

SCHEDULES

SCHEDULE 1

Section 5.

POWERS TO IMPROVE ENFORCEMENT PROCEDURES

Explanation of suggested remedial action

- 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.

Explanation of immediate enforcement action etc.

- 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,
- 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.

Right to make representations

- 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

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- (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.

Explanation of right of appeal

- 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.

Application of provisions to other interested persons

- 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.

SCHEDULE 2

Section 7.

SECTION 7: SECTORAL REGULATORS

Telecommunications

- 1 (1) The Director General of Telecommunications shall be entitled to exercise, concurrently with the Director General of Fair Trading, the functions of that Director under the provisions inserted in the Fair Trading Act 1973 by section 7 above, so far as relating to monopoly situations which exist or may exist in relation to commercial activities connected with telecommunications; and references in those provisions to that Director shall be construed accordingly.

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- (2) In sub-paragraph (1) above, “commercial activities connected with telecommunications” has the same meaning as in the Telecommunications Act 1984.
- 2 In section 50(4) of the Telecommunications Act 1984 (which makes provision about the exercise of functions exercised concurrently by the Director General of Fair Trading and the Director General of Telecommunications) after paragraph (c) there shall be inserted “and
- (d) paragraph 1 of Schedule 2 to the Deregulation and Contracting Out Act 1994,”.
- 3 In section 50(6) of the Telecommunications Act 1984 (power of Secretary of State to determine any question as to the application of certain provisions) after “above” there shall be inserted “or paragraph 1 of Schedule 2 to the Deregulation and Contracting Out Act 1994”.

Electricity

- 4 (1) The Director General of Electricity Supply shall be entitled to exercise, concurrently with the Director General of Fair Trading, the functions of that Director under the provisions inserted in the Fair Trading Act 1973 by section 7 above, so far as relating to monopoly situations which exist or may exist in relation to commercial activities connected with the generation, transmission or supply of electricity; and references in those provisions to that Director shall be construed accordingly.
- (2) In sub-paragraph (1) above, “commercial activities connected with the generation, transmission or supply of electricity” has the same meaning as in section 43(2) of the Electricity Act 1989.
- 5 (1) The Director General of Electricity Supply for Northern Ireland shall be entitled to exercise, concurrently with the Director General of Fair Trading, the functions of that Director under the provisions inserted in the Fair Trading Act 1973 by section 7 above, so far as relating to monopoly situations which exist or may exist in relation to commercial activities connected with the generation, transmission or supply of electricity; and references in those provisions to that Director shall be construed accordingly.
- (2) In sub-paragraph (1) above, “commercial activities connected with the generation, transmission or supply of electricity” has the same meaning as in Article 46(2) of the Electricity (Northern Ireland) Order 1992.
- 6 (1) In section 43(4) of the Electricity Act 1989 (which makes provision about the exercise of functions exercised concurrently by the Director General of Fair Trading and the Director General of Electricity Supply) after paragraph (c) there shall be inserted “and
- (d) paragraph 4 of Schedule 2 to the Deregulation and Contracting Out Act 1994,”.
- (2) In Article 46(4) of the Electricity (Northern Ireland) Order 1992 (which makes similar provision in relation to the Director General of Fair Trading and the Director General of Electricity Supply for Northern Ireland) after sub-paragraph (c) there shall be inserted “and
- (d) paragraph 5 of Schedule 2 to the Deregulation and Contracting Out Act 1994,”.

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- 7 (1) In section 43(6) of the Electricity Act 1989 (power of Secretary of State to determine any question as to the application of certain provisions) after “above” there shall be inserted “or paragraph 4 of Schedule 2 to the Deregulation and Contracting Out Act 1994”.
- (2) In Article 46(6) of the Electricity (Northern Ireland) Order 1992 (corresponding power of Department of Economic Development) after “(3)” there shall be inserted “or paragraph 5 of Schedule 2 to the Deregulation and Contracting Out Act 1994”.

Water

- 8 (1) The Director General of Water Services shall be entitled to exercise, concurrently with the Director General of Fair Trading, the functions of that Director under the provisions inserted in the Fair Trading Act 1973 by section 7 above, so far as relating to monopoly situations which exist or may exist in relation to commercial activities connected with the supply of water or the provision of sewerage services.
- (2) In sub-paragraph (1) above, “commercial activities connected with the supply of water or the provision of sewerage services” has the same meaning as in section 31(2) of the Water Industry Act 1991.

9 So far as necessary for the purposes of, or in connection with, sub-paragraph (1) of paragraph 8 above, the references to the Director General of Fair Trading in the provisions mentioned in that sub-paragraph shall be construed as if they were or, as the case may require, as if they included references to the Director General of Water Services.

- 10 (1) Section 31 of the Water Industry Act 1991 shall be amended as follows.
- (2) In subsection (5) (duty to consult other Director in case of functions exercisable concurrently by Director General of Water Services and Director General of Fair Trading) after “subsection (3) above” there shall be inserted “or in paragraph 8 of Schedule 2 to the Deregulation and Contracting Out Act 1994”.
- (3) In subsection (6) (exercise of function by one Director to exclude exercise in the same matter by the other Director)—
- (a) after the words “subsection (3) above”, in the first place where they occur, there shall be inserted “or in paragraph 8 of Schedule 2 to the Deregulation and Contracting Out Act 1994”, and
 - (b) for “that paragraph or, as the case may be, in subsection (3) above” there shall be substituted “that provision”.
- (4) In subsection (8) (power of Secretary of State to determine any question as to the application of certain provisions) after “above” there shall be inserted “or paragraph 8 of Schedule 2 to the Deregulation and Contracting Out Act 1994”.

Railways

- 11 (1) The Rail Regulator shall be entitled to exercise, concurrently with the Director General of Fair Trading, the functions of that Director under the provisions inserted in the Fair Trading Act 1973 by section 7 above, so far as relating to monopoly situations which exist or may exist in relation to the supply of railway services; and references in those provisions to the Director shall be construed accordingly.

- (2) In sub-paragraph (1) above, “the supply of railway services” has the same meaning as in section 67(2) of the Railways Act 1993.
- 12 In section 67(4) of the Railways Act 1993 (which makes provision about the exercise of functions exercised concurrently by the Director General of Fair Trading and the Rail Regulator) after paragraph (c) there shall be inserted “and
(d) paragraph 11 of Schedule 2 to the Deregulation and Contracting Out Act 1994,”.
- 13 In section 67(8) of the Railways Act 1993 (power of Secretary of State to determine any question as to the application of certain provisions) after “above” there shall be inserted “or paragraph 11 of Schedule 2 to the Deregulation and Contracting Out Act 1994”.
- 14 Section 93B of the Fair Trading Act 1973 (offences of furnishing false or misleading information in connection with functions of the Director General of Fair Trading under Part IV of that Act) shall have effect, so far as relating to functions exercisable by the Rail Regulator by virtue of paragraph 11 above, as if the reference in subsection (1)(a) of that section to the Director included a reference to the Rail Regulator.

Interpretation

- 15 Expressions used in this Schedule which are also used in the Fair Trading Act 1973 have the same meanings as in that Act.

SCHEDULE 3

Section 10.

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

The Restrictive Trade Practices Act 1976 shall be amended as follows.

- 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.
- (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.”

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

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

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

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

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

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

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

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

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

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

(6) In paragraph 5(1) after entry (c) in the Table there shall be inserted—

“(ca) Agreement which ceases to be a non-notifiable agreement.

Within 1 month from the day on which the agreement so ceases.”

SCHEDULE 4

Section 12.

SECTION 12: SECTORAL REGULATORS AND TRANSITION

Sectoral regulators

1 The amendments of the Competition Act 1980 made by section 12(1) to (6) above, together with the consequential amendments of that Act made by paragraph 4(2) to (6) of Schedule 11 to this Act, shall have effect, not only in relation to the jurisdiction of the Director General of Fair Trading under the provisions amended, but also in relation to the jurisdiction under those provisions of each of the following—

- (a) the Director General of Telecommunications,
- (b) the Director General of Electricity Supply,
- (c) the Director General of Electricity Supply for Northern Ireland,
- (d) the Director General of Water Services, and
- (e) the Rail Regulator.

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- 2 In each of the following, namely—
- (a) section 50(4) of the Telecommunications Act 1984,
 - (b) section 43(4) of the Electricity Act 1989,
 - (c) Article 46(4) of the Electricity (Northern Ireland) Order 1992, and
 - (d) section 67(4) of the Railways Act 1993,
- (which make provision about the exercise of functions exercised concurrently by the Director General of Fair Trading and the sectoral regulator concerned) for “transferred by”, in each place, there shall be substituted “mentioned in”.
- 3 In each of the following, namely—
- (a) section 50(6) of the Telecommunications Act 1984,
 - (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.
- 4 In section 67(8) of the Railways Act 1993 (corresponding provision in relation to the jurisdiction of the Rail Regulator) 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.

Transition

- 5 (1) Where, immediately before the relevant day, an investigation under section 3 of the Competition Act 1980 has commenced and is being proceeded with, that Act shall, so far as concerns—
- (a) further proceeding with the investigation,
 - (b) publishing, after completion of the investigation, such a report as is mentioned in subsection (10) of that section, and
 - (c) taking action in consequence of the report,
- have effect as if this Act had not been passed.
- (2) For the purposes of this paragraph, an investigation under section 3 of the Competition Act 1980 shall be taken to have commenced once the authority by whom it is to be carried out has performed the duties which subsection (2) of that section requires him to perform before carrying out the investigation.
- 6 Where, immediately before the relevant day, an investigation has been completed, but no such report as is mentioned in section 3(10) of the Competition Act 1980 has yet been published, that Act shall, so far as concerns—
- (a) publishing such a report, and
 - (b) taking action in consequence of it,
- have effect as if this Act had not been passed.
- 7 Where, immediately before the relevant day, the authority by whom an investigation under section 3 of the Competition Act 1980 has been carried out is considering what action to take in consequence of a report published under subsection (10) of

that section, that Act shall, so far as concerns taking action in consequence of the report, have effect as if this Act had not been passed.

