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THE  
PUBLIC GENERAL ACTS

and the  
Church Assembly Measures  
of  
**1949**

Being those which received the Royal Assent in that year having been passed during the Fifth Session of the Thirty-Eighth Parliament of the United Kingdom of Great Britain and Northern Ireland

and the  
Twelfth, Thirteenth and Fourteenth Years of the Reign of His Majesty

*King George The Sixth*

with

Tables of the Short Titles and of  
The Effect of Legislation  
and an Index

[IN TWO VOLUMES]

VOLUME I

Public General Acts, 12, 13 & 14 Geo. 6, Chapters 11 to 63



LONDON:

PRINTED BY HIS MAJESTY'S STATIONERY OFFICE  
AND PUBLISHED BY THE COUNCIL OF LAW REPORTING  
6, Stone Buildings, Lincoln's Inn, London, W.C.2

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THE  
PUBLIC GENERAL STATUTES

12 & 13 GEO. 6

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CHAPTER 11

An Act to abolish the Railway and Canal Commission and make provision for the future exercise and performance of their functions ; to amend and repeal certain enactments relating to their functions ; and for purposes connected with the matters aforesaid.

[9th March 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) The Railway and Canal Commission (in this Act referred to as “the Commission”) shall cease to exist, and the functions which immediately before the commencement of this Act were functions of the Commission shall—

Abolition of Railway and Canal Commission and general provisions as to transfer of their functions.

- (a) so far as they extend to England and Wales, be exercised and performed by the High Court; and
- (b) so far as they extend to Scotland, be exercised or performed by the Court of Session;

and any reference to the Commission in any enactment relating to the functions aforesaid shall, in relation to those functions, be construed as references to the aforesaid courts:

Provided that this section shall not apply to functions of the Commission as respects which provision is made by any of the following sections of this Act.

(2) For the purposes of this section, the expression “enactment” includes any regulation, order or other instrument made under an Act of Parliament.

2.—(1) For section four of the Telegraph Act, 1878, (which provides for the determination of differences relating to telegraphs on streets and public roads by a stipendiary magistrate or county court judge in England or Wales or Northern Ireland,

Functions of Commission under the Telegraph Acts.

A 41 & 42 Vict.  
c. 76.

or by the sheriff in Scotland, subject to a right of appeal to the Commission) there shall be substituted the following section:—

“ Differences generally to be determined by a county court or the sheriff, subject to appeal to High Court or Court of Session.

4. Where—

- (a) any difference arises under this Act or the Telegraph Act, 1863, between the Postmaster General and any body or person having any power, jurisdiction or control over or relating to a street or public road, or having power under the last mentioned Act to give or withhold a consent to the placing of telegraphs and posts in, under, upon, along, over or across a street or public road; or
- (b) any other difference arises under this Act, except a difference between the Postmaster General and any body or person having any right, power, jurisdiction or authority in, over, or relating to any estuary or branch of the sea or the shore or bed of any tidal water;

the difference shall be determined by a county court:

Provided that an appeal shall lie to the High Court from any determination under this section of a county court and any such appeal shall be by way of re-hearing before a single judge who shall be designated from time to time by the Lord Chief Justice.

(2) In the application of this section to Scotland, for references to the county court there shall be substituted references to the sheriff, for the reference to the High Court there shall be substituted a reference to the Court of Session, and for the reference to the Lord Chief Justice there shall be substituted a reference to the Lord President of the Court of Session.

(3) In the application of this section to Northern Ireland, for the first reference to a county court there shall be substituted a reference to the county court having jurisdiction within the district in which the difference has arisen; for the reference to the Lord Chief Justice there shall be substituted a reference to the Lord Chief Justice of Northern Ireland; and as respects any appeals to the High Court, provision may be made by rules of the Supreme Court under section sixty-one of the Supreme Court of Judicature Act (Ireland), 1877, as amended by the Supreme Court of Judicature

40 & 41 Vict.  
c. 57.

60 & 61 Vict.  
c. 66.

(Ireland) (No. 2) Act, 1897, for regulating the time within which appeals to the High Court may be made and the procedure and costs of such appeals.”

