the company's property;
 - (f) the company's estate is being administered by a judicial factor.
- (4) For the purposes of subsection (3)(a), the matter is finally concluded if—
 - (a) the application has been withdrawn,
 - (b) the application has been finally dealt with without a compromise or arrangement being sanctioned by the court, or
 - (c) a compromise or arrangement has been sanctioned by the court and has, together with anything required to be done under any provision made in relation to the matter by order of the court, been fully carried out.
- (5) For the purposes of subsection (3)(b), the matter is finally concluded if—
 - (a) no meetings are to be summoned under section 3 of the Insolvency ^{M4}Act 1986,
 - (b) meetings summoned under that section fail to approve the arrangement with no, or the same, modifications,
 - (c) an arrangement approved by meetings summoned under that section, or in consequence of a direction under section 6(4)(b) of that Act, has been fully implemented, or
 - (d) the court makes an order under subsection (5) of section 6 of that Act revoking approval given at previous meetings and, if the court gives any directions under subsection (6) of that section, the company has done whatever it is required to do under those directions.
- (6) A person who makes an application under section 652A on behalf of a company shall secure that a copy of the application is given, within 7 days from the day on which the application is made, to every person who, at any time on that day, is—
 - (a) a member of the company,
 - (b) an employee of the company,

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- (c) a creditor of the company,
 - (d) a director of the company,
 - (e) a manager or trustee of any pension fund established for the benefit of employees of the company, or
 - (f) a person of a description specified for the purposes of this paragraph by regulations made by the Secretary of State.
- (7) Subsection (6) shall not require a copy of the application to be given to a director who is a party to the application.
- (8) The duty imposed by subsection (6) shall cease to apply if the application is withdrawn before the end of the period for giving the copy application.
- (9) The Secretary of State may by order amend subsection (1) for the purpose of altering the period in relation to which the doing of the things mentioned in paragraphs (a) to (d) of that subsection is relevant.

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

- (1) Subsection (2) applies in relation to any time after the day on which a company makes an application under section 652A and before the day on which the application is finally dealt with or withdrawn.
- (2) A person who is a director of the company at the end of a day on which a person other than himself becomes—
- (a) a member of the company,
 - (b) an employee of the company,
 - (c) a creditor of the company,
 - (d) a director of the company,
 - (e) a manager or trustee of any pension fund established for the benefit of employees of the company, or
 - (f) a person of a description specified for the purposes of this paragraph by regulations made by the Secretary of State,
- shall secure that a copy of the application is given to that person within 7 days from that day.
- (3) The duty imposed by subsection (2) shall cease to apply if the application is finally dealt with or withdrawn before the end of the period for giving the copy application.
- (4) Subsection (5) applies where, at any time on or after the day on which a company makes an application under section 652A and before the day on which the application is finally dealt with or withdrawn—
- (a) the company—
 - (i) changes its name,
 - (ii) trades or otherwise carries on business,
 - (iii) makes a disposal for value of any property or rights other than those which it was necessary or expedient for it to hold for the purpose of making, or proceeding with, an application under section 652A, or
 - (iv) engages in any other activity, except one to which subsection (6) applies;

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- (b) an application is made to the court under section 425 on behalf of the company for the sanctioning of a compromise or arrangement;
 - (c) a voluntary arrangement in relation to the company is proposed under Part I of the ^{M5} Insolvency Act 1986;
 - (d) a petition is presented for the making of an administration order under Part II of that Act in relation to the company;
 - (e) there arise any of the circumstances in which, under section 84(1) of that Act, the company may be voluntarily wound up;
 - (f) a petition is presented for the winding up of the company by the court under Part IV of that Act;
 - (g) a receiver or manager of the company's property is appointed; or
 - (h) a judicial factor is appointed to administer the company's estate.
- (5) A person who, at the end of a day on which an event mentioned in any of paragraphs (a) to (h) of subsection (4) occurs, is a director of the company shall secure that the company's application is withdrawn forthwith.
- (6) This subsection applies to any activity which is—
- (a) necessary or expedient for the purpose of making, or proceeding with, an application under section 652A,
 - (b) necessary or expedient for the purpose of concluding affairs of the company which are outstanding because of what has been necessary or expedient for the purpose of making, or proceeding with, such an application,
 - (c) necessary or expedient for the purpose of complying with any statutory requirement, or
 - (d) specified by the Secretary of State by order for the purposes of this subsection.
- (7) For the purposes of subsection (4)(a), a company shall not be treated as trading or otherwise carrying on business by virtue only of the fact that it makes a payment in respect of a liability incurred in the course of trading or otherwise carrying on business.

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

- (1) For the purposes of sections 652B(6) and 652C(2), a document shall be treated as given to a person if it is delivered to him or left at his proper address or sent by post to him at that address.
- (2) For the purposes of subsection (1) and section 7 of the Interpretation ^{M6} Act 1978 (which relates to the service of documents by post) in its application to that subsection, the proper address of any person shall be his last known address, except that—
 - (a) in the case of a body corporate, other than one to which subsection (3) applies, it shall be the address of its registered or principal office,
 - (b) in the case of a partnership, other than one to which subsection (3) applies, it shall be the address of its principal office, and
 - (c) in the case of a body corporate or partnership to which subsection (3) applies, it shall be the address of its principal office in the United Kingdom.

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- (3) This subsection applies to a body corporate or partnership which—
 - (a) is incorporated or formed under the law of a country or territory outside the United Kingdom, and
 - (b) has a place of business in the United Kingdom.
- (4) Where a creditor of the company has more than one place of business, subsection (1) shall have effect, so far as concerns the giving of a document to him, as if for the words from “delivered” to the end there were substituted “left, or sent by post to him, at each place of business of his with which the company has had dealings in relation to a matter by virtue of which he is a creditor of the company.”
- (5) Any power to make an order or regulations under section 652B or 652C shall—
 - (a) include power to make different provision for different cases or classes of case,
 - (b) include power to make such transitional provisions as the Secretary of State considers appropriate, and
 - (c) be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) For the purposes of sections 652B and 652C, an application under section 652A is withdrawn if notice of withdrawal in the prescribed form is given to the registrar of companies.
- (7) In sections 652B and 652C, “disposal” includes part disposal.
- (8) In sections 652B and 652C and this section, “creditor” includes a contingent or prospective creditor.

