



Banking Act 2009

2009 CHAPTER 1

PART 5

^{F1} ... PAYMENT SYSTEMS

Enforcement

193 Inspection

- (1) The Bank of England may appoint one or more persons to inspect the operation of a recognised ^{F1}... payment system [^{F2}or the provision of services to such a system by a service provider].
- (2) The operator of a recognised ^{F1}... payment system [^{F3}, or a service provider in relation to such a system,] must—
 - (a) grant an inspector access, on request and at any reasonable time, to premises on or from which any part of the system is operated [^{F4}or (as the case may be) premises on or from which any part of the services is provided], and
 - (b) otherwise co-operate with an inspector.

Textual Amendments

- F1** Word in s. 193(1)(2) omitted (27.6.2017) by virtue of [Digital Economy Act 2017 \(c. 30\), s. 118\(2\), Sch. 9 para. 15](#)
- F2** Words in s. 193(1) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(13)(a)**
- F3** Words in s. 193(2) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(13)(b)(i)**
- F4** Words in s. 193(2)(a) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(13)(b)(ii)**

Commencement Information

- I1** S. 193 in force at 31.12.2009 by [S.I. 2009/3000](#), art. 4, [Sch. para. 2](#)

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194 Inspection: warrant

- (1) A justice of the peace may on the application of an inspector issue a warrant entitling an inspector or a constable to enter premises if—
 - [^{F5}(a) there is conducted on the premises any part of the management or operation of—
 - (i) a recognised payment system (whether by an operator of the system or by someone providing services used by an operator), or
 - (ii) a service provider in relation to a recognised payment system, and]
 - (b) any of the following conditions is satisfied.
- (2) Condition 1 is that—
 - (a) a requirement under section 204 in connection with the payment system [^{F6}or the service provider] has not been complied with, and
 - (b) there is reason to believe that information relevant to the requirement is on the premises.
- (3) Condition 2 is that there is reason to suspect that if a requirement under section 204 were imposed in connection with the payment system [^{F7}or the service provider] in respect of information on the premises—
 - (a) the requirement would not be complied with, and
 - (b) the information would be destroyed or otherwise tampered with.
- (4) Condition 3 is that an inspector—
 - (a) gave reasonable notice of a wish to enter the premises, and
 - (b) was refused entry.
- (5) Condition 4 is that a person occupying or managing the premises has failed to co-operate with an inspector.
- (6) A warrant—
 - (a) permits an inspector or a constable to enter the premises,
 - (b) permits an inspector or a constable to search the premises and copy or take possession of information or documents, and
 - (c) permits a constable to use reasonable force.
- (7) Sections 15(5) to (8) and 16 of the Police and Criminal Evidence Act 1984 (warrants: procedure) apply to warrants under this section.
- (8) In the application of this section to Scotland—
 - (a) the reference to a justice of the peace includes a reference to a sheriff, and
 - (b) ignore subsection (7).
- (9) In the application of this section to Northern Ireland—
 - (a) the reference to a justice of the peace is a reference to a lay magistrate, and
 - (b) the reference to sections 15(5) to (8) and 16 of the Police and Criminal Evidence Act 1984 is a reference to the equivalent provisions of the Police and Criminal Evidence (Northern Ireland) Order 1989.

Textual Amendments

- F5** S. 194(1)(a) substituted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(14)(a)**

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- F6** Words in s. 194(2)(a) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(14)(b)**
- F7** Words in s. 194(3) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(14)(b)**

Commencement Information

- I2** S. 194 in force at 31.12.2009 by [S.I. 2009/3000](#), art. 4, **Sch. para. 2**

195 Independent report

- (1) The Bank of England may require
- [^{F8}(a)]** the operator of a recognised ^{F9}... payment system to appoint an expert to report on the operation of the system ^{F10}; or
 - (b) a service provider in relation to a recognised payment system to appoint an expert to report on the provision of services to the system.]
- (2) The Bank may impose a requirement only if it thinks—
- (a) the operator ^{F11}[or service provider] is not taking sufficient account of principles published by the Bank under section 188,
 - (b) the operator ^{F12}[or service provider] is failing to comply with a code of practice under section 189, or
 - (c) the report is likely for any other reason to assist the Bank in the performance of its functions under this Part.
- (3) The Bank may impose requirements about—
- (a) the nature of the expert to be appointed;
 - (b) the content of the report;
 - (c) treatment of the report (including disclosure and publication);
 - (d) timing.