(2) Section five of the Telegraph Act, 1878, except so far as it relates to differences between the Postmaster General and any body or person having any right, power, jurisdiction, or authority in, over or relating to any estuary, branch of the sea, or the shore or bed of any tidal water, shall cease to have effect, and accordingly shall be repealed to the extent specified in the third column of the Schedule to this Act.

(3) Any difference arising under the Telegraph (Construction) Act, 1911, shall be determined in the manner specified in section four of the Telegraph Act, 1878, as amended by this section. 1 & 2 Geo. 5.  
c. 39.

(4) Any reference in any other enactment to section four or section five of the Telegraph Act, 1878, shall be construed as a reference to that section as amended by this section.

(5) Section one of the Telegraph (Arbitration) Act, 1909 (which provides for the referring to the Commission of differences arising under the Telegraph Acts, 1863 to 1908) shall have effect as if references to the Commission were construed, as respects England and Wales and Northern Ireland, as references to the High Court and, as respects Scotland, as references to the Court of Session. 9 Edw. 7.  
c. 20.

3.—(1) Any question arising under the Defence of the Realm (Acquisition of Land) Act, 1916, as to the compensation payable in respect of the use of land under section four of that Act shall be determined by an official arbitrator appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919, such arbitrator to be selected in accordance with rules made by the Reference Committee under section one of the last mentioned Act; and section three, subsections (4) to (8) of section five, and section six of the last mentioned Act shall apply to proceedings for the determination of any such question, subject to the modification that for references to the acquiring authority there shall be substituted references to the authority from whom the compensation is claimed; and section eight of the said Act of 1916 (which provides for the determination of such questions by the Commission) shall cease to have effect. Determination  
of questions  
under Defence  
of the Realm  
(Acquisition  
of Land)  
Act, 1916.  
6 & 7 Geo. 5.  
c. 63.  
9 & 10 Geo. 5.  
c. 57.

(2) In the application of this section to Scotland, “arbitrator” means “arbitrator” and, in the application of this section to Northern Ireland, for the reference to the Reference Committee there shall be substituted a reference to the Reference Committee for Northern Ireland and for the reference to the Acquisition of Land (Assessment of Compensation) Act, 1919, there shall be substituted a reference to that Act as amended by any Act of the Parliament of Northern Ireland.

Transfer of jurisdiction under certain enactments from Commission to Transport Tribunal for Northern Ireland.

10 & 11 Geo. 6.  
c. 49.

4.—(1) The jurisdiction of the Commission as respects Northern Ireland under any of the enactments set out in Part I of the Eleventh Schedule to the Transport Act, 1947, shall, so far as the said jurisdiction relates to matters with respect to which the Parliament of Northern Ireland has not power to make laws, be transferred to the Transport Tribunal for Northern Ireland established under the Transport Act, (Northern Ireland) 1948, and any reference in any enactment to the Commission shall, in relation to the jurisdiction transferred to the said Tribunal by this section, be construed as a reference to that Tribunal:

(2) The said Transport Tribunal for Northern Ireland shall, for the purpose of the exercise of the jurisdiction transferred to them by this section, have the like power to make general rules with respect to their practice and procedure and other matters as they have for the purpose of the exercise of their functions under the Transport Act (Northern Ireland), 1948.

Repeal of s. 1 of Metropolis Water Act, 1897.

60 & 61 Vict.  
c. 56.

2 Edw. 7. c. 41.  
Supplementary provisions.

5. Section one of the Metropolis Water Act, 1897 (which, as amended by the Metropolis Water Act, 1902, enables water consumers and local authorities to take proceedings before the Commission against the Metropolitan Water Board in respect of any failure by the Board to perform their statutory duties) shall cease to have effect.

6.—(1) Any proceedings pending before the Commission immediately before the commencement of this Act shall be continued before the court or person before whom they would have had to have been commenced if this Act had been in force at the time at which they were commenced, and that court or person may give any necessary directions as to the manner in which any such proceedings are to be continued as aforesaid.