- 8 In paragraphs 5 to 7 above, “relevant day” means the day on which section 12 above comes into force.

SCHEDULE 5

Section 13(1).

STRIKING OFF OF NON-TRADING PRIVATE COMPANIES: GREAT BRITAIN

The Companies Act 1985 shall be amended as follows.

- 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

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- 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.
- (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 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 Act 1986,
 - (b) meetings summoned under that section fail to approve the arrangement with no, or the same, modifications,

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- (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,
 - (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.

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- (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;
 - (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 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.

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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 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.
- (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.

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- (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
 - (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.”
- 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.

Status: This is the original version (as it was originally enacted).

(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)—

- (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

The Companies (Northern Ireland) Order 1986 shall be amended as follows.

Status: This is the original version (as it was originally enacted).

2 After Article 603 there shall be inserted—

“Registrar may strike private company off register on application

- (1) 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

- (1) 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: This is the original version (as it was originally enacted).

- (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 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 (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,

Status: This is the original version (as it was originally enacted).

- (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

- (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;

- (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 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

- (1) For the purposes of section 24 of 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—
- “(b) 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 dealings in relation to a matter by virtue of which he is a creditor of the company.”

Status: This is the original version (as it was originally enacted).

- (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

- (1) 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

- (1) 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.”
- 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.”

Status: This is the original version (as it was originally enacted).

(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”.

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	1. On indictment. 2. Summary.	A fine. The statutory maximum.

Status: This is the original version (as it was originally enacted).

	application under Article 603A.		
603F(2)	Person making false application under Article 603A.	1. On indictment. 2. Summary.	A fine. The statutory maximum.”

SCHEDULE 7

Section 19.

CHILDREN’S CERTIFICATES: SUPPLEMENTARY PROVISIONS

“SCHEDULE 12A

CHILDREN’S CERTIFICATES: SUPPLEMENTARY PROVISIONS

Applications

- 1 (1) Licensing justices shall not entertain an application for a children’s certificate unless the applicant has, at least 21 days before the commencement of the licensing sessions at which the application is to be made, given to the clerk to the justices and to the chief officer of police notice of his intention to make the application.
- (2) Notice under sub-paragraph (1) of this paragraph shall—
 - (a) be in writing and be signed by the applicant or his authorised agent, and
 - (b) state the situation of the premises where the area to which the application relates is to be found.
- (3) If the premises mentioned in sub-paragraph (2)(b) of this paragraph include a bar which is not included in the area to which the application relates, licensing justices may decline to entertain the application until the applicant has lodged a plan of the premises indicating the area to which the application relates.
- 2 (1) Where a chief officer of police wishes to oppose an application for a children’s certificate, he must give notice of his intention to do so to the applicant and to the clerk to the licensing justices at least 7 days before the commencement of the licensing sessions at which the application is to be made.
- (2) Notice under sub-paragraph (1) of this paragraph shall be in writing and specify in general terms the grounds of the opposition.

Refusal

- 3 Where licensing justices refuse an application for a children’s certificate, they shall specify their reasons in writing to the applicant.

Conditions

- 4 (1) It shall be a condition of the grant of a children’s certificate that meals and beverages other than intoxicating liquor are available for sale for consumption in the area to which the certificate relates at all times when the certificate is operational.

Status: This is the original version (as it was originally enacted).

- (2) Licensing justices may impose such other conditions on the grant of a children’s certificate as they think fit.
- (3) Without prejudice to the generality of sub-paragraph (2) of this paragraph, conditions under that sub-paragraph may restrict the hours during which, or days on which, the certificate is operational.

When operational

- 5 (1) Subject to any condition attached by the licensing justices and to sub-paragraph (2) of this paragraph, a children’s certificate shall be operational at any time up to nine in the evening.
- (2) Licensing justices may, in relation to a children’s certificate, approve a later time than nine in the evening as the time when the certificate ceases to be operational, and may do so either generally or for particular days or periods.
- (3) Licensing justices may only act under sub-paragraph (2) of this paragraph on the application of the appropriate person, but an approval under that provision need not correspond with the applicant’s proposals.
- (4) In sub-paragraph (3) of this paragraph, the reference to the appropriate person is—
 - (a) in the case of an application with respect to an existing children’s certificate, to the holder of the justices’ licence for the licensed premises to which the certificate relates, and
 - (b) in the case of an application made in conjunction with an application for a children’s certificate, to the applicant for the certificate.

Duration

- 6 A children’s certificate shall remain in force until revoked.
- 7 (1) Licensing justices may, on their own motion or on application by the chief officer of police, revoke a children’s certificate if they are satisfied—
 - (a) that the area to which the certificate relates does not constitute an environment in which it is suitable for persons under fourteen to be present, or
 - (b) that there has been a serious or persistent failure to comply with one or more conditions attached to the certificate.
- (2) When acting on their own motion, licensing justices may only revoke a children’s certificate if, at least 21 days before the commencement of the licensing sessions at which they propose to revoke the certificate, they have given notice of their intention to do so to the holder of the justices’ licence for the licensed premises to which the certificate relates.
- (3) When acting on application by the chief officer of police, licensing justices may only revoke a children’s certificate if, at least 21 days before the commencement of the licensing sessions at which the application is to be made, the chief officer of police has given—
 - (a) to the clerk to the licensing justices, and
 - (b) to the holder of the justices’ licence for the licensed premises to which the certificate relates,

Status: This is the original version (as it was originally enacted).

notice of his intention to apply for the revocation of the certificate.

(4) Notice under sub-paragraph (2) or (3) of this paragraph shall be in writing and specify in general terms the grounds for the proposed revocation.

8 If the holder of the justices' licence for the licensed premises to which a children's certificate relates gives—

- (a) to the clerk to the licensing justices, and
- (b) to the chief officer of police,

at least fourteen days notice in writing of a day on which he wishes the certificate to cease to be in force, it shall be treated as revoked on that day.

9 A children's certificate shall be treated as revoked on the day on which the area to which it relates ceases to be comprised in premises for which a justices' licence is in force.

Appeals

10 (1) Any applicant for a children's certificate who is aggrieved by a decision of licensing justices—

- (a) refusing to grant a certificate, or
- (b) as to the conditions attached to the grant of a certificate,

may appeal to the Crown Court against the decision.

(2) Any applicant for an extension of the time when a children's certificate is operational who is aggrieved by a decision of licensing justices with respect to his application may appeal to the Crown Court against the decision.

(3) Any holder of a justices' licence who is aggrieved by a decision of licensing justices revoking a children's certificate relating to the licensed premises may appeal to the Crown Court against the decision.

(4) The judgment of the Crown Court on any appeal under this paragraph shall be final.

11 Where the Crown Court—

- (a) has awarded costs against an appellant under paragraph 10 of this Schedule, and

(b) is satisfied that the licensing justices cannot recover those costs from him, it shall order payment out of central funds of such sums as appear to it sufficient to indemnify the licensing justices from all costs and charges whatever to which they have been put in consequence of the appellant's notice of appeal.”

SCHEDULE 8

Section 20.

SCHEDULE TO BE INSERTED IN THE BETTING, GAMING
AND LOTTERIES ACT 1963 AFTER SCHEDULE 5

“SCHEDULE 5A

RIGHTS OF BETTING WORKERS AS RESPECTS SUNDAY WORKING

General interpretation

- 1 (1) In this Schedule, except where a contrary intention appears—
- “the 1978 Act” means the Employment Protection (Consolidation) Act 1978;
- “betting transaction” includes the collection or payment of winnings on a bet and any transaction in which one or more of the parties is acting as a bookmaker;
- “betting work” means—
- (a) work at a track in England or Wales for a bookmaker on a day on which the bookmaker acts as such at the track, being work which consists of or includes dealing with betting transactions, and
 - (b) work in a licensed betting office in England or Wales on a day on which the office is open for use for the effecting of betting transactions;
- “betting worker” means an employee who, under his contract of employment, is required to do betting work or may be required to do such work;
- “bookmaker” means any person who—
- (a) whether on his own account or as servant or agent to any other person, carries on, whether occasionally or regularly, the business of receiving or negotiating bets or conducting pool betting operations; or
 - (b) by way of business in any manner holds himself out, or permits himself to be held out, as a person who receives or negotiates bets or conducts such operations;
- “the commencement date” means the day on which this Schedule comes into force;
- “dismissal” has the same meaning as in Part V of the 1978 Act;
- “notice period”, in relation to an opting-out notice, has the meaning given by paragraph 6 below;
- “opted-out”, in relation to a betting worker, shall be construed in accordance with paragraph 5 below;
- “opting-in notice” has the meaning given by paragraph 3(2) below;
- “opting-out notice” has the meaning given by paragraph 4(3) below;
- “protected”, in relation to a betting worker, shall be construed in accordance with paragraphs 2 and 3 below.
- (2) Subject to sub-paragraph (3) below, the following provisions of the 1978 Act—
- section 151(1) and (2) (computation of period of continuous employment),
- and
- section 153 (general interpretation),

shall have effect for the purposes of this Schedule as they have effect for the purposes of that Act.

- (3) For the purposes of this Schedule, section 151(2) of the 1978 Act shall have effect with the omission of the words from “but” onwards and Schedule 13 to that Act shall have effect with the following modifications—
- (a) in paragraph 1 for the words “paragraphs 3 to 12” there shall be substituted “paragraph 4 or paragraphs 9 to 12”,
 - (b) paragraph 3 and paragraphs 5 to 8 shall be omitted, and
 - (c) in paragraph 4 the words “which normally involves employment for sixteen hours or more weekly” shall be omitted.
- (4) Where section 56 of the 1978 Act (failure to permit women to return to work after childbirth treated as dismissal) applies to an employee who was employed as a betting worker under her contract of employment on the last day of her maternity leave period, she shall be treated for the purposes of this Schedule as if she had been employed as a betting worker on the day with effect from which she is treated as dismissed under that section.