Textual Amendments

- F8** S. 195(1)(a): words in s. 195(1) renumbered as s. 195(1)(a) (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(15)(a)(i)**
- F9** Word in s. 195(1) omitted (27.6.2017) by virtue of [Digital Economy Act 2017 \(c. 30\)](#), s. 118(2), **Sch. 9 para. 17**
- F10** S. 195(1)(b) and word inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(15)(a)(ii)**
- F11** Words in s. 195(2)(a) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(15)(b)**
- F12** Words in s. 195(2)(b) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(15)(b)**

Commencement Information

- I3** S. 195 in force at 31.12.2009 by [S.I. 2009/3000](#), art. 4, **Sch. para. 2**

196 Compliance failure

In this Part “compliance failure” means a failure by the operator of a recognised ^{F13}... payment system ^{F14}, or a service provider in relation to such a system,] to—

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- (a) comply with a code of practice under section 189,
- (b) comply with a requirement under section 190,
- (c) comply with a direction under section 191, or
- (d) ensure compliance with a requirement under section 195.

Textual Amendments

- F13** Word in s. 196 omitted (27.6.2017) by virtue of [Digital Economy Act 2017 \(c. 30\), s. 118\(2\)](#), [Sch. 9 para. 18](#)
- F14** Words in s. 196 inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), [2\(16\)](#)

Commencement Information

- I4** S. 196 in force at 31.12.2009 by [S.I. 2009/3000](#), art. 4, [Sch. para. 2](#)

197 Publication

- (1) The Bank of England may publish details of a compliance failure by the operator of a recognised ^{F15}... payment system [^{F16}or a service provider in relation to such a system].
- (2) The Bank may publish details of a sanction imposed under sections 198 to 200.

Textual Amendments

- F15** Word in s. 197(1) omitted (27.6.2017) by virtue of [Digital Economy Act 2017 \(c. 30\), s. 118\(2\)](#), [Sch. 9 para. 19](#)
- F16** Words in s. 197(1) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), [2\(17\)](#)

Modifications etc. (not altering text)

- C1** S. 197 applied by 2013 c. 33, s. 124A(8) (as inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\), s. 49\(1\)](#), [Sch. 9 para. 49\(3\)](#) (with ss. 2(2), 5(2)))

Commencement Information

- I5** S. 197 in force at 31.12.2009 by [S.I. 2009/3000](#), art. 4, [Sch. para. 2](#)

198 Penalty

- (1) The Bank of England may require the operator of a recognised ^{F17}... payment system [^{F18}, or a service provider in relation to such a system,] to pay a penalty in respect of a compliance failure.
- (2) A penalty—
 - (a) must be paid to the Bank of England, and
 - (b) may be enforced by the Bank as a debt.
- (3) The Bank must prepare a statement of the principles which it will apply in determining—
 - (a) whether to impose a penalty, and
 - (b) the amount of a penalty.

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- (4) The Bank must—
- (a) publish the statement on its internet website,
 - (b) send a copy to the Treasury,
 - (c) review the statement from time to time and revise it if necessary (and paragraphs (a) and (b) apply to a revision), and
 - (d) in applying the statement to a compliance failure, apply the version in force when the failure occurred.