(2) Any proceedings pending before a police or stipendiary magistrate under section four of the Telegraph Act, 1878, immediately before the commencement of this Act shall be continued in England and Wales before a county court and in Northern Ireland before the county court having jurisdiction within the district within which the difference has arisen, and any such court may give any necessary directions as to the manner in which they are to be so continued; and, where a difference has been determined under that section before the commencement of this Act and has not been referred to the Commission and the time for so referring it has not expired, an appeal shall lie from that determination in like manner as if it had been made under the section substituted by this Act for the said section four.

(3) The records of the Commission and any other documents in the custody of the registrar of the Commission in his capacity



as such shall be dealt with in such manner as the Master of the Rolls may direct:

Provided that no such direction shall be made in the case of any document that relates to the jurisdiction of the Commission as respects Scotland except after consultation with the Keeper of the Records of Scotland or, in the case of any document that relates to the jurisdiction of the Commission as respects Northern Ireland, except after consultation with the Secretary of State.

7. The Lord Chancellor may pay, out of moneys provided by Parliament, to or in respect of any person who suffers loss of employment in consequence of the abolition of the Commission and as to whom the Lord Chancellor, with the approval of the Treasury, determines that such provision should be made, such pension as he may so determine. Pensions for persons suffering loss of employment.

8.—(1) This Act may be cited as the Railway and Canal Commission (Abolition) Act, 1949, and shall come into force on such day as His Majesty may by Order in Council appoint. Short title, commencement and repeal.

(2) The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule and any other enactment in so far as it applies any enactment so repealed shall cease to have effect.

## SCHEDULE

Section 8.

### ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent of repeal
17 & 18 Vict. c. 31.	Railway and Canal Traffic Act, 1854.	In section three, from the words "and for that purpose" to the words "on the matter of such complaint"; the words, except so far as they extend to Northern Ireland, from "and in case of disobedience" to the words "Court of Session"; and the words from "and in any such proceeding" to the end of the section.
36 & 37 Vict. c. 48.	Regulation of Railways Act, 1873.	Section five; in section six, except so far as it extends to Northern Ireland, the words "except for the purpose of enforcing any decision or order of the Commissioners"; section twenty-six, except as aforesaid; section twenty-seven and sections thirty to thirty-two.

Session and Chapter	Short Title	Extent of repeal
41 & 42 Vict. c. 76.	Telegraph Act, 1878.	In section five, the words from the beginning of the section to "under this Act; and"; and the words from "In the event" to the end of the section.
51 & 52 Vict. c. 25.	Railway and Canal Traffic Act, 1888.	Sections two to five; in section twelve from the words "The Commissioners may ascertain" to the end of the section; sections seventeen and eighteen, except so far as they extend to Northern Ireland; sections nineteen to twenty-two, fifty and fifty-one.
52 & 53 Vict. c. 57.	Regulation of Railways Act, 1889.	In section two, the words from "and thereupon" to the end of the section.
56 & 57 Vict. c. 29.	Railway Regulation Act, 1893.	Subsection (5) of section one.
56 & 57 Vict. c. 38.	Conveyance of Mails Act, 1893.	Section four.
57 & 58 Vict. c. 54.	Railway and Canal Traffic Act, 1894.	Section two.
60 & 61 Vict. c. 56.	Metropolis Water Act, 1897.	Section one and section four.
63 & 64 Vict. c. 27.	Railway Employment (Prevention of Accidents) Act, 1900.	Section twelve.
4 Edw. 7. c. 19.	Railways (Private Sidings) Act, 1904.	Section three.
8 Edw. 7. c. 33.	Telegraph (Construction) Act, 1908.	Section six.
9 Edw. 7. c. 20.	Telegraph (Arbitration) Act, 1909.	Section two.
1 & 2 Geo. 5. c. 39.	Telegraph (Construction) Act, 1911.	Section three.
6 & 7 Geo. 5. c. 40.	Telegraph (Construction) Act, 1916.	In section three, the words "and section six"; and the words "and the determination of differences".
6 & 7 Geo. 5. c. 63.	Defence of the Realm (Acquisition of Land) Act, 1916.	Section eight.
9 & 10 Geo. 5. c. 100.	Electricity (Supply) Act, 1919.	In sub-paragraph (i) of paragraph (c) of subsection (2) of section twenty-two, the words "after an enquiry" and the words from "and any such enquiry" to the end of the sub-paragraph.
13 & 14 Geo. 5. c. 20.	Mines (Working Facilities and Support) Act, 1923.	Subsection (1) of section ten.