Meaning of “protected betting worker”

- 2 (1) Subject to paragraph 3 below, a betting worker is to be regarded for the purposes of this Schedule as “protected” if, and only if, sub-paragraph (2) or (3) below applies to him.
- (2) This sub-paragraph applies to any betting worker if—
- (a) on the day before the commencement date, he was employed as a betting worker,
 - (b) on that day, he was not employed to work only on Sunday,
 - (c) he has been continuously employed during the period beginning with that day and ending with the appropriate date, and
 - (d) throughout that period, or throughout every part of it during which his relations with his employer were governed by a contract of employment, he was a betting worker.
- (3) This sub-paragraph applies to any betting worker whose contract of employment is such that under it he—
- (a) is not, and may not be, required to work on Sunday, and
 - (b) could not be so required even if the provisions of this Schedule were disregarded.
- (4) In sub-paragraph (2)(c) above “the appropriate date” means—
- (a) in relation to paragraphs 7 and 8 below, the effective date of termination,
 - (b) in relation to paragraph 10 below, the date of the act or failure to act,
 - (c) in relation to sub-paragraph (2) or (3) of paragraph 12 below, the day on which the agreement is entered into,
 - (d) in relation to sub-paragraph (4) of that paragraph, the day on which the employee returns to work,
 - (e) in relation to paragraph 14 below, any time in relation to which the contract is to be enforced, and
 - (f) in relation to paragraph 15 below, the end of the period in respect of which the remuneration is paid or the benefit accrues.

- (5) For the purposes of sub-paragraph (4)(a) above, “the effective date of termination”, in any case falling within paragraph 1(4) above, means the day with effect from which the employee is treated by section 56 of the 1978 Act as being dismissed.
- (6) For the purposes of sub-paragraph (4)(b) above—
- (a) where an act extends over a period, the “date of the act” means the first day of the period, and
 - (b) a deliberate failure to act shall be treated as done when it was decided on, and in the absence of evidence establishing the contrary, an employer shall be taken to decide on a failure to act when he does an act inconsistent with doing the failed act or, if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the failed act if it was to be done.
- (7) Where on the day before the commencement date an employee’s relations with his employer have ceased to be governed by a contract of employment, he shall be regarded as satisfying the conditions in sub-paragraph (2)(a) and (b) above if—
- (a) that day falls in a week which counts as a period of employment with that employer under paragraph 9 or 10 of Schedule 13 to the 1978 Act (absence from work because of sickness, pregnancy etc.) or under regulations made under paragraph 20 of that Schedule (reinstatement or re-engagement of dismissed employee), and
 - (b) on the last day before the commencement date on which his relations with his employer were governed by a contract of employment, the employee was a betting worker and was not employed to work only on Sunday.
- 3 (1) A betting worker is not a protected betting worker if—
- (a) on or after the commencement date, he has given his employer an opting-in notice, and
 - (b) after giving that notice, he has expressly agreed with his employer to do betting work on Sunday or on a particular Sunday.
- (2) In this Schedule “opting-in notice” means a written notice, signed and dated by the betting worker, in which the betting worker expressly states that he wishes to work on Sunday or that he does not object to Sunday working.

Notice of objection to Sunday working

- 4 (1) This paragraph applies to any betting worker who, under his contract of employment—
- (a) is or may be required to work on Sunday (whether or not as a result of previously giving an opting-in notice), but
 - (b) is not employed to work only on Sunday.
- (2) A betting worker to whom this paragraph applies may at any time give his employer written notice, signed and dated by the betting worker, to the effect that the betting worker objects to Sunday working.
- (3) In this Schedule “opting-out notice” means a notice given under sub-paragraph (2) above by a betting worker to whom this paragraph applies.

Status: This is the original version (as it was originally enacted).

Meaning of “opted-out betting worker”

- 5 (1) Subject to sub-paragraph (5) below, a betting worker is to be regarded for the purposes of this Schedule as “opted-out” if, and only if—
- (a) he has given his employer an opting-out notice,
 - (b) he has been continuously employed during the period beginning with the day on which the notice was given and ending with the appropriate date, and
 - (c) throughout that period, or throughout every part of it during which his relations with his employer were governed by a contract of employment, he was a betting worker.
- (2) In sub-paragraph (1) above “the appropriate date” means—
- (a) in relation to paragraphs 7 and 8 below, the effective date of termination,
 - (b) in relation to paragraph 10 below, the date of the act or failure to act,
 - (c) in relation to sub-paragraph (2) or (3) of paragraph 13 below, the day on which the agreement is entered into, and
 - (d) in relation to sub-paragraph (4) of that paragraph, the day on which the employee returns to work.
- (3) For the purposes of sub-paragraph (2)(a) above, “the effective date of termination”, in any case falling within paragraph 1(4) above, means the day with effect from which the employee is treated by section 56 of the 1978 Act as being dismissed.
- (4) For the purposes of sub-paragraph (2)(b) above—
- (a) where an act extends over a period, the “date of the act” means the first day of the period, and
 - (b) a deliberate failure to act shall be treated as done when it was decided on, and in the absence of evidence establishing the contrary, an employer shall be taken to decide on a failure to act when he does an act inconsistent with doing the failed act or, if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the failed act if it was to be done.
- (5) A betting worker is not an opted-out betting worker if—
- (a) after giving the opting-out notice concerned, he has given his employer an opting-in notice, and
 - (b) after giving that opting-in notice, he has expressly agreed with his employer to do betting work on Sunday or on a particular Sunday.

Meaning of “notice period”

- 6 In this Schedule “notice period”, in relation to an opted-out betting worker, means, subject to paragraph 11(2) below, the period of three months beginning with the day on which the opting-out notice concerned was given.

Right not to be dismissed for refusing Sunday work

- 7 (1) Subject to sub-paragraph (2) below, the dismissal of a protected or opted-out betting worker by his employer shall be regarded for the purposes of Part V of the 1978 Act as unfair if the reason for it (or, if more than one, the principal reason) was that the betting worker refused, or proposed to refuse, to do betting work on Sunday or on a particular Sunday.

- (2) Sub-paragraph (1) above does not apply in relation to an opted-out betting worker where the reason (or principal reason) for the dismissal was that he refused, or proposed to refuse, to do betting work on any Sunday or Sundays falling before the end of the notice period.
- (3) The dismissal of a betting worker by his employer shall be regarded for the purposes of Part V of the 1978 Act as unfair if the reason for it (or, if more than one, the principal reason) was that the betting worker gave, or proposed to give, an opting-out notice to the employer.
- (4) Section 142 of the 1978 Act (contracts for a fixed term) shall not exclude the application of section 54 of that Act (right of employee not to be unfairly dismissed) in relation to any dismissal which is unfair by virtue of sub-paragraph (1) or (3) above.
- 8 (1) Where the reason or principal reason for the dismissal of a protected or opted-out betting worker was that he was redundant, but it is shown—
- (a) that the circumstances constituting the redundancy applied equally to one or more other employees in the same undertaking who held positions similar to that held by him and who have not been dismissed by the employer, and
 - (b) that the reason (or, if more than one, the principal reason) for which he was selected for dismissal was that specified in paragraph 7(1) above,
- then, for the purposes of Part V of the 1978 Act, the dismissal shall be regarded as unfair.
- (2) Sub-paragraph (1) above does not apply in relation to an opted-out betting worker where the reason (or principal reason) for which he was selected for dismissal was that specified in paragraph 7(2) above.
- (3) Where the reason or principal reason for the dismissal of a betting worker was that he was redundant, but it is shown—
- (a) that the circumstances constituting the redundancy applied equally to one or more other employees in the same undertaking who held positions similar to that held by him and who have not been dismissed by the employer, and
 - (b) that the reason (or, if more than one, the principal reason) for which he was selected for dismissal was that specified in paragraph 7(3) above,
- then, for the purposes of Part V of the 1978 Act, the dismissal shall be regarded as unfair.

Exclusion of section 64(1) of Employment Protection (Consolidation) Act 1978.

- 10 Section 54 of the 1978 Act (right of employee not to be unfairly dismissed) shall apply to a dismissal regarded as unfair by virtue of paragraph 7 or 8 above regardless of the period for which the employee has been employed and of his age; and accordingly section 64(1) of that Act (which provides a qualifying period and an upper age limit) shall not apply to such a dismissal.

Right not to suffer detriment for refusing Sunday work

- 10 (1) Subject to sub-paragraphs (2) and (4) below, a protected or opted-out betting worker has the right not to be subjected to any detriment by any act, or any deliberate

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failure to act, by his employer done on the ground that the betting worker refused, or proposed to refuse, to do betting work on Sunday or on a particular Sunday.