Textual Amendments

F17 Word in s. 198(1) omitted (27.6.2017) by virtue of [Digital Economy Act 2017 \(c. 30\), s. 118\(2\), Sch. 9 para. 20](#)

F18 Words in s. 198(1) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(18)**

Modifications etc. (not altering text)

C2 [S. 198](#) applied by 2013 c. 33, s. 124A(8) (as inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\), s. 49\(1\), Sch. 9 para. 49\(3\)](#) (with ss. 2(2), 5(2)))

Commencement Information

I6 [S. 198](#) in force at 31.12.2009 by [S.I. 2009/3000](#), art. 4, [Sch. para. 2](#)

199 Closure

- (1) This section applies if the Bank of England thinks that a compliance failure—
- (a) threatens the stability of, or confidence in, the UK financial system, or
 - (b) has serious consequences for business or other interests throughout the United Kingdom.
- (2) The Bank may give the operator of the ^{F19}... payment system concerned [^{F20}, or the service provider concerned,] an order to stop operating the system [^{F21}or (as the case may be) providing services to a recognised payment system] (a “closure order”)—
- (a) for a specified period,
 - (b) until further notice, or
 - (c) permanently.
- (3) A closure order may apply to—
- (a) all activities of the payment system [^{F22}or all services provided to a recognised payment system by the service provider], or
 - (b) specified activities [^{F23}or specified services].
- [^{F24}(3A) Before giving a closure order to a service provider, the Bank must have regard to the public interest in the continued operation of each recognised payment system in relation to which the service provider is specified under section 206A(2)(b).]
- (4) An operator [^{F25}or service provider] who fails to comply with a closure order commits an offence.
- (5) A person guilty of an offence is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
 - (b) on conviction on indictment, to a fine.

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Textual Amendments

- F19** Word in s. 199(2) omitted (27.6.2017) by virtue of [Digital Economy Act 2017 \(c. 30\), s. 118\(2\), Sch. 9 para. 21](#)
- F20** Words in s. 199(2) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\), arts. 1\(2\), 2\(19\)\(a\)\(i\)](#)
- F21** Words in s. 199(2) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\), arts. 1\(2\), 2\(19\)\(a\)\(ii\)](#)
- F22** Words in s. 199(3)(a) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\), arts. 1\(2\), 2\(19\)\(b\)\(i\)](#)
- F23** Words in s. 199(3)(b) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\), arts. 1\(2\), 2\(19\)\(b\)\(ii\)](#)
- F24** S. 199(3A) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\), arts. 1\(2\), 2\(19\)\(c\)](#)
- F25** Words in s. 199(4) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\), arts. 1\(2\), 2\(19\)\(d\)](#)

Commencement Information

- I7** S. 199 in force at 31.12.2009 by [S.I. 2009/3000, art. 4, Sch. para. 2](#)

200 Management disqualification

- (1) The Bank of England may by order prohibit a specified person from being an operator of a recognised ^{F26}... payment system—
- for a specified period,
 - until further notice, or
 - permanently.
- (2) The Bank may by order prohibit a specified person from holding an office or position involving responsibility for taking decisions about the management of a recognised ^{F26}... payment system [^{F27}or about the management of a service provider in relation to such a system]—
- for a specified period,
 - until further notice, or
 - permanently.
- [^{F28}(2A) Before making an order under subsection (2) in respect of a service provider, the Bank must have regard to the public interest in the continued operation of each recognised payment system in relation to which the service provider is specified under section 206A(2)(b).]
- (3) A person who breaches a prohibition under subsection (1) or (2) commits an offence.
- (4) A person guilty of an offence is liable—
- on summary conviction, to a fine not exceeding the statutory maximum, or
 - on conviction on indictment, to a fine.