Session and Chapter	Short Title	Extent of repeal
15 & 16 Geo. 5. c. 91.	Mines (Working Facilities and Support) Act, 1925.	In section one, subsection (2) and in subsection (3) from the words " the Court of Session " to the words " 1925, and ".
16 & 17 Geo. 5. c. 28.	Mining Industry Act, 1926.	In section twenty-four, subsection (1) and in subsection (3) the reference to subsection (2) of section one of the Mines (Working Facilities and Support) Act, 1925, and the words from " but, subject to those provisions " to the end of the section.
19 & 20 Geo. 5. c. xvii.	Doncaster Area Drainage Act, 1929.	Subsection (3) of section eleven (except proviso (a)).

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## CHAPTER 12

### An Act to amend the Pensions Appeal Tribunals Act, 1943. [9th March 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1.—(1) For the words " war service " wherever those words occur in section one of the Pensions Appeal Tribunals Act, 1943, as in force at the date of the passing of this Act, there shall be substituted the words " any relevant service ", and for the definition in section twelve of that Act of the expression " war service " there shall be substituted the following definition—

Extension of Act to claims arising otherwise than out of war service.  
6 & 7 Geo. 6. c. 39.

“ ‘ relevant service ’ in relation to any claim made under any such Royal Warrant, Order in Council or Order of His Majesty as is referred to in section one of this Act means any service which, under that Royal Warrant, Order in Council or Order, is relevant for the purposes of that claim.”

(2) No appeal shall lie under the said section one from the rejection of a claim in connection with service before the third day of September, nineteen hundred and thirty-nine, and references in that Act to the claims referred to in the said section one shall not be deemed to include references to any such claim.

Appeals arising out of ex gratia awards.

2. Where, before the passing of this Act, any claim in respect of the disablement of any person has been made under any such Royal Warrant, Order in Council or Order of His Majesty as is referred to in section one of the Pensions Appeal Tribunals Act, 1943, or has been made under any such scheme as is referred to in section two or section three of that Act and that claim was rejected and that rejection was confirmed on appeal under that Act and, whether before or after the passing of this Act, an ex gratia award is made by the Minister with the consent of the Treasury in respect of that disablement, section five of that Act (which relates to the assessment of the extent of disablement) and, where the claim was made under any such Royal Warrant, Order in Council or Order as aforesaid, the said section one, so far as it relates to the rejection of a claim on the ground that the injury on which it is based no longer remains aggravated by any relevant service, shall apply in relation to that ex gratia award as if it had been an award duly made under the Royal Warrant, Order in Council, Order or scheme on the original claim.

Expenses.

3. Any increase resulting from any of the provisions of this Act in the expenses which, under paragraph 8 of the Schedule to the Pensions Appeal Tribunals Act, 1943, are to be defrayed out of moneys provided by Parliament shall be defrayed out of moneys so provided.

Short title, construction, citation and extent.

4.—(1) This Act may be cited as the Pensions Appeal Tribunals Act, 1949, and shall be construed as one with the Pensions Appeal Tribunals Act, 1943, and that Act and this Act may be cited together as the Pensions Appeal Tribunals Acts, 1943 and 1949.

(2) It is hereby declared that this Act extends to Northern Ireland.

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## CHAPTER 13.

### *Savings Banks Act, 1949.*

#### ARRANGEMENT OF SECTIONS.

Section.

1. Grants by trustee savings banks for the benefit of other trustee savings banks.
2. Release of loans to trustee savings banks.
3. Limit on amount received for special investment.
4. Extension of powers of investment of special investment funds.
5. Power to borrow on security of special investment funds.
6. Provisions as to discontinuance of special investment business.
7. Ancillary activities of banks.
8. Repayments to and receipts from depositors.
9. Orders under Savings Banks Act, 1920, s.2 to be subject to annulment.

