



Deregulation and Contracting Out Act 1994

1994 CHAPTER 40

PART I

DEREGULATION

CHAPTER I

GENERAL

Enforcement procedures and appeals

- 6 Model provisions with respect to appeals. E+W+N.I.**
- (1) The Secretary of State shall by order prescribe model provisions with respect to appeals against enforcement action with a view to their being incorporated, if thought fit and with or without modifications, in enactments to which subsection (2) below applies.
 - (2) This subsection applies to enactments which include provision the effect of which is to impose, or authorise or require the imposition of, a restriction, requirement or condition affecting any person in the carrying on of any trade, business or profession or otherwise.
 - (3) The Secretary of State shall perform his duty under this section in the manner which he considers is best calculated to secure—
 - (a) that appeals determined in accordance with the model provisions are determined without unnecessary delay; and
 - (b) that the costs or expenses incurred by the parties to appeals so determined are kept to the minimum.

Status: Point in time view as at 01/08/2010. There are multiple versions of this provision on screen. These apply to different geographical extents. **Skip to:** E+W+N.I. - England, Wales and Northern Ireland extent S - Scotland extent
Changes to legislation: Deregulation and Contracting Out Act 1994, Section 6 is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) Model provisions prescribed by an order under this section may provide for the appointment of persons to hear and determine appeals and confer powers on persons so appointed, including in particular—
- (a) power to appoint experts and their own counsel or solicitor;
 - (b) power to require respondents to disclose documents and other material;
 - (c) power to summon or, in Scotland, to cite witnesses;
 - (d) power to make interim orders, including orders staying or, in Scotland, suspending enforcement action; and
 - (e) power to award costs or expenses to appellants and, in certain cases, against them.
- (5) Model provisions so prescribed may also—
- (a) confer a right for interested persons to make representations before enforcement action is taken;
 - (b) require the giving of reasons to such persons for any decision to take such action;
 - (c) require appellants to state their grounds of appeal and respondents to furnish statements by way of answer;
 - (d) enable appellants to amend their grounds of appeal before the hearing;
 - (e) require appeals to be determined on the merits rather than by way of review; and
 - (f) provide for further appeals to courts on points of law.
- (6) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section—
- “enactment” does not include anything contained in Northern Ireland legislation but, subject to that, includes an enactment contained in an Act (whenever passed) and an enactment contained in subordinate legislation (whenever made);
- “enforcement action” has the same meaning as in [F¹section 9 of the Regulatory Reform Act 2001];
- [F² “ interested person ” means—
- (a) the person against whom enforcement action may be or has been taken;
 - (b) any other person who will or may be required to meet, or to make a significant contribution towards, the cost of observing the restriction or complying with the requirement or condition; or
 - (c) where the enforcement action which may be or has been taken relates specifically to goods or services which are to be or have been supplied by a person other than the one against whom enforcement action may be or has been taken, that person;]

“Northern Ireland legislation” means—

 - (a) Northern Ireland legislation within the meaning of section 24 of the Interpretation ^{M1}Act 1978; and
 - (b) instruments, within the meaning of the Interpretation ^{M2}Act (Northern Ireland) 1954, made under such legislation;

“subordinate legislation” has the same meaning as in the Interpretation Act 1978.

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Extent Information

- E1** This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only

Textual Amendments

- F1** Words in the definition of “enforcement action” in s. 6(7) substituted (10.4.2001) by 2001 c. 6, s. 13(1)(a)
- F2** Definition of “interested person” in s. 6(7) substituted (10.4.2001) by 2001 c. 6, s. 13(1)(b)

Modifications etc. (not altering text)

- C1** S. 6: power to apply (with modifications) conferred (3.8.1999 for certain purposes only and 1.11.1999 otherwise) by 1999 c. 8, s. 37(6); S.I. 1999/2177, arts. 2(2)(c), 4(a)

Marginal Citations

- M1** 1978 c. 30.
- M2** 1954 c. 33 (N.I.).