652E Sections 652B and 652C: enforcement.

- (1) A person who breaches or fails to perform a duty imposed on him by section 652B or 652C is guilty of an offence and liable to a fine.
- (2) A person who fails to perform a duty imposed on him by section 652B(6) or 652C(2) with the intention of concealing the making of the application in question from the person concerned is guilty of an offence and liable to imprisonment or a fine, or both.
- (3) In any proceedings for an offence under subsection (1) consisting of breach of a duty imposed by section 652B(1) or (3), it shall be a defence for the accused to prove that he did not know, and could not reasonably have known, of the existence of the facts which led to the breach.
- (4) In any proceedings for an offence under subsection (1) consisting of failure to perform the duty imposed by section 652B(6), it shall be a defence for the accused to prove that he took all reasonable steps to perform the duty.
- (5) In any proceedings for an offence under subsection (1) consisting of failure to perform a duty imposed by section 652C(2) or (5), it shall be a defence for the accused to prove—
 - (a) that at the time of the failure he was not aware of the fact that the company had made an application under section 652A, or

Status: Point in time view as at 31/05/2006.

Changes to legislation: Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 27 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) that he took all reasonable steps to perform the duty.

652F Other offences connected with section 652A.

- (1) Where a company makes an application under section 652A, any person who, in connection with the application, knowingly or recklessly furnishes any information to the registrar of companies which is false or misleading in a material particular is guilty of an offence and liable to a fine.
- (2) Any person who knowingly or recklessly makes an application to the registrar of companies which purports to be an application under section 652A, but which is not, is guilty of an offence and liable to a fine.”

Marginal Citations

- M3** 1986 c. 45.
M4 1986 c. 45.
M5 1986 c. 45.
M6 1978 c. 30.

- 3 (1) Section 653 (objection to striking off by persons aggrieved) shall be amended as follows.
- (2) In subsection (1)—
- (a) for “The following” there shall be substituted “ Subsection (2) ”, and
- (b) at the end there shall be inserted “ under section 652. ”
- (3) After subsection (2) there shall be inserted—
- “(2A) Subsections (2B) and (2D) apply if a company has been struck off the register under section 652A.
- (2B) The court, on an application by a notifiable person made before the expiration of 20 years from publication in the Gazette of notice under section 652A(4), may, if satisfied—
- (a) that any duty under section 652B or 652C with respect to the giving to that person of a copy of the company’s application under section 652A was not performed,
- (b) that the making of the company’s application under section 652A involved a breach of duty under section 652B(1) or (3), or
- (c) that it is for some other reason just to do so,
- order the company’s name to be restored to the register.
- (2C) In subsection (2B), “notifiable person” means a person to whom a copy of the company’s application under section 652A was required to be given under section 652B or 652C.
- (2D) The court, on an application by the Secretary of State made before the expiration of 20 years from publication in the Gazette of notice under section 652A(4), may, if satisfied that it is in the public interest to do so, order the company’s name to be restored.”
- (4) In subsection (3)—

Status: Point in time view as at 31/05/2006.

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- (a) for “the order” there shall be substituted “ an order under subsection (2), (2B) or (2D) ”, and
- (b) after “company”, in the first place where it occurs, there shall be inserted “ to which the order relates ”.

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

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

SCHEDULE 6

Section 13(2).

STRIKING OFF OF NON-TRADING PRIVATE COMPANIES: NORTHERN IRELAND

1 ^{M7}The Companies (Northern Ireland) Order 1986 shall be amended as follows.

Commencement Information

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

Marginal Citations

M7 S.I. 1986/1032 (N.I. 6).

Status: Point in time view as at 31/05/2006.

Changes to legislation: Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 27 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 After Article 603 there shall be inserted—

“Registrar may strike private company off register on application

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

- (2) An application by a company under this Article shall—
 - (a) be made on its behalf by its directors or by a majority of them,
 - (b) be in the prescribed form, and
 - (c) contain the prescribed information.
- (3) The registrar shall not strike a company off under this Article until after the expiration of 3 months from the publication by him in the Belfast Gazette of a notice—
 - (a) stating that he may exercise his power under this Article in relation to the company, and
 - (b) inviting any person to show cause why he should not do so.
- (4) Where the registrar strikes a company off under this Article, he shall publish notice of that fact in the Belfast Gazette.
- (5) On the publication in the Belfast Gazette of a notice under paragraph (4), the company to which the notice relates is dissolved.
- (6) However, the liability (if any) of every director, managing officer and member of the company continues and may be enforced as if the company had not been dissolved.
- (7) Nothing in this Article affects the power of the court to wind up a company the name of which has been struck off the register.

Duties in connection with making application under Article 603A

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

- (a) changed its name,
- (b) traded or otherwise carried on business,
- (c) made a disposal for value of property or rights which, immediately before ceasing to trade or otherwise carry on business, it held for the purpose of disposal for gain in the normal course of trading or otherwise carrying on business, or
- (d) engaged in any other activity, except one which is—
 - (i) necessary or expedient for the purpose of making an application under Article 603A, or deciding whether to do so,
 - (ii) necessary or expedient for the purpose of concluding the affairs of the company,
 - (iii) necessary or expedient for the purpose of complying with any statutory requirement, or
 - (iv) specified for the purposes of this head by the Department by order made subject to negative resolution.

Status: Point in time view as at 31/05/2006.