## Section.

10. Interest on sums withdrawn by banks.
11. Keeping of ledgers, accounts, registers and minute books.
12. Repeal of certain enactments as to banks in Ireland.
13. Construction of references to Trustee Savings Banks Acts, 1863 to 1929.
14. Expenses.
15. Abolition of naval savings banks.
16. Interpretation.
17. Short title, construction and extent.

An Act to amend the law relating to trustee savings banks, to abolish naval savings banks, to extend the powers of the Postmaster General under section two of the Savings Banks Act, 1904; and for purposes connected with the matters aforesaid. [9th March 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) A trustee savings bank may, with the approval of the Commissioners, make a grant to the Commissioners of such amount as may be approved by the Commissioners, to be applied for the benefit of other trustee savings banks.

Grants by trustee savings banks for benefit of other trustee savings banks.

(2) The Commissioners shall, as part of the Fund for the Banks for Savings, maintain a separate account known as the Mutual Assistance Account, and shall credit to that account any sums granted to the Commissioners under subsection (1) of this section; and the Mutual Assistance Account shall carry the like interest as the account of a trustee savings bank in the books of the Commissioners, and any interest credited to that account shall, for the purposes of the annual account to be prepared by the Commissioners under section seventeen of the Customs, Inland Revenue and Savings Banks Act, 1877, be treated as interest credited to the trustees of savings banks.

(3) The Commissioners, upon the application of the Association, may, if they think fit, debit the Mutual Assistance Account with any amount not exceeding that specified in the application, and credit that amount to the account in the books of the Commissioners of any trustee savings banks so specified.

(4) In addition to the power conferred by subsection (1) of this section, a trustee savings bank shall have power, with the approval of the Commissioners, to make direct to another trustee savings bank a grant of such amount and on such conditions as may be approved by the Commissioners.

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(5) Any grant made by a trustee savings bank under any of the preceding provisions of this section may be defrayed either as current expenses of the bank or, with the sanction of the Inspection Committee, out of moneys standing to the credit of the bank in the separate surplus fund.

(6) For the avoidance of doubt it is hereby declared that the power conferred by the last preceding subsection to defray grants as current expenses of the bank includes power to defray grants out of surplus moneys already accumulated, other than the moneys standing to the credit of the bank in the separate surplus fund.

(7) The Commissioners may, at the request of a bank which makes a grant under this section, debit that bank's account in the books of the Commissioners with the amount of the grant and credit that amount in those books to the account of the bank to which the grant is to be made, or to the Mutual Assistance Account, as the case may be.

Release of  
loans to  
trustee savings  
banks.

2.—(1) A trustee savings bank which has made an advance to another bank under section six of the Trustee Savings Banks Act, 1947, may release the whole or any part of the principal of and interest on the loan.

(2) The Commissioners may, with the consent of the Treasury, release the whole or any part of the principal of and interest on any advance made by the Commissioners to a new trustee savings bank under section seven of the Savings Banks Act, 1929.

Limit on  
amount  
received for  
special  
investment.

3.—(1) The Treasury may by order under this section limit the amount which may be received by a trustee savings bank from any person for special investment either in any one year or in the aggregate; but, save as aforesaid, there shall be no limit on the amount which may be so received from any person; and paragraph (b) of section ten of the Savings Banks Act, 1891 (which provides that the total amount to be invested in pursuance of section sixteen of the Trustee Savings Banks Act, 1863, on behalf of any one depositor shall not exceed five hundred pounds), is hereby repealed:

Provided that nothing in this subsection shall be construed as affecting paragraph (a) of the said section ten (which prohibits investments being made on behalf of a person who is not a depositor in the bank to the extent of not less than fifty pounds).

(2) An order under this section—

(a) may fix different limits as respects different classes of persons;

(b) may provide that any limits fixed by the order shall have effect subject to any exceptions or exclusions specified in the order;

- (c) may contain special provisions with respect to persons to whose credit there stand, at the date on which the order takes effect, amounts exceeding the limit fixed by the order ;
- (d) may contain such consequential and supplementary provisions as appear to the Treasury to be necessary for giving full effect to the order ; and
- (e) may be revoked or varied by a subsequent order.