- (2) Sub-paragraph (1) above does not apply to anything done in relation to an opted-out betting worker on the ground that he refused, or proposed to refuse, to do betting work on any Sunday or Sundays falling before the end of the notice period.
- (3) Subject to sub-paragraph (4) below, a betting worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done on the ground that he gave, or proposed to give, an opting-out notice to his employer.
- (4) Sub-paragraphs (1) and (3) above do not apply where the detriment in question amounts to dismissal.
- (5) For the purposes of this paragraph a betting worker who does not work on Sunday or on a particular Sunday is not to be regarded as having been subjected to any detriment by—
 - (a) any failure to pay remuneration in respect of betting work on a Sunday which he has not done,
 - (b) any failure to provide him with any other benefit, where that failure results from the application, in relation to a Sunday on which the employee has not done betting work, of a contractual term under which the extent of that benefit varies according to the number of hours worked by the employee or the remuneration of the employee, or
 - (c) any failure to provide him with any work, remuneration or other benefit which by virtue of paragraph 14 or 15 below the employer is not obliged to provide.
- (6) Where an employer offers to pay a sum specified in the offer to any one or more employees who are protected or opted-out betting workers or who, under their contracts of employment, are not obliged to do betting work on Sunday, if they agree to do betting work on Sunday or on a particular Sunday—
 - (a) an employee to whom the offer is not made is not to be regarded for the purposes of this paragraph as having been subjected to any detriment by any failure to make the offer to him or to pay him that sum, and
 - (b) an employee who does not accept the offer is not to be regarded for those purposes as having been subjected to any detriment by any failure to pay him that sum.

Employer's duty to give explanatory statement

- 11 (1) Where a person becomes a betting worker to whom paragraph 4 above applies, his employer shall, before the end of the period of two months beginning with the day on which that person becomes such a betting worker, give him a written statement in the prescribed form.
- (2) If—
 - (a) an employer fails to comply with sub-paragraph (1) above in relation to any betting worker, and
 - (b) the betting worker, on giving the employer an opting-out notice, becomes an opted-out betting worker,

paragraph 6 above shall have effect, in relation to the betting worker, with the substitution for “three months” of “one month”.

- (3) An employer shall not be regarded as failing to comply with sub-paragraph (1) above in any case where, before the end of the period referred to in that sub-paragraph, the betting worker has given him an opting-out notice.
- (4) Subject to sub-paragraph (5) below, the prescribed form is as follows—

“Statutory Rights in Relation to Sunday Betting Work

You have become employed under a contract of employment under which you are or can be required to do Sunday betting work, that is to say, work—

at a track on a Sunday on which your employer is taking bets at the track,
or

in a licensed betting office on a Sunday on which it is open for business.

However, if you wish, you can give a notice, as described in the next paragraph, to your employer and you will then have the right not to do Sunday betting work once three months have passed from the date on which you gave the notice.

Your notice must—

be in writing;

be signed and dated by you;

say that you object to doing Sunday betting work.

For three months after you give the notice, your employer can still require you to do all the Sunday betting work your contract provides for. After the three month period has ended, you have the right to complain to an industrial tribunal if, because of your refusal to do Sunday betting work, your employer—

dismisses you, or

does something else detrimental to you, for example, failing to promote you.

Once you have the rights described, you can surrender them only by giving your employer a further notice, signed and dated by you, saying that you wish to do Sunday betting work or that you do not object to doing Sunday betting work and then agreeing with your employer to do such work on Sundays or on a particular Sunday.”

- (5) The Secretary of State may by order amend the prescribed form set out in sub-paragraph (4) above.
- (6) An order under sub-paragraph (5) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Effect of rights on contracts of employment

- 12 (1) Any contract of employment under which a betting worker who satisfies the conditions in paragraph 2(2)(a) and (b) above was employed on the day before the commencement date is unenforceable to the extent that it—
- (a) requires the betting worker to do betting work on Sunday on or after the commencement date, or

- (b) requires the employer to provide the betting worker with betting work on Sunday on or after that date.
 - (2) Except as provided by sub-paragraph (3) below, any agreement entered into after the commencement date between a protected betting worker and his employer is unenforceable to the extent that it—
 - (a) requires the betting worker to do betting work on Sunday, or
 - (b) requires the employer to provide the betting worker with betting work on Sunday.
 - (3) Where, after giving an opting-in notice, a protected betting worker expressly agrees as mentioned in paragraph 3(1)(b) above (and so ceases to be protected), his contract of employment shall be taken to be varied to the extent necessary to give effect to the terms of the agreement.
 - (4) The reference in sub-paragraph (2) above to a protected betting worker includes a reference to an employee who, although not a protected betting worker for the purposes of that sub-paragraph at the time when the agreement is entered into, is a protected betting worker on the day on which she returns to work as mentioned in paragraph 10 of Schedule 13 to the 1978 Act (maternity).
- 13
- (1) Where a betting worker gives his employer an opting-out notice, the contract of employment under which he was employed immediately before he gave that notice becomes unenforceable to the extent that it—
 - (a) requires the betting worker to do betting work on Sunday after the end of the notice period, or
 - (b) requires the employer to provide the betting worker with betting work on Sunday after the end of that period.
 - (2) Except as provided by sub-paragraph (3) below, any agreement entered into between an opted-out betting worker and his employer is unenforceable to the extent that it—
 - (a) requires the betting worker to do betting work on Sunday after the end of the notice period, or
 - (b) requires the employer to provide the betting worker with betting work on Sunday after the end of that period.
 - (3) Where, after giving an opting-in notice, an opted-out betting worker expressly agrees as mentioned in paragraph 5(5)(b) above (and so ceases to be opted-out), his contract of employment shall be taken to be varied to the extent necessary to give effect to the terms of the agreement.
 - (4) The reference in sub-paragraph (2) above to an opted-out betting worker includes a reference to an employee who, although not an opted-out betting worker for the purposes of that sub-paragraph at the time when the agreement is entered into, had given her employer an opting-out notice before that time and is an opted-out betting worker on the day on which she returns to work as mentioned in paragraph 10 of Schedule 13 to the 1978 Act (maternity).
- 14.
- If—
 - (a) under the contract of employment under which a betting worker who satisfies the conditions in paragraph 2(2)(a) and (b) above was employed on the day before the commencement date, the employer is, or may be,

required to provide him with betting work for a specified number of hours each week,

- (b) under that contract, the betting worker was or might have been required to work on Sunday before the commencement date, and
- (c) the betting worker has done betting work on Sunday in that employment (whether or not before the commencement date) but has, on or after the commencement date, ceased to do so,

then, so long as the betting worker remains a protected betting worker, that contract shall not be regarded as requiring the employer to provide him with betting work on weekdays in excess of the hours normally worked by the betting worker on weekdays before he ceased to do betting work on Sunday.

15 (1) If—

- (a) under the contract of employment under which a betting worker who satisfies the conditions in paragraph 2(2)(a) and (b) above was employed on the day before the commencement date, the betting worker was or might have been required to work on Sunday before that date,
- (b) the betting worker has done betting work on Sunday in that employment (whether or not before the commencement date) but has, on or after the commencement date, ceased to do so, and
- (c) it is not apparent from the contract what part of the remuneration payable, or of any other benefit accruing, to the betting worker was intended to be attributable to betting work on Sunday,

then, so long as the betting worker remains a protected betting worker, that contract shall be regarded as enabling the employer to reduce the amount of remuneration paid, or the extent of the other benefit provided, to the betting worker in respect of any period by the proportion which the hours of betting work which (apart from this Schedule) the betting worker could have been required to do on Sunday in the period (in this paragraph referred to as “the contractual Sunday hours”) bears to the aggregate of those hours and the hours of work actually done by the betting worker in the period.

- (2) Where, under the contract of employment, the hours of work actually done on weekdays in any period would be taken into account in determining the contractual Sunday hours, they shall be taken into account in determining the contractual Sunday hours for the purposes of sub-paragraph (1) above.

Proceedings for contravention of paragraph 10

- 16 Sections 22B and 22C of the 1978 Act (which relate to proceedings brought by an employee on the ground that he has been subjected to a detriment in contravention of section 22A of that Act) shall have effect as if the reference in section 22B(1) to section 22A included a reference to paragraph 10 above.

Restrictions on contracting out of Schedule

- 17 (1) Any provision in an agreement (whether a contract of employment or not) shall be void in so far as it purports—
- (a) to exclude or limit the operation of any provision of this Schedule, or
 - (b) to preclude any person from presenting a complaint to an industrial tribunal by virtue of any provision of this Schedule.

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- (2) Sub-paragraph (1) above does not apply to an agreement to refrain from presenting or continuing with a complaint where—
- (a) a conciliation officer has taken action under section 133(2) or (3) of the 1978 Act (general provisions as to conciliation) or under section 134(1), (2) or (3) (conciliation in case of unfair dismissal) of that Act, or
 - (b) the conditions regulating compromise agreements under the 1978 Act (as set out in section 140(3) of that Act) are satisfied in relation to the agreement.

Transitional modifications relating to maternity cases

- 18 (1) Where—
- (a) an employee exercises a right to return to work under Part III of the 1978 Act (maternity), and
 - (b) because amendments of that Part made by the Trade Union Reform and Employment Rights Act 1993 (in this paragraph referred to as “the 1993 Act”) do not have effect in her case, her right is a right to return to work in the job in which she was employed under the original contract of employment,
- the preceding provisions of this Schedule shall have effect subject to the modifications in sub-paragraphs (2) and (3) below.
- (2) In paragraph 1(4), for “her contract of employment on the last day of her maternity leave period” there shall be substituted “her original contract of employment”.
- (3) In paragraph 2(7), for paragraph (b) there shall be substituted—
- “(b) under her original contract of employment, she was a betting worker and was not employed to work only on Sunday.”
- (4) In this paragraph and in paragraphs 1 and 2 above as modified by sub-paragraphs (2) and (3) above, “original contract of employment” has the meaning given by section 153(1) of the 1978 Act as originally enacted.

Dismissal on grounds of assertion of statutory right

- 19 In section 60A of the 1978 Act (dismissal on grounds of assertion of statutory right) in subsection (4)(a), after “or” at the end of paragraph (i) there shall be inserted—
- “(ia) Schedule 5A to the Betting, Gaming and Lotteries Act 1963, or”.

Dismissal procedures agreements

- 20 In section 65 of the 1978 Act (exclusion in respect of dismissal procedures agreement) in subsection (4), after “section 60A(1)” there shall be inserted “or the right conferred by paragraph 7 or 8 of Schedule 5A to the Betting, Gaming and Lotteries Act 1963”.