Changes to legislation: Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 27 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) For the purposes of paragraph (1), a company shall not be treated as trading or otherwise carrying on business by virtue only of the fact that it makes a payment in respect of a liability incurred in the course of trading or otherwise carrying on business.
- (3) A person shall not make an application under Article 603A on behalf of a company at a time when any of the following is the case—
- (a) an application has been made to the court under Article 418 on behalf of the company for the sanctioning of a compromise or arrangement and the matter has not been finally concluded;
 - (b) a voluntary arrangement in relation to the company has been proposed under Part II of^{M8} the Insolvency (Northern Ireland) Order 1989 and the matter has not been finally concluded;
 - (c) an administration order in relation to the company is in force under Part III of that Order or a petition for such an order has been presented and not finally dealt with or withdrawn;
 - (d) the company is being wound up under Part V of that Order, whether voluntarily or by the court, or a petition under that Part for the winding up of the company by the court has been presented and not finally dealt with or withdrawn;
 - (e) there is a receiver or manager of the company's property.
- (4) For the purposes of paragraph (3)(a), the matter is finally concluded if—
- (a) the application has been withdrawn,
 - (b) the application has been finally dealt with without a compromise or arrangement being sanctioned by the court, or
 - (c) a compromise or arrangement has been sanctioned by the court and has, together with anything required to be done under any provision made in relation to the matter by order of the court, been fully carried out.
- (5) For the purposes of paragraph (3)(b), the matter is finally concluded if—
- (a) no meetings are to be summoned under Article 16 of the Insolvency^{M9}(Northern Ireland) Order 1989,
 - (b) meetings summoned under that Article fail to approve the arrangement with no, or the same, modifications,
 - (c) an arrangement approved by meetings summoned under that Article, or in consequence of a direction under Article 19(4)(b) of that Order, has been fully implemented, or
 - (d) the court makes an order under paragraph (5) of Article 19 of that Order revoking approval given at previous meetings and, if the court gives any directions under paragraph (6) of that Article, the company has done whatever it is required to do under those directions.
- (6) A person who makes an application under Article 603A on behalf of a company shall secure that a copy of the application is given, within 7 days from the day on which the application is made, to every person who, at any time on that day, is—
- (a) a member of the company,
 - (b) an employee of the company,
 - (c) a creditor of the company,

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- (d) a director of the company,
 - (e) a manager or trustee of any pension fund established for the benefit of employees of the company, or
 - (f) a person of a description specified for the purposes of this sub-paragraph by regulations made by the Department.
- (7) Paragraph (6) shall not require a copy of the application to be given to a director who is a party to the application.
- (8) The duty imposed by paragraph (6) shall cease to apply if the application is withdrawn before the end of the period for giving the copy application.
- (9) The Department may by order, made subject to negative resolution, amend paragraph (1) for the purpose of altering the period in relation to which the doing of the things mentioned in sub-paragraphs (a) to (d) of that paragraph is relevant.

Directors' duties following application under Article 603A

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

- (2) A person who is a director of the company at the end of a day on which a person other than himself becomes—
- (a) a member of the company,
 - (b) an employee of the company,
 - (c) a creditor of the company,
 - (d) a director of the company,
 - (e) a manager or trustee of any pension fund established for the benefit of employees of the company, or
 - (f) a person of a description specified for the purposes of this sub-paragraph by regulations made by the Department,
- shall secure that a copy of the application is given to that person within 7 days from that day.
- (3) The duty imposed by paragraph (2) shall cease to apply if the application is finally dealt with or withdrawn before the end of the period for giving the copy application.
- (4) Paragraph (5) applies where, at any time on or after the day on which a company makes an application under Article 603A and before the day on which the application is finally dealt with or withdrawn—
- (a) the company—
 - (i) changes its name,
 - (ii) trades or otherwise carries on business,
 - (iii) makes a disposal for value of any property or rights other than those which it was necessary or expedient for it to hold for the purpose of making, or proceeding with, an application under Article 603A, or
 - (iv) engages in any other activity, except one to which paragraph (6) applies;

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- (b) an application is made to the court under Article 418 on behalf of the company for the sanctioning of a compromise or arrangement;
 - (c) a voluntary arrangement in relation to the company is proposed under Part II of ^{M10} the Insolvency (Northern Ireland) Order 1989;
 - (d) a petition is presented for the making of an administration order under Part III of that Order in relation to the company;
 - (e) there arise any of the circumstances in which, under Article 70(1) of that Order, the company may be voluntarily wound up;
 - (f) a petition is presented for the winding up of the company by the court under Part V of that Order; or
 - (g) a receiver or manager of the company's property is appointed.
- (5) A person who, at the end of a day on which an event mentioned in any of subparagraphs (a) to (g) of paragraph (4) occurs, is a director of the company shall secure that the company's application is withdrawn forthwith.
- (6) This paragraph applies to any activity which is—
- (a) necessary or expedient for the purpose of making, or proceeding with, an application under Article 603A,
 - (b) necessary or expedient for the purpose of concluding affairs of the company which are outstanding because of what has been necessary or expedient for the purpose of making, or proceeding with, such an application,
 - (c) necessary or expedient for the purpose of complying with any statutory requirement, or
 - (d) specified for the purposes of this paragraph by the Department by order made subject to negative resolution.
- (7) For the purposes of paragraph (4)(a), a company shall not be treated as trading or otherwise carrying on business by virtue only of the fact that it makes a payment in respect of a liability incurred in the course of trading or otherwise carrying on business.

Articles 603B and 603C: supplementary provisions

- 603D) For the purposes of section 24 of ^{M11} the Interpretation Act (Northern Ireland) 1954 (which relates to the service of documents by post) in its application to a document required to be given to any person under Article 603B(6) or 603C(2), the principal office of a body corporate or partnership which—
- (a) is incorporated or formed under the law of a country or territory outside the United Kingdom, and
 - (b) has a place of business in the United Kingdom,
- shall be taken to be its principal office in the United Kingdom.
- (2) Where a creditor of the company has more than one place of business, section 24(2) of the Act of 1954 shall have effect, so far as concerns the giving of a document to him under Article 603B(6) or 603C(2), as if for paragraphs (b) and (c) there were substituted—
- (?) it is left, or sent by post to him in accordance with subsection (1), at each place of business of his with which the company has had

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dealings in relation to a matter by virtue of which he is a creditor of the company.”

- (3) An order or regulations under Article 603B or 603C may make such transitional provisions as the Department considers appropriate.
- (4) For the purposes of Articles 603B and 603C, an application under Article 603A is withdrawn if notice of withdrawal in the prescribed form is given to the registrar.
- (5) In Articles 603B and 603C, “disposal” includes part disposal.
- (6) In Articles 603B and 603C and this Article, “creditor” includes a contingent or prospective creditor.