(3) The power to make orders conferred by this section shall be exercisable by statutory instrument, and a draft of every statutory instrument made under that power shall be laid before Parliament.

4.—(1) In paragraph (b) of subsection (1) of section one of the Trustee Savings Banks (Special Investments) Act, 1934 (which permits the investment of special investment funds in securities charged on the Consolidated Fund which will mature for payment not later than thirty years after the date of the investment), for the word " thirty " there shall be substituted the word " forty " Extension of powers of investment of special investment funds.

(2) In the proviso to the said subsection (1) (which limits the total cost price of securities held under that section, with certain exceptions, to forty per cent. of the total liabilities of a trustee savings bank in respect of special investments) for the word " forty " there shall be substituted the word " fifty ".

(3) Section two of the National Loans Act, 1945, is hereby repealed.

5. A trustee savings bank may, with the approval of the Commissioners, borrow, whether by way of temporary loan or of overdraft from bankers or otherwise, on the security of the funds, or any part of the funds, held on account of special investments : Power to borrow on security of special investment funds.

Provided that the reference in this section to special investments does not include any investment if the bank is not to be liable to repay to the depositor in cash the money received from him and applied in making the investment.

6.—(1) Where a trustee savings bank discontinues the business of making special investments— Provisions as to discontinuance of special investment business.

- (a) the like results shall follow as would have followed if, immediately before the discontinuance, every depositor had, in pursuance of a previous notice duly given in that behalf, withdrawn the whole amount which he is entitled to withdraw in respect of special investments and had immediately redeposited the amount withdrawn as an ordinary deposit with the bank ; and

- (b) all assets and liabilities of the bank in respect of its special investment business, other than its liabilities to depositors, shall be deemed to be assets and liabilities in respect of ordinary deposits, notwithstanding anything in the enactments relating to trustee savings banks that restricts the investment of the funds of any such bank ; and
- (c) the bank shall comply with any directions of the Commissioners as to the conversion of any of the assets referred to in the last preceding paragraph ;

and, save so far as the contrary is expressly provided by an order made after the passing of this Act under the proviso to subsection (1) of section one of the Savings Banks Act, 1920 (which relates to the limits of savings bank deposits), the amounts deemed to be deposited under paragraph (a) of this subsection shall be left out of account for the purposes of every order made under that proviso.

(2) Where a trustee savings bank discontinues the business of making special investments, the assets and liabilities thereof shall be valued as at the date of the discontinuance but without regard to the operation of subsection (1) of this section.

For the purpose of the valuation, the value of any securities shall be calculated according to the current market price at the date of the discontinuance, or, in the case of securities for which there is at that date no current market price, shall be taken to be such amount as the Commissioners shall fix, having regard to the date of repayment of, and to the rate of interest payable in respect of, the securities, and the value of any land or buildings shall be taken at such amount as the Commissioners shall fix.

(3) If, on any such valuation, it appears that there is a deficiency, the deficiency shall be made good out of the guarantee fund under subsection (3) of section two of the Trustee Savings Banks Act, 1918, and, without prejudice to the generality of the provisions of that subsection, the deficiency, if and in so far as it exceeds the reserves of the bank in respect of ordinary deposits, shall be made good to the bank out of that fund.

(4) If, on any such valuation as aforesaid, it appears that there is a surplus, an amount equal to the surplus shall be carried to the separate surplus fund and be treated as an amount standing to the credit of a closed trustee savings bank, and the bank shall have no claim to the principal thereof or any interest thereon.

(5) Where a trustee savings bank carrying on the business of making special investments is wholly closed or is ordered to be wound up, the bank shall for the purpose of this section be deemed to have discontinued the business of making special investments immediately before the closing or the commencement of the winding up, as the case may be.



(6) In this section, expressions to which a meaning is assigned by section four of the Trustee Savings Banks Act, 1918, have the meanings thereby assigned to them.