Conciliation

- 21 In section 133 of the 1978 Act (general provisions as to conciliation officers) after “or” at the end of paragraph (a) there shall be inserted—

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“(aa) arising out of a contravention, or alleged contravention, of paragraph 10 of Schedule 5A to the Betting, Gaming and Lotteries Act 1963; or”.

Application of certain other provisions of 1978 Act

- 22 In the following provisions of the 1978 Act—
section 129 (remedy for infringement of certain rights),
section 141(2) (employee ordinarily working outside Great Britain), and
section 150 and Schedule 12 (death of employee or employer),
any reference to Part II of the 1978 Act includes a reference to paragraph 10 of this Schedule.”

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 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.
- 2 (1) This paragraph applies to the following provisions of the Slaughterhouses Act 1974—
(a) section 36 (power to make regulations with respect to additional means of rendering animals insensible to pain until death supervenes),
(b) section 38 (power to make regulations for securing humane conditions of slaughter),
(c) section 39 (function of granting licences for slaughtermen),
(d) section 40 (other functions with respect to licences for slaughtermen),
(e) section 41 (duty to execute and enforce the provisions of, and of regulations under, Part II of that Act), and
(f) section 42(1) (power to appoint persons for the purpose of exercising powers of entry).

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- (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.
- 3 (1) This paragraph applies to the following provisions of the Slaughter of Animals (Scotland) Act 1980 (which correspond to the provisions to which paragraph 2 above applies)—
- (a) section 9,
 - (b) section 10,
 - (c) section 14(3)(c),
 - (d) section 15,
 - (e) section 16, and
 - (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.
- 4 No functions under the Slaughterhouses 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.
- 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 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 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.

Territorial division of enforcement functions under the Food Safety Act 1990

- 6 In section 6(4)(a) of 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”.

SCHEDULE 10

Section 35.

EMPLOYMENT AGENCIES ETC.: REPLACEMENT OF LICENSING

PART I

GENERAL

Great Britain

- 1 (1) The Employment Agencies Act 1973 shall be amended as follows.
- (2) Sections 1 to 3 (licences) shall cease to have effect.
- (3) After section 3 there shall be inserted—

“Prohibition orders

3A Power to make orders

- (1) On application by the Secretary of State, 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 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 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,

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

- (6) An industrial tribunal may make a prohibition order in relation to a partnership if it is satisfied that any member of the partnership, or any manager employed by the partnership, is unsuitable, on account of his misconduct or for any other sufficient reason, to do what the order prohibits.
- (7) For the purposes of subsection (4) of this section, where an employment agency or employment business has been improperly conducted, each person who was carrying on, or concerned with the carrying on of, the agency or business at the time, shall be deemed to have been responsible for what happened unless he can show that it happened without his connivance or consent and was not attributable to any neglect on his part.
- (8) A person shall not be deemed to fall within subsection (5)(c) of this section by reason only that the directors act on advice given by him in a professional capacity.
- (9) In this section—
 - “director”, in relation to a body corporate whose affairs are controlled by its members, means a member of the body corporate; and
 - “specified”, in relation to a prohibition order, means specified in the order.

3B Enforcement

Any person who, without reasonable excuse, fails to comply with a prohibition order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

3C Variation and revocation of orders

- (1) On application by the person to whom a prohibition order applies, an 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 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 industrial 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 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 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 industrial tribunal under section 3A or 3C of this Act.
- (2) No other appeal shall lie from a decision of an industrial tribunal under section 3A or 3C of this Act; and section 11 of the Tribunals and Inquiries Act 1992 (appeals from certain tribunals to High Court or Court of Session) shall not apply to proceedings before an industrial 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;”.

Northern Ireland

- 2 (1) Articles 3 to 5 of the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981 shall cease to have effect.
- (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

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

- (5) An industrial tribunal may make a prohibition order in relation to a body corporate if it is satisfied that—
- (a) any director, secretary, manager or similar officer of the body corporate,
 - (b) any person who performs on behalf of the body corporate the functions of a director, secretary, manager or similar officer, or
 - (c) any person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act,
- is unsuitable, on account of his misconduct or for any other sufficient reason, to do what the order prohibits.
- (6) An industrial tribunal may make a prohibition order in relation to a partnership if it is satisfied that any member of the partnership, or any manager employed by the partnership, is unsuitable, on account of his misconduct or for any other sufficient reason, to do what the order prohibits.
- (7) For the purposes of paragraph (4), where an employment agency or employment business has been improperly conducted, each person who was carrying on, or concerned with the carrying on of, the agency or business at the time, shall be deemed to have been responsible for what happened unless he can show that it happened without his connivance or consent and was not attributable to any neglect on his part.
- (8) A person shall not be deemed to fall within paragraph (5)(c) by reason only that the directors act on advice given by him in a professional capacity.
- (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.

Status: This is the original version (as it was originally enacted).

- (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);”.

PART II

SEAMEN

United Kingdom

- 3 Sections 110 to 112 of the Merchant Shipping Act 1894 (licences to supply seamen) shall cease to have effect.

Great Britain

- 4 In the Employment Agencies Act 1973, in section 13(7) (exceptions from the Act) paragraph (e) (exception for the making of arrangements for finding seamen for persons to employ or for finding employment for seamen) shall be omitted.

Northern Ireland

- 5 In the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981, in Article 11(5) (exceptions from Part II of the Order), sub-paragraph (d) shall be omitted.

SCHEDULE 11

Section 39.

MISCELLANEOUS DEREGULATORY PROVISIONS: CONSEQUENTIAL AMENDMENTS

Licensing Act 1964 (c. 26)

- 1 (1) The Licensing Act 1964 shall be amended as follows.
- (2) In section 179(1)(b), after “if” there shall be inserted “subsections (3A) to (3C) of section 168, section 168A,”.
- (3) In section 196A(1)—
- (a) in paragraph (a), after sub-paragraph (iii) there shall be inserted “or

Status: This is the original version (as it was originally enacted).

- (iv) for the grant or revocation of a children’s certificate;”, and
 - (b) in paragraph (b), for “or canteen licence” there shall be substituted “, canteen licence or children’s certificate”.
- (4) In section 201(1), there shall be inserted at the appropriate place in alphabetical order—
- ““children’s certificate” has the meaning assigned to it by section 168A(2) of this Act;”.
- (5) In section 202(1)(b), after “Part III of this Act” there shall be inserted “, under section 168A of this Act”.

Fair Trading Act 1973 (c. 41)

- 2 (1) The Fair Trading Act 1973 shall be amended as follows.
- (2) In section 77—
- (a) in subsection (1)(a), after “57(1)” there shall be inserted “or (1A)”, and
 - (b) in subsection (5)(a), after “having a” there shall be inserted “primary”.
- (3) In section 93A(1)(a), for “under section” there shall be substituted “pursuant to a proposal under section 56A of this Act or under section 56F or”.
- (4) In section 133(4)(a), there shall be inserted at the end “or a notice published by the Director under section 56B of this Act”.

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.
- (2) Section 2(5) shall cease to have effect.
- (3) In section 5(3)—
- (a) after “made” there shall be inserted “by virtue of subsection (1)(b) or (c) above”,
 - (b) after “reference be” there shall be inserted “so”, and
 - (c) the words from the beginning of paragraph (a) to “notice reference” shall be omitted.
- (4) In section 15(4) for the words from the beginning to “that investigation” there shall be substituted “On making a competition reference in relation to any course of conduct being pursued by a person falling within section 11(3)(d) above”.
- (5) In section 16, at the end there shall be inserted—

Status: This is the original version (as it was originally enacted).

“(3) For the purposes of this section, the publication by the Director of a notice under section 4(2)(a) above shall be treated as the making by him of a report under this Act.”

(6) In section 19(5)(a), after “Act” there shall be inserted “or in anything published under section 4(2)(a) above”.

(7) In section 29(1)—

(a) before paragraph (a) there shall be inserted—

“(za) accepted pursuant to a proposal under section 56A of the Fair Trading Act 1973 (within the meaning of that Act) or under section 56F of that Act, or”, and

(b) in that paragraph, for “the Fair Trading Act 1973” there shall be substituted “the said Act of 1973”.

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

(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

(b) in paragraph (a), the words “of the land” shall be omitted.

(6) In section 119(1), there shall be inserted at the appropriate place in alphabetical order—

Status: This is the original version (as it was originally enacted).

““advance secured on third party land” has the meaning given by section 10(4A);”.

Financial Services Act 1986 (c. 60)

8 In section 125(7) of the Financial Services Act 1986, the words “section 24 of” shall be omitted.

Companies Act 1989 (c. 40)

9 In Schedule 14 to the Companies Act 1989, in paragraph 9(6), the words “section 24 of” shall be omitted.

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

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

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

11 In Schedule 14 to the Companies (Northern Ireland) Order 1990, in paragraph 9(6), the words “section 24 of” shall be omitted.

Charities Act 1993 (c. 10)

12 In section 47(3) of the Charities Act 1993—
 (a) paragraph (a) shall be omitted, and
 (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”.

SCHEDULE 12

Section 50.

SCHEDULE TO BE INSERTED IN THE TRANSPORT ACT 1968 AFTER SCHEDULE 8

“SCHEDULE 8A

TRANSFER OF OPERATING CENTRES

Applications for new licences

1 (1) Where in the case of any application for an operator’s licence—
 (a) the requirements of sub-paragraphs (2) to (5) of this paragraph are satisfied at the time when the application is made; and
 (b) the applicant so requests,
 the licensing authority may direct that paragraph 2 of this Schedule is to apply in relation to the application.

Status: This is the original version (as it was originally enacted).