Articles 603B and 603C: enforcement

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

- (2) A person who fails to perform a duty imposed on him by Article 603B(6) or 603C(2) with the intention of concealing the making of the application in question from the person concerned is guilty of an offence and liable to imprisonment or a fine, or both.
- (3) In any proceedings for an offence under paragraph (1) consisting of breach of a duty imposed by Article 603B(1) or (3), it shall be a defence for the accused to prove that he did not know, and could not reasonably have known, of the existence of the facts which led to the breach.
- (4) In any proceedings for an offence under paragraph (1) consisting of failure to perform the duty imposed by Article 603B(6), it shall be a defence for the accused to prove that he took all reasonable steps to perform the duty.
- (5) In any proceedings for an offence under paragraph (1) consisting of failure to perform a duty imposed by Article 603C(2) or (5) it shall be a defence for the accused to prove—
 - (a) that at the time of the failure he was not aware of the fact that the company had made an application under Article 603A, or
 - (b) that he took all reasonable steps to perform the duty.

Other offences connected with Article 603A

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

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

Status: Point in time view as at 31/05/2006.

Changes to legislation: Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 27 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)

Commencement Information

- I2** Sch. 6 para. 2 wholly in force at 1.11.1995; Sch. 6 para. 2 not in force at Royal Assent see s. 84(2); Sch. 6 para. 2 in force for certain purposes at 1.7.1995 by S.I. 1995/1433, art. 3(b); Sch. 6 para. 2 in force at 1.11.1995 in so far as not already in force by S.I. 1995/1433, art. 5(a)

Marginal Citations

- M8** S.I. 1989/2405 (N.I. 19).
M9 S.I. 1989/2405 (N.I. 19).
M10 S.I. 1989/2405 (N.I. 19).
M11 1954 c. 33 (N.I.).

- 3 (1) Article 604 (objection to striking off by persons aggrieved) shall be amended as follows.
- (2) In paragraph (1)—
- (a) for “The following” there shall be substituted “ Paragraph (2) ”, and
 - (b) at the end there shall be inserted “ under Article 603. ”
- (3) After paragraph (2) there shall be inserted—
- “(2A) Paragraphs (2B) and (2D) apply if a company has been struck off the register under Article 603A.
- (2B) The court, on an application by a notifiable person made before the expiration of 20 years from publication in the Belfast Gazette of notice under Article 603A(4), may, if satisfied—
- (a) that any duty under Article 603B or 603C with respect to the giving to that person of a copy of the company’s application under Article 603A was not performed,
 - (b) that the making of the company’s application under Article 603A involved a breach of duty under Article 603B(1) or (3), or
 - (c) that it is for some other reason just to do so,
- order the company’s name to be restored to the register.
- (2C) In paragraph (2B), “notifiable person” means a person to whom a copy of the company’s application under Article 603A was required to be given under Article 603B or 603C.
- (2D) The court, on an application by the Department made before the expiration of 20 years from publication in the Belfast Gazette of notice under Article 603A(4), may, if satisfied that it is in the public interest to do so, order the company’s name to be restored.”
- (4) In paragraph (3)—
- (a) for “the order” there shall be substituted “ an order under paragraph (2), (2B) or (2D) ”, and
 - (b) after “company”, in the first place where it occurs, there shall be inserted “ to which the order relates ”.

Status: Point in time view as at 31/05/2006.

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Modifications etc. (not altering text)

C1 Sch. 6 para. 3(2) amended (retrospective to 1.11.1995) by S.I. 1996/1632 (N.I. 11), art. 18, Sch. 5 para. 6

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

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

^{F13}SCHEDULE 7

Section 19.

CHILDREN’S CERTIFICATES: SUPPLEMENTARY PROVISIONS

Textual Amendments

F13 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

Status: Point in time view as at 31/05/2006.

Changes to legislation: Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 27 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)

^{F14}SCHEDULE 8

Textual Amendments

F14 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 (1) This paragraph applies to the following provisions of ^{M12}the Slaughter of Poultry Act 1967—
 - (a) section 3 (power to make regulations for securing humane conditions of slaughter),
 - (b) section 4 (power to authorise persons to exercise rights of entry), and
 - (c) section 6 (duty to execute and enforce the provisions of that Act and of regulations under section 3 of that Act).
- (2) The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for Wales acting jointly may by regulations provide for any functions under a provision to which this paragraph applies, so far as exercisable by local authorities, to be transferred—
 - (a) so far as exercisable by local authorities in England, to the Minister of Agriculture, Fisheries and Food, and
 - (b) so far as exercisable by local authorities in Scotland or Wales, to the Secretary of State.

Modifications etc. (not altering text)

C2 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

M12 1967 c. 24 .

- 2 (1) This paragraph applies to the following provisions of the Slaughterhouses ^{M13}Act 1974—
 - ^{F15}(a)
 - (b) section 38 (power to make regulations for securing humane conditions of slaughter),
 - ^{F15}(c)
 - ^{F15}(d)
 - (e) section 41 (duty to execute and enforce the provisions of, and of regulations under, Part II of that Act), and

Status: Point in time view as at 31/05/2006.

Changes to legislation: Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 27 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)

(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

F15 Sch. 9 para. 2(1)(a)(c)(d) repealed (1.4.1995) by S.I. 1995/731, reg. 28(1), Sch. 13

Marginal Citations

M13 1974 c. 3.

3 (1) This paragraph applies to the following provisions of ^{M14}the Slaughter of Animals (Scotland) Act 1980 (which correspond to the provisions to which paragraph 2 above applies)—

- (a) section 9,
- ^{F16}(b)
- (c) section 14(3)(c),
- ^{F16}(d)
- ^{F16}(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

F16 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

M14 1980 c. 13.

4 No functions under the Slaughterhouses ^{M15}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

M15 1974 c. 3.

5 (1) Regulations under paragraph 1(2), 2(2) or 3(2) above may contain such supplemental, incidental, consequential and transitional provisions and savings as the

Status: Point in time view as at 31/05/2006.