6 Model provisions with respect to appeals. **S**

- (1) The Secretary of State shall by order prescribe model provisions with respect to appeals against enforcement action with a view to their being incorporated, if thought fit and with or without modifications, in enactments to which subsection (2) below applies.
- (2) This subsection applies to enactments which include provision the effect of which is to impose, or authorise or require the imposition of, a restriction, requirement or condition affecting any person in the carrying on of any trade, business or profession or otherwise.
- (3) The Secretary of State shall perform his duty under this section in the manner which he considers is best calculated to secure—
 - (a) that appeals determined in accordance with the model provisions are determined without unnecessary delay; and
 - (b) that the costs or expenses incurred by the parties to appeals so determined are kept to the minimum.
- (4) Model provisions prescribed by an order under this section may provide for the appointment of persons to hear and determine appeals and confer powers on persons so appointed, including in particular—
 - (a) power to appoint experts and their own counsel or solicitor;
 - (b) power to require respondents to disclose documents and other material;
 - (c) power to summon or, in Scotland, to cite witnesses;
 - (d) power to make interim orders, including orders staying or, in Scotland, suspending enforcement action; and
 - (e) power to award costs or expenses to appellants and, in certain cases, against them.
- (5) Model provisions so prescribed may also—
 - (a) confer a right for interested persons to make representations before enforcement action is taken;

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- (b) require the giving of reasons to such persons for any decision to take such action;
 - (c) require appellants to state their grounds of appeal and respondents to furnish statements by way of answer;
 - (d) enable appellants to amend their grounds of appeal before the hearing;
 - (e) require appeals to be determined on the merits rather than by way of review; and
 - (f) provide for further appeals to courts on points of law.
- (6) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section—

“enactment” does not include anything contained in Northern Ireland legislation but, subject to that, includes an enactment contained in an Act (whenever passed) ^{F3}... an enactment contained in subordinate legislation (whenever made) [^{F4}, an enactment contained in an Act of the Scottish Parliament (whenever passed) and an enactment contained in an instrument made under an Act of the Scottish Parliament (whenever made)];

[^{F5} “ enforcement action ” means—

- (a) in relation to any restriction, requirement or condition, any action taken with a view to or in connection with imposing any sanction (whether criminal or otherwise) for failure to observe or comply with it; and
- (b) in relation to a restriction, requirement or condition relating to the grant or renewal of licences, includes any refusal to grant, renew or vary a licence, the imposition of any condition on the grant or renewal of a licence and any variation or revocation of a licence;]

[^{F6} “ interested person ” means—

- (a) the person against whom enforcement action may be or has been taken;
- (b) any other person who will or may be required to meet, or to make a significant contribution towards, the cost of observing the restriction or complying with the requirement or condition; or
- (c) where the enforcement action which may be or has been taken relates specifically to goods or services which are to be or have been supplied by a person other than the one against whom enforcement action may be or has been taken, that person;]

“Northern Ireland legislation” means—

- (a) Northern Ireland legislation within the meaning of section 24 of the Interpretation ^{M3} Act 1978; and
- (b) instruments, within the meaning of the Interpretation ^{M4} Act (Northern Ireland) 1954, made under such legislation;

“subordinate legislation” has the same meaning as in the Interpretation Act 1978.

Extent Information

- E2** This version of this provision extends to Scotland only; a separate version has been created for England and Wales and Northern Ireland only

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Textual Amendments

- F3** Word in s. 6(7) omitted (1.8.2010) by virtue of Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(3)(7)(7), **Sch. 7 para. 1(3)(a)(i)**; S.S.I. 2010/221, art. 3(2), Sch.
- F4** Words in s. 6(7) inserted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(3)(7)(7), **Sch. 7 para. 1(3)(a)(ii)**; S.S.I. 2010/221, art. 3(2), Sch.
- F5** Words in s. 6(7) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(3)(7)(7), **Sch. 7 para. 1(3)(b)**; S.S.I. 2010/221, art. 3(2), Sch.
- F6** Words in s. 6(7) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(3)(7)(7), **Sch. 7 para. 1(3)(c)**; S.S.I. 2010/221, art. 3(2), Sch.

Modifications etc. (not altering text)

- C2** S. 6: power to apply (with modifications) conferred (3.8.1999 for certain purposes only and 1.11.1999 otherwise) by 1999 c. 8, **s. 37(6)**; S.I. 1999/2177, **arts. 2(2)(c), 4(a)**

Marginal Citations

- M3** 1978 c. 30.
- M4** 1954 c. 33 (N.I.).

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