- (2) Each place referred to in the statement under section 69A(2) of this Act as a proposed operating centre of the applicant must already be specified in an operator's licence as an operating centre of its holder.
 - (3) That licence must be the same in the case of each such place, and no such place may be specified in more than the one operator's licence.
 - (4) Where any conditions under section 64B or 69C of this Act relating to any such place are attached to that licence, the applicant must have consented to conditions in the same terms being attached to the licence he is applying for.
 - (5) Where any undertakings relating to any such place are recorded in that licence, undertakings in the same terms must have been given by the applicant (or have been procured by him to be given) for the purposes of the application.
 - (6) In determining whether to give a direction under this paragraph, the licensing authority shall take account of whether any new adverse effects on environmental conditions are likely to arise from the use as an operating centre of the applicant of any such place (and may take account of any other matters he considers relevant).
 - (7) In this paragraph "operator's licence" does not include a licence granted under section 67A of this Act, and the reference in sub-paragraph (2) to a place being specified in an operator's licence does not include a place being so specified—
 - (a) by virtue of an interim direction such as is mentioned in section 68A of this Act;
 - (b) if such conditions as may be prescribed in relation to the exercise of the right of any person to appeal against that place being so specified are not satisfied;
 - (c) if such conditions as may be prescribed in relation to the review under section 69J of this Act of the decision so to specify that place are not satisfied; or
 - (d) by reason of being situated within a place that is so specified.
- 2
- (1) The following provisions have effect in relation to any application for an operator's licence in respect of which a direction has been given under paragraph 1 of this Schedule.
 - (2) The notice published under section 63(1) of this Act shall state that the direction has been given.
 - (3) The following provisions of this Act shall not apply—
 - section 64(3)(c) so far as relating to the suitability of any place specified in the licence for use as an operating centre of the licence-holder;
 - section 64A(3)(f);
 - section 69B; and
 - section 69E.
 - (4) Notwithstanding anything in section 64(9) of this Act, the licensing authority may refuse the application if—
 - (a) any statement of fact made by the applicant (or procured by him to be made) for the purposes of the request for the direction under paragraph 1 of this Schedule was false (whether to his knowledge or not); or

Status: This is the original version (as it was originally enacted).

- (b) any undertaking given or statement of expectation made by the applicant (or procured by him to be given or made) for those purposes has not been fulfilled.
- (5) If the application is granted, the licensing authority—
- (a) shall attach to the licence issued to the applicant any conditions in respect of which the applicant has consented under paragraph 1(4) of this Schedule; and
 - (b) shall not attach any other conditions to the licence under section 64B or 69C of this Act.
- (6) If the application is granted, the licensing authority shall record in the licence—
- (a) any undertakings given or procured to be given under paragraph 1(5) of this Schedule; and
 - (b) any other undertakings given by the applicant (or procured by him to be given), whether for the purposes of the application or for the purposes of the request for the direction under paragraph 1 of this Schedule, that the licensing authority considers to be material to his decision to give the direction (and that would not otherwise be required by section 64A(4) of this Act to be recorded in the licence).

Applications for the variation of licences

- 3 (1) Where in the case of an application for the variation of an operator's licence under section 68 of this Act—
- (a) the only direction applied for is one under subsection (1)(g) of that section that one or more new places be specified in the licence as an operating centre of the licence-holder;
 - (b) the requirements of sub-paragraphs (2) to (5) of this paragraph are satisfied at the time when the application is made; and
 - (c) the applicant so requests,
- the licensing authority may direct that paragraph 4 of this Schedule is to apply in relation to the application.
- (2) Each new place that is proposed to be specified in the licence must already be specified in another operator's licence as an operating centre of its holder.
- (3) That other licence must be the same in the case of each such place, and no such place may be specified in more than the one other operator's licence.
- (4) Where any conditions under section 64B or 69C of this Act relating to any such place are attached to that other licence, the applicant must have consented to conditions in the same terms being attached to the licence he is applying to have varied.
- (5) Where any undertakings relating to any such place are recorded in that other licence, undertakings in the same terms must have been given by the applicant (or have been procured by him to be given) for the purposes of the application.
- (6) In determining whether to give a direction under this paragraph, the licensing authority shall take account of whether any new adverse effects on environmental conditions are likely to arise from the use as an operating centre of the applicant of any such place (and may take account of any other matters he considers relevant).

Status: This is the original version (as it was originally enacted).

- (7) In this paragraph “operator’s licence” does not include a licence granted under section 67A of this Act, and the reference in sub-paragraph (2) to a place being specified in an operator’s licence does not include a place being so specified—
- (a) by virtue of an interim direction such as is mentioned in section 68A of this Act;
 - (b) if such conditions as may be prescribed in relation to the exercise of the right of any person to appeal against that place being so specified are not satisfied;
 - (c) if such conditions as may be prescribed in relation to the review under section 69J of this Act of the decision so to specify that place are not satisfied; or
 - (d) by reason of being situated within a place that is so specified.
- 4 (1) The following provisions have effect in relation to any application for an operator’s licence in respect of which a direction has been given under paragraph 3 of this Schedule.
- (2) Sections 68(4) and 69E of this Act shall not apply.
- (3) If the application is granted, the licensing authority—
- (a) shall attach to the licence as varied any conditions in respect of which the applicant has consented under paragraph 3(4) of this Schedule; and
 - (b) shall not attach any other conditions to the licence under section 64B or 69C of this Act.
- (4) If the application is granted, the licensing authority shall record in the licence as varied—
- (a) any undertakings given or procured to be given under paragraph 3(5) of this Schedule; and
 - (b) any other undertakings given by the applicant (or procured by him to be given), whether for the purposes of the application or for the purposes of the request for the direction under paragraph 3 of this Schedule, that the licensing authority considers to be material to his decision to give the direction.”

SCHEDULE 13

Section 57.

GOODS VEHICLE OPERATOR LICENSING: MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

AMENDMENT OF THE TRANSPORT ACT 1968 (1968 c. 73)

- 1 (1) In section 62(2) the words from “which” to the end of paragraph (c) shall be omitted.
- (2) In section 62(4)(g) for “authorised vehicles” there shall be substituted “vehicles referred to in the statement under subsection (2) of this section”.
- 2 (1) In section 63(3) after “64(2)” there shall be inserted “to (4)”.
- (2) Section 63(5) shall be omitted.

Status: This is the original version (as it was originally enacted).

- (3) In section 63(6) the definition of “statutory provision” shall be omitted.
- 3 In section 66(1)(a) for “the authorised vehicles are used” there shall be substituted “vehicles are used under the licence (or, if the licence is at any time suspended under section 69 of this Act, were used under the licence immediately before its suspension)”.
- 4 (1) In section 69(4) for “(1)(b)” there shall be substituted “(1)(c) and (d)”.
- (2) In section 69(6) the words “premature termination” shall be omitted.
- (3) In section 69(7) for “the authorised vehicles” there shall be substituted “vehicles under the licence”.
- (4) In section 69(7A) for the words from “if” to the end there shall be substituted “if before that date the licence which is directed to be suspended or curtailed ceases to be in force, on the date on which it ceases to be in force”.
- (5) In section 69(9) for “(5), (6) or (7)” there shall be substituted “(5) or (6)”.
- (6) In section 69(10) for “(7) or (7A)” there shall be substituted “or (7A)”.
- (7) After section 69(10) there shall be inserted—
- “(10A) Where an operator’s licence is suspended under this section, the licence remains in force during the time of its suspension subject to the limitation that no vehicles are authorised to be used under it.”
- 5 (1) In section 69A(1)—
- (a) for “authorised vehicles” there shall be substituted “vehicles authorised to be used”; and
- (b) after “specified” there shall be inserted “as an operating centre of his”.
- (2) In section 69A(3) for “authorised vehicles” there shall be substituted “vehicles used”.
- (3) After section 69A(3) there shall be inserted—
- “(3A) The statement under subsection (2) of this section and any particulars required under subsection (3) of this section shall be given to the licensing authority in such form as he may require.”
- 6 (1) In section 69B(1) and (2)—
- (a) after “any place” there shall be inserted “in the licensing authority’s area”, and
- (b) for “is unsuitable” there shall be substituted “will be unsuitable”.
- (2) In section 69B(3)—
- (a) for “authorised vehicles” there shall be substituted “vehicles used”, and
- (b) after “any place” there shall be inserted “in the authority’s area”.
- (3) In section 69B(4)—
- (a) after “any place” there shall be inserted “in the authority’s area”, and
- (b) for “is unsuitable” there shall be substituted “would be unsuitable”.
- (4) For section 69B(6) there shall be substituted—
- “(6) Where in the case of any application for an operator’s licence—

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- (a) the licensing authority has power to refuse the application under subsection (3) or (4) of this section; and
- (b) any place other than a place that will be unsuitable for use as an operating centre is referred to in the statement under section 69A(2) of this Act as a proposed operating centre of the applicant,

the authority may, instead of refusing the application, issue the licence specifying in it only such place or places referred to in that statement as will not be unsuitable for use as an operating centre.

(6A) For the purposes of subsection (6) of this section, a place will be unsuitable for use as an operating centre if the licensing authority has power to refuse the application under subsection (3) or (4) of this section in consequence of the proposed use of that place as an operating centre.”

(5) Section 69B(7) shall be omitted.

7 (1) For section 69C(1) there shall be substituted—

“(1) A licensing authority, on granting an operator’s licence or on varying such a licence on an application of which notice has been published under section 68(4) of this Act, may attach to it such conditions as he thinks fit for preventing or minimising any adverse effects on environmental conditions arising from the use of a place in the area of the authority as an operating centre of the licence-holder.”

(2) For section 69C(3) and (4) there shall be substituted—

“(3) On varying an operator’s licence on an application of which notice has been published under section 68(4) of this Act, the licensing authority may vary or remove any condition attached to the licence under this section.”