Changes to legislation: Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 27 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)

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 ^{M16} 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.

Marginal Citations
M16 1978 c. 30.

Territorial division of enforcement functions under the Food Safety Act 1990

- 6 In section 6(4)(a) of ^{M17} 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
M17 1990 c. 16.

SCHEDULE 10

Section 35.

EMPLOYMENT AGENCIES ETC.: REPLACEMENT OF LICENSING

PART I

GENERAL

Great Britain

- 1 (1) ^{M18} The Employment Agencies Act 1973 shall be amended as follows.
^{F17}(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 [^{F18}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

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- (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.
- (4) Subject to subsections (5) and (6) of this section, an [F18 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 [F18 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 [F18 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.

Status: Point in time view as at 31/05/2006.

Changes to legislation: Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 27 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)

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 [F18]employment tribunal] may vary or revoke the order if the tribunal is satisfied that there has been a material change of circumstances since the order was last considered.
- (2) An [F18]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 [F18]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 [F18]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 [F18]employment tribunal] under section 3A or 3C of this Act.
- (2) No other appeal shall lie from a decision of an [F18]employment tribunal] under section 3A or 3C of this Act; and section 11 of the Tribunals and Inquiries ^{M19}Act 1992 (appeals from certain tribunals to High Court or Court of Session) shall not apply to proceedings before an [F18]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

- F17** Sch. 10 para. 1(2) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 16 Group 2
- F18** 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

Status: Point in time view as at 31/05/2006.

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Marginal Citations

M18 1973 c35.

M19 1992 c. 53.

Northern Ireland

2 ^{F19}(1).....

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

“ Prohibition orders

Power to make orders

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

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

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

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

- (a) on a specified date, or
- (b) on the happening of a specified event,

in either case, not more than ten years later.

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

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

- (a) any director, secretary, manager or similar officer of the body corporate,
- (b) any person who performs on behalf of the body corporate the functions of a director, secretary, manager or similar officer, or
- (c) any person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act,

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

(6) An industrial tribunal may make a prohibition order in relation to a partnership if it is satisfied that any member of the partnership, or any

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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.
- (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

F19 Sch. 10 para. 2(1) 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 31/05/2006.

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PART II

SEAMEN

United Kingdom

F20₃

Textual Amendments

F20 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

F20₄

Textual Amendments

F20 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

F20₅

Textual Amendments

F20 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)

F21₁

Textual Amendments

F21 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.

F22(2)

Status: Point in time view as at 31/05/2006.

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- F23(3)
- F23(4)

Textual Amendments

- F22** 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)
- F23** 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

- I3** 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.

- F24(2)
- F25(3)
- F25(4)
- F25(5)
- F25(6)
- F26(7)

Textual Amendments

- F24** Sch. 11 para. 4(2) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 16** Group 2
- F25** 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**
- F26** 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 subparagraph (d) there shall be inserted,” or

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

Company Directors Disqualification Act 1986 (c. 46)

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

Building Societies Act 1986 (c. 53)

- 7 (1) The Building Societies Act 1986 shall be amended as follows.
- (2) In section 10(5) for “borrower” there shall be substituted “ mortgagor ”.
- (3) In section 11(7), after “(2)(b)” there shall be inserted “ or (2)(ba)(i) or (ii) ”.
- (4) In section 13(2), at the end there shall be inserted—
- “(e) where the advance is to be made in connection with a disposition of other land to the borrower, any person having a financial interest in the disposition of the other land and any director, other officer or employee of his or of an associated employer; and
 - (f) where the advance is to be made in connection with a disposition of other land to the borrower, any person receiving a commission for introducing the parties to the transaction involving the disposition and any director, other officer or employee of his.”
- (5) In section 13(3)—
- (a) after “following a disposition of the land” there shall be inserted “ or in connection with a disposition of other land to the borrower ”, and
 - ^{F27}(b)
- ^{F28}(6)

Textual Amendments

F27 Sch. 11 para. 7(5)(b) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 16 Group 2

F28 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)

^{F29}8

Textual Amendments

F29 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)

^{F30}9

Status: Point in time view as at 31/05/2006.

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Textual Amendments

F30 Sch. 11 para. 9 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 16 Group 2

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

10 [^{F31}In the Companies (Northern Ireland) Order 1989, in Article 5(1), for “or liquidation” there shall be substituted “, liquidation or striking off”.]

Textual Amendments

F31 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)

^{F32}11

Textual Amendments

F32 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)

12 In section 47(3) of the Charities Act 1993—
^{F33}(a)
(b) in paragraph (b), for the words from “such” to “46(3) above” there shall be substituted “ a charity other than one falling within paragraph (c) or (d) below ”.

Textual Amendments

F33 Sch. 11 para. 12(a) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 16 Group 2

^{F34}SCHEDULE 12

. . .

Textual Amendments

F34 Sch. 12 repealed (1.1.1996) by 1995 c. 23, s. 60(2), Sch. 8 Pt. I (with ss. 54, 55); S.I. 1995/2181, art. 2 (with transitional provisions in Sch.)

Status: Point in time view as at 31/05/2006.

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F35 SCHEDULE 13

Textual Amendments

F35 Sch. 13 repealed (1.1.1996) by 1995 c. 23, s. 60(2), Sch. 8 Pt. I (with ss. 54, 55); S.I. 1995/2181, art. 2 (with transitional provisions in Sch.)

SCHEDULE 14

Section 68.

PSV OPERATOR LICENSING ETC: MINOR AND CONSEQUENTIAL AMENDMENTS

1 The 1981 Act shall be amended as follows.

Commencement Information

I5 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 ^{M26} 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

I6 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

M26 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 ”

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- 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 ^{M27} the Transport Act 1985 subsection (3) shall be omitted.

Marginal Citations

M27 1985 c. 67.

SCHEDULE 15

Section 75.

RESTRICTIONS ON DISCLOSURE OF INFORMATION

Modifications etc. (not altering text)

- C3** 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)
- C4** 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))
- C5** 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

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.

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Disclosures between contracting parties etc.