Textual Amendments

- F26** Word in s. 200(1)(2) omitted (27.6.2017) by virtue of [Digital Economy Act 2017 \(c. 30\), s. 118\(2\), Sch. 9 para. 22](#)

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- F27** Words in s. 200(2) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(20)(a)**
- F28** S. 200(2A) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(20)(b)**

Commencement Information

- I8** S. 200 in force at 12.11.2009 for specified purposes and 31.12.2009 in so far as not already in force by [S.I. 2009/3000](#), arts. 2, 4, [Sch. para. 2](#)

201 Warning

- (1) Before imposing a sanction on the operator of [^{F29}a] payment system [^{F30}, on a service provider in relation to such a system] or on another person the Bank of England must—
- give the operator [^{F31}, service provider] or other person a notice (a “warning notice”),
 - give the operator [^{F32}, service provider] or other person at least 21 days to make representations,
 - consider any representations made, and
 - as soon as is reasonably practicable, give the operator [^{F33}, service provider] or other person a notice stating whether or not the Bank intends to impose the sanction.

- [^{F34}(1A) Before imposing a sanction on a person who is a service provider in relation to a recognised payment system the Bank must also—
- give the operator of the payment system a notice (a “warning notice”),
 - give the operator at least 21 days to make representations,
 - consider any representations made, and
 - as soon as reasonably practicable, give the operator a notice stating whether the Bank intends to impose the sanction.]

- (2) In [^{F35}subsections (1) and (1A)] “imposing a sanction” means—
- publishing details under section 197(1),
 - requiring the payment of a penalty under section 198,
 - giving a closure order under section 199, or
 - making an order under section 200.
- (3) Despite [^{F36}subsections (1) and (1A)], if satisfied that it is necessary the Bank may without notice—
- give a closure order under section 199, or
 - make an order under section 200.

Textual Amendments

- F29** Word in s. 201(1) substituted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\)](#), s. 118(2), [Sch. 9 para. 23](#)
- F30** Words in s. 201(1) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(21)(a)(i)**
- F31** Words in s. 201(1)(a) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(21)(a)(ii)**

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- F32** Words in s. 201(1)(b) inserted (30.11.2017) by The Banking Act 2009 (Service Providers to Payment Systems) Order 2017 (S.I. 2017/1167), arts. 1(2), **2(21)(a)(ii)**
- F33** Words in s. 201(1)(d) inserted (30.11.2017) by The Banking Act 2009 (Service Providers to Payment Systems) Order 2017 (S.I. 2017/1167), arts. 1(2), **2(21)(a)(ii)**
- F34** S. 201(1A) inserted (30.11.2017) by The Banking Act 2009 (Service Providers to Payment Systems) Order 2017 (S.I. 2017/1167), arts. 1(2), **2(21)(b)**
- F35** Words in s. 201(2) substituted (30.11.2017) by The Banking Act 2009 (Service Providers to Payment Systems) Order 2017 (S.I. 2017/1167), arts. 1(2), **2(21)(c)**
- F36** Words in s. 201(3) substituted (30.11.2017) by The Banking Act 2009 (Service Providers to Payment Systems) Order 2017 (S.I. 2017/1167), arts. 1(2), **2(21)(c)**

Modifications etc. (not altering text)

- C3** S. 201 applied by 2013 c. 33, s. 124A(8) (as inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 49(3)** (with ss. 2(2), 5(2)))

Commencement Information

- I9** S. 201 in force at 12.11.2009 for specified purposes and 31.12.2009 in so far as not already in force by S.I. 2009/3000, arts. 2, 4, **Sch. para. 2**

202 Appeal

- (1) Where the Bank of England notifies a person under section 201(1)(d) [^{F37}or (1A)(d)] that the Bank intends to impose a sanction, the person may appeal to the [^{F38}Upper Tribunal].
- (2) Where the Bank of England imposes a sanction on a person without notice in reliance on section 201(3), the person [^{F39}and, if the person is a service provider in relation to a recognised payment system, the operator of the payment system,] may appeal to the [^{F40}Upper Tribunal].
- [^{F41}(3) The Bank of England may not impose a sanction while an appeal under this section could be brought or is pending.]