(3) For section 69C(5) there shall be substituted—

“(5) The licensing authority shall not—

- (a) attach any condition such as is mentioned in this section to an operator’s licence; or
- (b) vary in such manner as imposes new or further restrictions or requirements any condition attached to an operator’s licence under this section,

without first giving the applicant for the licence or (as the case may be) the licence-holder an opportunity of making representations to the authority with respect to the effect on his business of the proposed condition or variation.

(5A) The licensing authority shall give special consideration to any representations made under subsection (5) of this section in determining whether to attach the proposed condition or make the proposed variation.”

8 Section 69F shall be omitted.

9 For section 69G there shall be substituted—

“69G Objections and representations: supplementary provisions

(1) Any objection or representations under section 69B, 69D or 69EB of this Act shall contain particulars of any matters alleged by the person making the

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objection or representations to be relevant to the issue to which the objection or representations relate.

- (2) Any such objection or representations shall be made in the prescribed manner and, in the case of an objection or representations under section 69B or 69D of this Act, within the prescribed time after the making of the application to which the objection or representations relate.
- (3) In the case of an objection or representations under section 69B or 69D of this Act, the prescribed manner and prescribed time shall be stated in the notice of the application published under section 63(1) or (as the case may be) 68(4) of this Act.
- (4) Where the licensing authority considers there to be exceptional circumstances that justify his doing so, he may direct that for the purposes of this Part of this Act—
 - (a) objections or representations be treated as duly made under section 69B or 69D of this Act, notwithstanding that they were not made in the prescribed manner or within the prescribed time;
 - (b) representations be treated as duly made under section 69EB of this Act, notwithstanding that they were not made in the prescribed manner or within the period of review in question.

69H Determinations as to environmental matters: supplementary provisions

- (1) In making any determination of a description mentioned in subsection (2) of this section, the licensing authority shall have regard to such considerations as may be prescribed as relevant to determinations of that description.
- (2) The determinations referred to are—
 - (a) any determination with respect to the suitability of any place on environmental grounds for use as an operating centre of the holder of an operator's licence;
 - (b) any determination with respect to attaching any condition such as is mentioned in section 69C of this Act to an operator's licence or varying or removing any such condition attached to an operator's licence; and
 - (c) any determination with respect to the effect on environmental conditions in any locality of the use in any particular manner of any operating centre of the holder of an operator's licence.
- (3) In making any such determination for the purposes of exercising—
 - (a) any of his functions in relation to an application for, or for the variation of, an operator's licence; or
 - (b) any of his functions under sections 69EA to 69EC of this Act,
 the licensing authority may take into account any undertakings given by the applicant or licence-holder (or procured by him to be given) for the purposes of the application or the review under sections 69EA to 69EC, and may assume that those undertakings will be fulfilled.
- (4) In making for those purposes a determination of a description mentioned in subsection (2)(a) or (c) of this section, the licensing authority may take into account any conditions such as are mentioned in section 69C of this Act

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that could be attached to the licence in question, and may assume that any conditions so attached will not be contravened.

- (5) Where the licensing authority—
- (a) grants an application for, or for the variation of, an operator’s licence; or
 - (b) having served notice under section 69EA of this Act in respect of any place specified in such a licence, exercises or determines not to exercise any of his powers under sections 69EB and 69EC of this Act in relation to that place,
- any undertakings taken into account by the authority under subsection (4) of this section that the authority considers to be material to the application or (as the case may be) to his decision under sections 69EB and 69EC shall be recorded in the licence in question.”

10 In section 82(4) for “authorised vehicles” there shall be substituted “vehicles used under the licence”.

11 (1) After section 84(a) there shall be inserted—

“(aa) that, by virtue of a direction given by the authority under regulations made under section 86(2)(b) or (3) of this Act, a person is to be treated as having been the holder of an operator’s licence on any date;”.

(2) For section 84(b) there shall be substituted—

- “(b) the date of the coming into force of any operator’s licence granted by the authority;
- (bb) the date on which any operator’s licence granted by the authority ceased to be in force;”.

(3) For section 84(f) there shall be substituted—

- “(f) that an operator’s licence was on any date or during any specified period suspended by virtue of a direction given by the authority under section 69(1) of this Act;
- (g) that, by virtue of a direction given by the authority under regulations made under section 86(2)(a) of this Act, an operator’s licence is to be treated as having been suspended on any date or during any specified period;”.

12 In section 85(1) for “authorised vehicles” there shall be substituted “vehicles authorised to be used”.

13 In section 87(3) the words “or 69F” shall be omitted.

14 (1) In section 91(1)—

- (a) in paragraph (a) for “69 and 69F” there shall be substituted “69, 69EA to 69EC and 69J”,
- (b) in paragraph (c) for “authorised vehicles” there shall be substituted “authorised to be used under any operator’s licence or as being used under such a licence”,
- (c) for paragraph (d) there shall be substituted—
 - “(d) the custody, production, return and cancellation of operators’ licences and of documents, plates and any other

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- means of identification prescribed under paragraph (c) of this subsection;
- (dd) the payment of a prescribed fee in respect of any document, plate or such other means of identification that has been lost, defaced or broken;”
- (d) in paragraph (f) after “repayment” there shall be inserted “(or partial repayment)”, and
- (e) the words following paragraph (g) shall be omitted.
- (2) In section 91(2) for “authorised vehicles” there shall be substituted “authorised to be used under an operator’s licence”.
- (3) In section 91(4) the words from “and different” to the end shall be omitted.
- (4) After section 91(4) there shall be inserted—
- “(4A) Any regulations under this Part of this Act may make—
- (a) different provision for different cases or classes of case and different circumstances; and
- (b) transitional provision;
- and regulations made by virtue of subsection (1)(c) of this section may make different provision for the areas of different licensing authorities.”
- (5) After section 91(6) there shall be inserted—
- “(6A) No regulations shall be made under section 69EA(3) of this Act unless a draft of them has been laid before, and approved by a resolution of, each House of Parliament.”.
- (6) In section 91(7) after “of this Act” there shall be inserted “, other than regulations under section 69EA(3),”.
- 15 (1) In section 92(1)—
- (a) the definition of “authorised vehicle” shall be omitted,
- (b) after the definition of “large goods vehicle” there shall be inserted—
- ““modification” includes addition, omission and alteration, and related expressions shall be construed accordingly;”,
- (c) in the definition of “operating centre”, for “authorised vehicles” there shall be substituted “vehicles used”, and
- (d) after the definition of “regulations” there shall be inserted—
- ““statutory provision” means a provision contained in an Act or in subordinate legislation within the meaning of the Interpretation Act 1978;”.
- (2) After section 92(2) there shall be inserted—
- “(2A) In this Part of this Act references to vehicles being authorised to be used under an operator’s licence are to be read in accordance with section 61 of this Act.
- (2B) In this Part of this Act references to the date on which an application is finally disposed of are references—

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- (a) subject to paragraph (b) of this subsection, to the earliest date by which the application and any appeal to the Transport Tribunal arising out of the application have been determined and any time for bringing such an appeal has expired; or
 - (b) if the application is withdrawn or any such appeal is abandoned, to the date of the withdrawal or abandonment.”
- (3) For section 92(3)(b) and (c) there shall be substituted—
 - “(b) that a provision such as is mentioned in section 61(1A) or 61A(1)(b) or (2)(b) of this Act be included in the licence;
 - (c) that any maximum number specified in the licence under section 61A of this Act be reduced;”.
- (4) After section 92(4) there shall be inserted—
 - “(4A) In this Part of this Act, references to a person becoming a patient within the meaning of Part VII of the Mental Health Act 1983 include references to a curator bonis being appointed in respect of him in Scotland on the ground that he is incapable, by reason of mental disorder, of adequately managing and administering his property and affairs.”
- (5) In section 92(5) for the words from “operated under” to the end there shall be substituted “, within the meaning of the Road Traffic Act 1988”.

PART II

AMENDMENT OF OTHER ENACTMENTS

- 16 In section 233(1)(c) of the Road Traffic Act 1960—
 - (a) for “or mark” there shall be substituted “, mark or other thing”, and
 - (b) for “an authorised vehicle” there shall be substituted “authorised to be used, or as being used, under an operator’s licence”.
- 17 In section 2(2) of the Road Traffic (Drivers' Ages and Hours of Work) Act 1976 for “64(2)(c)” there shall be substituted “64(3)(a)”.
- 18 (1) Section 73 of the Road Traffic Act 1988 shall be amended as follows.
 - (2) In subsection (1)—
 - (a) for “an authorised vehicle” there shall be substituted “by virtue of section 61 of the Transport Act 1968 authorised to be used under an operator’s licence”, and
 - (b) for “the operator’s licence was granted for the vehicle” there shall be substituted “the licence was granted”.
 - (3) After subsection (1) there shall be inserted—
 - “(1ZA) Where in a case within subsection (1) above it appears to the person giving the notice that the vehicle is authorised to be used under two or more operators' licences—
 - (a) if those licences were granted by different traffic commissioners, his duty under paragraph (a) of that subsection may be discharged by taking steps to bring the contents of the notice to the attention of any one of those commissioners,

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- (b) if those licences are held by different persons and none of those persons is in charge of the vehicle at the time when the notice is given, his duty under paragraph (b) of that subsection may be discharged by taking steps to bring the contents of the notice to the attention of any one of those persons, and
 - (c) if those licences are held by different persons and any of those persons is in charge of the vehicle at the time when the notice is given, no steps need be taken under that subsection to bring the contents of the notice to the attention of the others.”
- (4) In subsection (4) for the words from “and section 72” to “have” there shall be substituted ““operator’s licence” has”.

SCHEDULE 14

Section 68.