- 2 The enactment or obligation shall not prevent or penalise the disclosure of relevant information—
- (a) between contractor A or an employee of his and authority A or an authorised officer of that authority;
 - (b) between contractor A and an employee of his or between one such employee and another; or
 - (c) where the relevant function has been delegated to authority A by another Minister, office-holder or local authority (authority B), between contractor A or an employee of his and authority B or an authorised officer of that authority,
- if the disclosure is necessary or expedient in or in connection with, or for the purpose of facilitating, the exercise of the relevant function or a related function, or the performance of ancillary services.

Disclosures by contracting parties to contractor B

- 3 (1) This paragraph applies where another person (contractor B) is authorised, whether by virtue of an order under section 69 or 70 above or otherwise, to exercise the relevant function or a related function.
- (2) The enactment or obligation shall not prevent or penalise the disclosure of relevant information by contractor A or an employee of his, or authority A or an authorised officer of that authority, to contractor B or an employee of his if—
- (a) the disclosure is necessary or expedient for the purpose of facilitating the exercise of the relevant function or a related function; and
 - (b) where the disclosure is by contractor A or an employee of his, the disclosure falls within a description of disclosures certified by authority A (whether in the authorisation or otherwise) to be capable of being so necessary or expedient.

Disclosures by contracting parties to contractor C

- 4 (1) This paragraph applies where another person (contractor C) is authorised, whether by virtue of an order under section 69 or 70 above or otherwise, to exercise a function of another Minister, office-holder or local authority (authority C).
- (2) The enactment or obligation shall not prevent or penalise the disclosure of relevant information by contractor A or an employee of his, or authority A or an authorised officer of that authority, to contractor C or an employee of his if—
- (a) the disclosure is necessary or expedient for the purpose of facilitating the exercise of the relevant function, a related function or a function of authority C;
 - (b) where the disclosure is by contractor A or an employee of his, the disclosure falls within a description of disclosures certified by authority A (whether in the authorisation or otherwise) to be capable of being so necessary or expedient; and
 - (c) the information could be lawfully disclosed, for that purpose, by authority A to authority C.

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Disclosures by contractor A to authority D

- 5 The enactment or obligation shall not prevent or penalise the disclosure of relevant information by contractor A or an employee of his to another Minister, office-holder or local authority (authority D) or an authorised officer of that authority if—
- (a) the disclosure is necessary or expedient for the purpose of facilitating the exercise of the relevant function, a related function or a function of authority D;
 - (b) the disclosure falls within a description of disclosures certified by authority A (whether in the authorisation or otherwise) to be capable of being so necessary or expedient; and
 - (c) the information could be lawfully disclosed, for that purpose, by authority A to authority D.

Disclosures to contractor A by authority E

- 6 The enactment or obligation shall not prevent or penalise the disclosure of relevant information by authority E or an authorised officer of that authority to contractor A or an employee of his if—
- (a) the disclosure is necessary or expedient for the purpose of facilitating the exercise of the relevant function, a related function or a function of authority E; and
 - (b) the information could be lawfully disclosed, for that purpose, by authority E to authority A.

Disclosures for audit purposes

- 7 (1) Where authority A is a Minister or office-holder, the enactment or obligation shall not prevent or penalise the disclosure of relevant information by contractor A or an employee of his if—
- (a) the disclosure is to the Comptroller, or a person exercising an audit function of his, and the information could lawfully be disclosed to the Comptroller or that person by authority A; or
 - (b) the disclosure is to an accounting officer, or a person exercising an audit function of his, and the information could lawfully be disclosed to that officer or person by authority A.
- (2) Where authority A is a local authority, the enactment or obligation shall not prevent or penalise the disclosure of relevant information by contractor A or an employee of his if—
- (a) the disclosure is to the authority’s chief finance officer, or a person exercising an audit function of his; and
 - (b) the information could lawfully be disclosed to that officer or person by the authority.
- (3) In this paragraph—
- “accounting officer” means an officer appointed by the Treasury under [F³⁶section 5(6) or (8) of the Government Resources and Accounts Act 2000 (resource accounts)] or section 4 of the Government Trading Funds Act M²⁸ 1973;
- “audit function”, in relation to the Comptroller, includes any function under Part II of the National Audit Act M²⁹ 1983 or Part III of the Audit

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(Northern Ireland) Order ^{M30} 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 ^{M31} 1989;

“Comptroller” means the Comptroller and Auditor General or the Comptroller and Auditor General for Northern Ireland.

Textual Amendments

F36 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

M28 1973 c. 63.

M29 1983 c. 44.

M30 S.I. 1987/460 (N.I. 5).

M31 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 31/05/2006.

Changes to legislation: Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 27 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 registrar of companies to accept delivery of any class of documents which are under any provision of the Newspaper Libel and Registration Act 1881 or the Limited Partnerships Act 1907 to be delivered to the registrar.

(2) If—

- (a) the registrar directs that documents of that class shall be delivered to a specified address of the authorised person; and
- (b) the direction is printed and made available to the public (with or without payment),

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any document of that class which is delivered to an address other than the specified address shall be treated for the purposes of that Act as not having been delivered.

- (3) In this paragraph “the registrar of companies” and “the registrar” have the same meanings as in ^{M32} the Companies Act 1985.

Marginal Citations

M32 1985 c.6.

Courts Act 1971 (c.23)

F37₂

Textual Amendments

F37 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)

C6 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))

Patents Act 1977 (c.37)

- 4 If and to the extent that an order under section 69 of this Act so provides, section 112 of the Patents Act 1977 (misuse of title “Patent Office”) shall not apply in relation to anything done by a person who is authorised by virtue of the order to exercise any function of the Comptroller-General of Patents, Designs and Trade Marks.

Rent (Scotland) Act 1984 (c.58)

- 5 At the beginning of subsection (3) of section 43 of the Rent (Scotland) Act 1984 (registration of rents under regulated tenancies) there shall be inserted the words “Subject to section 43A below, ”
- 6 After section 43 of that Act there shall be inserted the following section—

Status: Point in time view as at 31/05/2006.

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“43A Rent registration service providers.