7.—(1) Any expenditure incurred by a trustee savings bank which, in the opinion of the Commissioners, is calculated to further the objects of the bank shall be deemed to be necessary expenses of the bank within the meaning of section two of the Trustee Savings Banks Act, 1863. Ancillary activities of banks.

(2) The power of a trustee savings bank or the Postmaster General under section two of the Savings Banks Act, 1904, to defray certain expenses of a penny savings bank having a deposit account with the bank or the Postmaster General, as the case may be, shall extend to any expenses of any such penny savings bank; and accordingly in that section the words "incurred in obtaining necessary account books, stationery or similar articles, and in providing for the audit or inspection of the books and accounts of such penny savings bank" are hereby repealed.

(3) In subsection (1) of section nine of the Savings Banks Act, 1929 (which enables a savings bank in certain cases to undertake any business which is, in the opinion of the Commissioners, of a nature ancillary to the purposes of the bank and calculated to encourage thrift and within the financial capacity of the bank), the words "of a nature ancillary to the purposes of the bank and" are hereby repealed.

8. Notwithstanding anything in paragraph 5 of section six of the Trustee Savings Banks Act, 1863, the rules of a trustee savings bank may, if the Commissioners approve, provide for payments to and by depositors being made at the office of another bank, whether that other bank is a trustee savings bank or not. Repayments to and receipts from depositors.

9. Any order made under section two of the Savings Banks Act, 1920 (which section confers on the Treasury power to regulate within certain limits the rate of interest paid to trustee savings banks on their deposits), shall be subject to annulment in pursuance of a resolution of either House of Parliament. Orders under Savings Banks Act, 1920, s. 2 to be subject to annulment.

10.—(1) Where any sum is debited to the account of a trustee savings bank in the books of the Commissioners otherwise than in pursuance of a draft of the bank, the Commissioners shall pay or credit to the bank the interest on that sum up to the day immediately preceding the date of the debit. Interest on sums withdrawn by banks.

(2) Where, under the preceding subsection or under regulations made in pursuance of section sixteen of the Revenue Act, 1903, as respects interest where sums are debited in pursuance of a draft of the bank, interest is credited to a trustee savings bank on the occasion of a debit being made to the account of that bank,

the interest credited shall not itself carry interest until the twenty-first day of November or the twenty-first day of May next following the date as at which the interest is credited.

Keeping of ledgers, accounts, registers and minute books.

11.—(1) Any ledger, book of account, register or minute book required by any provision of the Trustee Savings Banks Acts, 1863 to 1947, or by the rules of a trustee savings bank, to be kept by a trustee savings bank, may be kept by making entries in a bound book or by recording the matters in question in any other manner.

(2) Where any such ledger, book of account, register or minute book is not kept by making entries in a bound book but by some other means, precautions shall be taken to the satisfaction of the Inspection Committee for guarding against falsification and facilitating its discovery.

Repeal of certain enactments as to banks in Ireland.

12. Sections twelve and fifty-one to fifty-four of the Trustee Savings Banks Act, 1863 (which contain certain provisions applicable only to banks in Ireland) are hereby repealed, and so much of any rules of any savings bank as is included therein for the purpose of giving effect to any of the said sections shall cease to have effect :

Provided that the repeal by this section of the said section twelve shall not extend the liability of any trustee or manager who before the passing of this Act has duly declared under the said section twelve that he is willing to be answerable for a specific amount only.

Construction of references to Trustee Savings Banks Acts, 1863 to 1929.

13. Any reference in any Act to the Trustee Savings Banks Acts, 1863 to 1929, shall be deemed to be and always to have been a reference to the Trustee Savings Banks Acts, 1863 to 1920, and the Savings Banks Act, 1929, so far as it relates to trustee savings banks.

Expenses.

14. There shall be paid out of the Consolidated Fund of the United Kingdom or the growing produce thereof any sums which fall to be so paid under section seventy-two of the Finance Act, 1947, in consequence of any provision of this Act.

Abolition of naval savings banks.

15.—(1) The Naval Savings Banks Act, 1866 (which authorises the establishment of naval savings banks) is hereby repealed.