PSV OPERATOR LICENSING ETC: MINOR AND CONSEQUENTIAL AMENDMENTS

- 1 The 1981 Act shall be amended as follows.
- 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 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”.
- 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 “termination”.
- 7 (1) Section 50(2) shall be omitted.
- (2) In section 50(4)—
- (a) at the end of paragraph (a) there shall be added “or any undertaking recorded
in it”, and
 - (b) in paragraph (c) the words “or to curtail its period of validity” shall be
omitted.
- 8 In section 12 of the Transport Act 1985 subsection (3) shall be omitted.

SCHEDULE 15

Section 75.

RESTRICTIONS ON DISCLOSURE OF INFORMATION

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.

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—

Status: This is the original version (as it was originally enacted).

- (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.

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.

Status: This is the original version (as it was originally enacted).

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 section 22 of the Exchequer and Audit Departments Act 1866 or section 4 of the Government Trading Funds Act 1973;
 - “audit function”, in relation to the Comptroller, includes any function under Part II of the National Audit Act 1983 or Part III of the Audit (Northern Ireland) Order 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 1989;
 - “Comptroller” means the Comptroller and Auditor General or the Comptroller and Auditor General for Northern Ireland.

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).

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- (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.

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),
- 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 the Companies Act 1985.

Courts Act 1971 (c. 23)

- 2 For section 27 of the Courts Act 1971 there shall be substituted the following section—

“27 Administrative and other court staff

- (1) The Lord Chancellor may, with the concurrence of the Treasury as to numbers and salaries, appoint such officers and other staff for the Supreme Court and county courts as appear to him appropriate for the following purposes, namely—
- (a) maintaining an administrative court service;
 - (b) discharging any functions in those courts conferred by or under this or any other Act on officers so appointed; and
 - (c) generally carrying out the administrative work of those courts.
- (2) The principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force shall, with the necessary adaptations, apply to officers and staff appointed under subsection (1) above as it applies to other persons employed in the civil service of the State.
- (3) If and to the extent that an order made by the Lord Chancellor so provides, the Lord Chancellor may enter into contracts with other persons for the provision for the purposes mentioned in subsection (1) above, whether by those persons or by sub-contractors of theirs, of officers and staff for the Supreme Court and county courts.
- (4) No order under subsection (3) above shall authorise the contracting out of any functions the discharge of which would constitute—

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- (a) making judicial decisions or advising persons making such decisions;
 - (b) exercising any judicial discretion or advising persons exercising any such discretion; or
 - (c) exercising any power of arrest.
- (5) An order under subsection (3) above may authorise the contracting out of any functions—
- (a) either wholly or to such extent as may be specified in the order;
 - (b) either generally or in such cases or areas as may be so specified; and
 - (c) either unconditionally or subject to the fulfilment of such conditions as may be so specified.
- (6) Before making an order under subsection (3) above, the Lord Chancellor shall consult with the senior judges as to what effect (if any) the order might have on the proper and efficient administration of justice.
- (7) An order under subsection (3) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) References in this section to the contracting out of any functions are references to the Lord Chancellor entering into contracts for the provision of officers and staff for the purpose of discharging those functions.
- (9) In this section—
- “the senior judges” means the Lord Chief Justice, the Master of the Rolls, the Vice-Chancellor and the President of the Family Division;
 - “the Supreme Court” includes the district probate registries.”

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.

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—

“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 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 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.”

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

“43B Supplementary provisions regarding rent registration service providers

- (1) Where—

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- (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.
- (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

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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)

11 (1) In subsection (5) of section 13 of the Gas Act 1986 (alternative method of charge), for the words “the persons appointed under subsection (3) above” there shall be substituted the words “persons appointed under subsection (3) above who are in the civil service of the Crown”.

(2) In subsection (6) of that section, after the words “such proportion” there shall be inserted the words “(if any)”.

Status: This is the original version (as it was originally enacted).

- 12 (1) In subsection (5) of section 16 of that Act (standards of quality), for the words “the persons appointed under subsection (3) above” there shall be substituted the words “persons appointed under subsection (3) above who are in the civil service of the Crown”.
- (2) In subsection (6) of that section, after the words “such proportion” there shall be inserted the words “(if any)”.
- 13 (1) In subsection (2) of section 17 of that Act (meter testing and stamping)—
- (a) after the words “meter examiner” there shall be inserted the words “who is in the civil service of the Crown”; and
 - (b) for the words “the prescribed fee” there shall be substituted the words “the requisite fee”.
- (2) In subsections (6) and (7) of that section, after the words “meter examiners” there shall be inserted the words “who are in the civil service of the Crown”.
- (3) In subsection (8) of that section, paragraph (d) and the word “and” immediately preceding that paragraph shall cease to have effect.
- (4) After that subsection there shall be inserted the following subsection—
- “(8A) The fees to be paid to meter examiners who are in the civil service of the Crown for examining, stamping and re-examining meters, and the persons by whom they are to be paid, shall be such as the Secretary of State may, with the approval of the Treasury, from time to time determine; and a determination under this subsection may—
- (a) make different provision for different areas or in relation to different cases or different circumstances; and
 - (b) make such supplementary, incidental or transitional provision as the Secretary of State considers necessary or expedient.”

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 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)”.

Status: This is the original version (as it was originally enacted).

Food Safety Act 1990 (c. 16)

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

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

- 17 In subsection (1) of section 42 of that Act (default powers)—

- (a) for the words “one of his officers” there shall be substituted the words “a person (whether or not an officer of his) who is authorised by him in writing to do so”; and
- (b) there shall be inserted at the end the words “but if regulations made by the Ministers so provide, no person shall be so authorised unless he has such qualifications as may be prescribed by the regulations.”

- 18 In subsection (1) of section 50 of that Act (service of documents), for the words “any officer” there shall be substituted the words “an authorised officer”.

- 19 In subsection (2) of section 53 of that Act (general interpretation), after the first entry there shall be inserted the following entry—

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

Social Security Administration Act 1992 (c. 5)

- 20 (1) After subsection (7) of section 54 of the Social Security Administration 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 Secretary of State includes a reference to a medical practitioner who is provided by any person in pursuance of a contract entered into with the Secretary of State.”

- (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—

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

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

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.”

22 After subsection (3) of section 127 of that Act (housing benefit) there shall be inserted the following subsection—

“(4) Where, whether by virtue of an order made under section 70 of the Deregulation and Contracting Out Act 1994 or otherwise, a person is authorised by an authority to exercise any of their functions relating to housing benefit—

(a) subsection (1) above shall have effect in relation to information required in connection with the exercise of those functions, and

(b) subsection (2) above shall have effect in relation to information obtained by reason of their exercise,

as if the authorised person were an authority.”

23 After subsection (3) of section 128 of that Act (council tax benefit) there shall be inserted the following subsection—

“(4) Where, whether by virtue of an order made under section 70 of the Deregulation and Contracting Out Act 1994 or otherwise, a person is authorised by a billing or charging authority to exercise any of their functions relating to council tax benefit—

(a) subsection (1) above shall have effect in relation to information required in connection with the exercise of those functions, and

(b) subsection (2) above shall have effect in relation to information obtained by reason of their exercise,

as if the authorised person were such an authority.”

Social Security Administration (Northern Ireland) Act 1992 (c. 8)

24 (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.

Status: This is the original version (as it was originally enacted).

(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.

25 After subsection (6) of section 117 of that Act (disclosure of information relating to particular persons) there shall be inserted the following subsection—

“(6A) Subsection (6) above shall have effect as if any medical practitioner who, for the purposes of section 52 above, is provided by any person in pursuance of a contract entered into with the Department were specified in Part I of Schedule 4 to this Act”.

SCHEDULE 17

Section 81.

REPEALS

<i>Chapter or Number</i>	<i>Title</i>	<i>Extent of repeal</i>
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).

Status: This is the original version (as it was originally enacted).

<i>Chapter or Number</i>	<i>Title</i>	<i>Extent of repeal</i>
		In section 63(6), the definition of “statutory provision”.
		In section 69(4), in paragraph (b)(ii) the word “authorisations” and in paragraph (c) the words “or section 73 or 186 of the Act of 1960”.
		In section 69(6), the words “premature termination”.
		Section 69B(7).
		Section 69F.
		In section 87(3), the words “or 69F”.
		In section 91(1), the words following paragraph (g).
		In section 91(4), the words from “and different” to the end.
		In section 92(1), the definition of “authorised vehicle”.
		Sections 93 and 94(1), (2), (9) and (10).
1969 c. 48.	The Post Office Act 1969.	In Schedule 4, paragraph 51.
1972 c. 70.	The Local Government Act 1972.	In Schedule 29, paragraph 43.
1973 c. 35.	The Employment Agencies Act 1973.	Sections 1 to 3 and 7. In section 9(1)(a), the words from “by” to “Act”. Section 10(1).
		In section 13, in subsection (1), the definitions of “current licence”, “holder” and “seaman”, and subsection (7)(e).
1973 c. 41.	The Fair Trading Act 1973.	In section 75G, in subsection (1), the words “complying with subsections (2) and (3) of this section”, and subsections (2) and (3).

Status: This is the original version (as it was originally enacted).

<i>Chapter or Number</i>	<i>Title</i>	<i>Extent of repeal</i>
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.
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)”.
1980 c. 65.	The Local Government, Planning and Land Act 1980.	In section 15(2), paragraph (a) and the word “or” immediately following it. In Schedule 4, paragraph 1(4).

Status: This is the original version (as it was originally enacted).

<i>Chapter or Number</i>	<i>Title</i>	<i>Extent of repeal</i>
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). 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).

Status: This is the original version (as it was originally enacted).

<i>Chapter or Number</i>	<i>Title</i>	<i>Extent of repeal</i>
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).
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”.

Status: This is the original version (as it was originally enacted).

<i>Chapter or Number</i>	<i>Title</i>	<i>Extent of repeal</i>
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.