- (1) The Secretary of State may, if he thinks fit, make arrangements (“rent registration arrangements”) with another person (a “rent registration service provider”) for the performance by that person in accordance with the arrangements of the functions mentioned in subsection (2) below.
- (2) Those functions are the functions, under this Part of this Act and section 70 of ^{M33} 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 ^{M34} of this Act (other than sections 43, 43B, 43C and this section), section 70 of the Housing (Scotland) Act 1988 and any other enactment (including an enactment contained in subordinate legislation) to a rent officer shall, as respects a registration area in relation to which rent registration arrangements are in force, be construed as references to the rent registration service provider responsible for the performance of the functions of the rent officer for that area.
- (8) A rent registration service provider may perform his functions through an employee or agent and, if he does so—
 - (a) any decision of, and anything else done or omitted to be done by or in relation to, the employee or agent shall, for the purposes of any enactment (including an enactment contained in subordinate legislation), be deemed to be a decision of or, as the case may be, done or omitted to be done by or in relation to the rent registration service provider; and
 - (b) where any enactment refers to the personal knowledge, experience or opinion of a rent officer the knowledge, experience or opinion of the employee or agent shall be deemed to be that of the rent registration service provider.
- (9) Subsection (8)(a) above is without prejudice to section 43C below.”

Marginal Citations

M33 1988 c.43.

M34 1988 c.43.

Status: Point in time view as at 31/05/2006.

Changes to legislation: Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 27 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

7 After section 43A of that Act there shall be inserted the following sections—

“43B Supplementary provisions regarding rent registration service providers.

- (1) Where—
- (a) rent registration arrangements are in force in relation to a registration area (“existing arrangements”); and
 - (b) the Secretary of State decides not to make further such arrangements in relation to that area in respect of the period following the expiry or termination of the existing arrangements,
- then, notwithstanding section 43A(3) above, he may under section 43(3) above appoint rent officers for the area, such appointments taking effect on the expiry or, as the case may be, the termination of the existing arrangements.
- (2) For the purposes of subsections (3) and (4) below, a change of responsibility takes place where—
- (a) under rent registration arrangements in relation to a registration area, a rent registration service provider assumes responsibility for the performance of functions which, immediately prior to the coming into force of the arrangements, were performed by a rent officer for the area or by another rent registration service provider; or
 - (b) a rent officer is appointed for a registration area in relation to which, immediately prior to the coming into force of the appointment, rent registration arrangements were in force.
- (3) Where a change of responsibility takes place the Secretary of State shall publish, in such manner as he considers appropriate, a notice specifying—
- (a) the registration area concerned;
 - (b) the date when the change takes effect; and
 - (c) the name and official address of the person who is rent officer or, as the case may be, rent registration service provider after that date.
- (4) Where a change of responsibility takes place—
- (a) any decision taken, and anything else done or omitted to be done in the performance of the functions mentioned in section 43A(2) above by or in relation to the person previously responsible for the performance of those functions shall have effect as if taken or, as the case may be, done or omitted to be done by or in relation to the person currently so responsible; and
 - (b) any court proceedings by or against the person previously so responsible and relating to the performance by him of those functions shall continue by or against the person currently so responsible.

43C Rent registration service providers: restrictions on disclosure of information.

- (1) Schedule 15 to the Deregulation and Contracting Out Act 1994 (restrictions on disclosure of information) shall, where contractor A within the meaning of that Schedule is a rent registration service provider, apply with the following modifications.

Status: Point in time view as at 31/05/2006.

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- (2) Without prejudice to paragraph 10(1), references to an employee of contractor A and, where contractor B within the meaning of that Schedule is also a rent registration service provider, to an employee of contractor B shall be taken to include references to an agent, and the employee of an agent, of contractor A or, as the case may be, of contractor B.
- (3) Subject to subsections (4) to (6) below, references to authority A shall be taken to be references to the rent officer for any registration area specified in the rent registration arrangements.
- (4) In paragraph 2(a), the reference to authority A shall be taken to be a reference to such a rent officer or the Secretary of State.
- (5) In paragraphs 3(2)(b), 4(2)(b), 5(b) and 8 and, in paragraph 10(1), in the definition of “ancillary services”, the reference to authority A shall be taken to be a reference to the Secretary of State.
- (6) In the definition of “related function” in paragraph 10(1), the reference to a function of authority A which is certified by that authority shall be taken to be a reference to a function of a rent officer which is certified by the Secretary of State.”

Companies Act 1985 (c.6)

8 After subsection (6) of section 704 of the Companies Act 1985 (registration offices) there shall be inserted the following subsections—

“(7) Subsection (8) below applies where by virtue of an order made under section 69 of the Deregulation and Contracting Out Act 1994 a person is authorised by the registrar of companies to accept delivery of any class of documents which are under any provision of the Companies Acts to be delivered to the registrar.

(8) If—

- (a) the registrar directs that documents of that class shall be delivered to a specified address of the authorised person; and
- (b) the direction is printed and made available to the public (with or without payment),

any document of that class which is delivered to an address other than the specified address shall be treated for the purposes of those Acts as not having been delivered.”

9 In section 735A(2) of that Act (relationship of Act to Insolvency Act), for the words “sections 704(5)” there shall be substituted the words “ sections 704(5), (7) and (8) ”.

10 In section 735B of that Act (relationship of Act to Parts IV and V of Financial Services Act 1986), for the words “sections 704(5)” there shall be substituted the words “ sections 704(5), (7) and (8) ”.

Gas Act 1986 (c.44)

Status: Point in time view as at 31/05/2006.

Changes to legislation: Deregulation and Contracting Out Act 1994 is up to date with all changes known to be in force on or before 27 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

F38 Sch. 16 paras. 11-13 repealed (1.3.1996) by 1995 c. 45, s. 17(5), Sch. 6; S.I. 1996/218, art. 2

^{F39}12

Textual Amendments

F39 Sch. 16 paras. 11-13 repealed (1.3.1996) by 1995 c. 45, s. 17(5), Sch. 6; S.I. 1996/218, art. 2

^{F40}13

Textual Amendments

F40 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 ^{M35} 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

M35 S.I. 1989/638.