Textual Amendments

- F37** Words in s. 202(1) inserted (30.11.2017) by The Banking Act 2009 (Service Providers to Payment Systems) Order 2017 (S.I. 2017/1167), arts. 1(2), **2(22)(a)**
- F38** Words in s. 202(1) substituted (6.4.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(2)(e), **Sch. 2 para. 151(a)** (with Sch. 5)
- F39** Words in s. 202(2) inserted (30.11.2017) by The Banking Act 2009 (Service Providers to Payment Systems) Order 2017 (S.I. 2017/1167), arts. 1(2), **2(22)(b)**
- F40** Words in s. 202(2) substituted (6.4.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(2)(e), **Sch. 2 para. 151(a)** (with Sch. 5)
- F41** S. 202(3) substituted (6.4.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(2)(e), **Sch. 2 para. 151(b)** (with Sch. 5)

Modifications etc. (not altering text)

- C4** S. 202 applied by 2013 c. 33, s. 124A(8) (as inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 49(3)** (with ss. 2(2), 5(2)))

Commencement Information

- I10** S. 202 in force at 31.12.2009 by S.I. 2009/3000, art. 4, **Sch. para. 2**

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[^{F42}202A Injunctions

- (1) If, on the application of the Bank of England, the court is satisfied—
 - (a) that there is a reasonable likelihood that there will be a compliance failure, or
 - (b) that there has been a compliance failure and there is a reasonable likelihood that it will continue or be repeated,the court may make an order restraining the conduct constituting the failure.
- (2) If, on the application of the Bank of England, the court is satisfied—
 - (a) that there has been a compliance failure by the operator of a recognised ^{F43}... payment system [^{F44}or a service provider in relation to such a system], and
 - (b) that there are steps which could be taken for remedying the failure,the court may make an order requiring the operator [^{F45}or service provider], and anyone else who appears to have been knowingly concerned in the failure, to take such steps as the court may direct to remedy it.
- (3) If, on the application of the Bank of England, the court is satisfied—
 - (a) that there may have been a compliance failure by the operator of a recognised ^{F46}... payment system [^{F47}or a service provider in relation to such a system], or
 - (b) that a person may have been knowingly concerned in a compliance failure,the court may make an order restraining the operator [^{F48}, service provider] or person from dealing with any assets which it is satisfied the operator [^{F48}, service provider] or person is reasonably likely to deal with.
- (4) The jurisdiction conferred by this section is exercisable—
 - (a) in England and Wales and Northern Ireland, by the High Court, and
 - (b) in Scotland, by the Court of Session.
- (5) In this section—
 - (a) references to an order restraining anything are, in Scotland, to be read as references to an interdict prohibiting that thing,
 - (b) references to remedying a failure include mitigating its effect, and
 - (c) references to dealing with assets include disposing of them.]

Textual Amendments

- F42** S. 202A inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 104(7)**, 122(3) (with Sch. 20); [S.I. 2013/423](#), art. 3, Sch.
- F43** Word in s. 202A(2)(a) omitted (27.6.2017) by virtue of [Digital Economy Act 2017 \(c. 30\)](#), s. 118(2), **Sch. 9 para. 24**
- F44** Words in s. 202A(2)(a) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(23)(a)**
- F45** Words in s. 202A(2) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(23)(b)**
- F46** Word in s. 202A(3)(a) omitted (27.6.2017) by virtue of [Digital Economy Act 2017 \(c. 30\)](#), s. 118(2), **Sch. 9 para. 24**
- F47** Words in s. 202A(3)(a) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(23)(a)**
- F48** Words in s. 202A(3) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(23)(c)**

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Modifications etc. (not altering text)

- C5** S. 202A applied by 2013 c. 33, s. 124A(8) (as inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), Sch. 9 para. 49(3) (with ss. 2(2), 5(2)))

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