Food Safety Act 1990 (c.16)

16 After subsection (5) of section 6 of the Food Safety Act 1990 (enforcement of Act) there shall be inserted the following subsection—

“(6) In this Act “authorised officer”, in relation to an enforcement authority, means any person (whether or not an officer of the authority) who is authorised by the authority in writing, either generally or specially, to act in matters arising under this Act and regulations and orders made under it; but if regulations made by the Ministers so provide, no person shall be so

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authorised unless he has such qualifications as may be prescribed by the regulations.”

- 17 In subsection (1) of section 42 of that Act (default powers)—
- (a) for the words “one of his officers” there shall be substituted the words “ a person (whether or not an officer of his) who is authorised by him in writing to do so ”; and
 - (b) there shall be inserted at the end th e words “ but if regulations made by the Ministers so provide, no person shall be so authorised unless he has such qualifications as may be prescribed by the regulations. ”
- 18 In subsection (1) of section 50 of that Act (service of documents), for the words “any officer” there shall be substituted the words “ an authorised officer ”.
- 19 In subsection (2) of section 53 of that Act (general interpretation), after the first entry there shall be inserted the following entry—

“Authorised officer of an enforcement section 6(6)”.
authority

Social Security Administration Act 1992 (c.5)

- 20 ^{F41}(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.

Textual Amendments

F41 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.”

Status: Point in time view as at 31/05/2006.

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F42 22

Textual Amendments

F42 Sch. 16 para. 22 repealed (1.7.1997) by 1997 c. 47, s. 22, Sch. 2; S.I. 1997/1577, art. 2, Sch.

F43 23

Textual Amendments

F43 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 [F44(1) After subsection (7) of section 52 of the Social Security Administration (Northern Ireland) Act 1992 (claims relating to attendance allowance, disability living allowance and disability working allowance) there shall be inserted the following subsection—

“(7A) Any reference in subsections (3) to (7) above to a medical practitioner who is an officer of the Department includes a reference to a medical practitioner who is provided by any person in pursuance of a contract entered into with the Department.”]

(2) Sub-paragraph (3) below applies where a consent given before the commencement of this Part authorises the disclosure of any information to the Department, or to a medical practitioner who is an officer of the Department.

(3) The consent shall have effect as if it also authorised the disclosure of the information—

- (a) to a medical practitioner who is provided by any person in pursuance of a contract entered into with the Department, and
- (b) if and to the extent that the Department so directs, to any employee of such a practitioner.

(4) In this paragraph—

“the Department” means the Department of Health and Social Services for Northern Ireland;

“employee”, in relation to a medical practitioner, includes any person who performs ancillary services for the practitioner, and any employee of such a person;

“medical practitioner” has the same meaning as in that Act.

Textual Amendments

F44 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—

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“(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

I7 Sch. 17 wholly in force at 1.1.1996; Sch. 17 in force for certain purposes at Royal Assent and at 3.1.1995 see s. 82(2)(3); Sch. 17 in force for certain purposes at 1.12.1994 by S.I. 1994/3037, art. 2, 3; Sch. 17 in force for certain purposes at 3.1.1995 by S.I. 1994/3188, arts. 2, 3(s); Sch. 17 in force at 1.1.1996 in so far as not already in force by S.I. 1995/2835, art. 2 (with transitional provisions in Sch.).

Chapter or Number	Title	Extent of repeal
57 & 58 Vict. c. 60.	The Merchant Shipping Act 1894.	Sections 110 to 112.
14 Geo. 6. c. 28.	The Shops Act 1950.	The whole Act.
1962 c. 35.	The Shops (Airports) Act 1962.	The whole Act.
1964 c. 26.	The Licensing Act 1964.	In section 196A(1), the word “or” at the end of paragraph (a)(ii).
1965 c. 35.	The Shops (Early Closing Days) Act 1965.	The whole Act.
1968 c. 73.	The Transport Act 1968.	In section 62(2), the words from “which” to the end of paragraph (c). In section 62(4)(b), the words “(or, so long as those sections remain in force, sections 73 and 186 of the Act of 1960)”. Section 63(5). In section 63(6), the definition of “statutory provision”. In section 69(4), in paragraph (b)(ii) the word “authorisations” and in paragraph (c) the words “or section 73 or 186 of the Act of 1960”. In section 69(6), the words “premature termination”.

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		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.
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.

Status: Point in time view as at 31/05/2006.

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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). 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).

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		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 subsection (3)(a), the words “of the land”.
1986 c. 60.	The Financial Services Act 1986.	In section 125(7), the words “section 24 of”.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 201A, in subsection (2)(c), the words “and holds a current licence for the agency”, and, in subsection (3), paragraph (b) and the word “and” immediately preceding it.
1988 c. 54.	The Road Traffic (Consequential Provisions) Act 1988.	In Schedule 3, paragraph 6(4).

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1989 c. 29.	The Electricity Act 1989.	In section 43(6), the words “applies to any particular case”.
1989 c. 38.	The Employment Act 1989.	In Schedule 6, paragraphs 3 to 5.
1989 c. 40.	The Companies Act 1989.	In Schedule 14, in paragraph 9(6), the words “section 24 of”.
1990 c. 43.	The Environmental Protection Act 1990.	In Schedule 15, paragraph 10(2)(a).
S.I. 1990/593 (N.I. 5).	The Companies (Northern Ireland) Order 1990.	In Schedule 14, in paragraph 9(6), the words “section 24 of”.
1992 c. 41.	The Charities Act 1992.	Section 67(3)(b) and the word “but” immediately preceding it.
S.I. 1992/231 (N.I. 1).	The Electricity (Northern Ireland) Order 1992.	In Article 46(6), the words “applies to any particular case”.
1993 c. 10.	The Charities Act 1993.	Section 47(3)(a).
1993 c. 19.	The Trade Union Reform and Employment Rights Act 1993.	In Schedule 8, paragraph 14(b).
1993 c. 43.	The Railways Act 1993.	In section 67(8), the words “applies to any particular case”.
1994 c. 20.	The Sunday Trading Act 1994.	Section 5. In Schedule 4, paragraph 23.

Status:

Point in time view as at 31/05/2006.

Changes to legislation:

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