(2) All property held by the Admiralty at the date of the passing of this Act for the purposes of naval savings banks shall be held by the Admiralty for the benefit of Greenwich Hospital and any money required by the Admiralty for the purpose of meeting any claim established in respect of any deposit in any naval savings bank shall be defrayed as expenses of Greenwich Hospital.

16. In this Act, except so far as the contrary is expressly provided or the context otherwise requires, the expression "trustee savings bank" means a savings bank certified under the Trustee Savings Banks Act, 1863, or the trustees and managers thereof, as the context may require, and other expressions have the meanings assigned to them by section nineteen of the Savings Banks Act, 1929. Interpretation.

17.—(1) This Act may be cited as the Savings Banks Act, 1949. Short title,  
construction  
and extent.

(2) This Act, except so far as it relates to the Postmaster General, shall be construed as one with the Trustee Savings Banks Acts, 1863 to 1947, and this Act and those Acts may be cited together as the Trustee Savings Banks Acts, 1863 to 1949.

(3) This Act shall extend to the Channel Islands and the Isle of Man and shall be registered by the Royal Courts of the Channel Islands.

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TABLE OF STATUTES REFERRED TO IN THIS ACT.

| Short Title.                                              | Session and Chapter.   |
|-----------------------------------------------------------|------------------------|
| Trustee Savings Banks Act, 1863 ... ..                    | 26 & 27 Vict. c. 87.   |
| Naval Savings Banks Act, 1866 ... ..                      | 29 & 30 Vict. c. 43.   |
| Customs, Inland Revenue, and Savings Banks Act,<br>1877.  | 40 & 41 Vict. c. 13.   |
| Savings Banks Act, 1891 ... ..                            | 54 & 55 Vict. c. 21.   |
| Revenue Act, 1903 ... ..                                  | 3 Edw. 7. c. 46.       |
| Savings Banks Act, 1904 ... ..                            | 4 Edw. 7. c. 8.        |
| Trustee Savings Banks Act, 1918 ... ..                    | 8 & 9 Geo. 5. c. 4.    |
| Savings Banks Act, 1920 ... ..                            | 10 & 11 Geo. 5. c. 12. |
| Savings Banks Act, 1929 ... ..                            | 19 & 20 Geo. 5. c. 27. |
| Trustee Savings Banks (Special Investments) Act,<br>1934. | 24 & 25 Geo. 5. c. 37. |
| National Loans Act, 1945 ... ..                           | 8 & 9 Geo. 6. c. 23.   |
| Trustee Savings Banks, Act, 1947 ... ..                   | 10 & 11 Geo. 6. c. 6.  |
| Finance Act, 1947 ... ..                                  | 10 & 11 Geo. 6. c. 35. |

**CHAPTER 14***Export Guarantees Act, 1949*

## ARRANGEMENT OF SECTIONS

## Section.

1. Export guarantees.
2. Further power to give guarantees in national interest.
3. Power of Board of Trade to acquire securities guaranteed by the Board.
4. General expenses and receipts.
5. Returns.
6. Exercise of powers of Board by Export Credits Guarantee Department.
7. Supplementary provisions as to guarantees.
8. Repeals.
9. Short title and interpretation.

An Act to make further provision with respect to the powers of the Board of Trade to give guarantees in connection with overseas transactions; and for purposes connected with the matters aforesaid.

[9th March 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Export  
guarantees.

1.—(1) For the purpose of encouraging trade with places outside the United Kingdom, the Board of Trade after consultation with the Advisory Council may with the consent of the Treasury make arrangements for giving guarantees to, or for the benefit of, persons carrying on business in the United Kingdom, being guarantees in connection with the export, manufacture, treatment or distribution of goods, the rendering of services, or any other matter which appears to the Board of Trade conducive to the said purpose.

(2) In this section the expression “trade with places outside the United Kingdom” includes any transaction involving a consideration in money or money's worth accruing from a person carrying on business or other activities outside the United Kingdom to a person carrying on business in the United Kingdom.

(3) The Export Guarantees Advisory Council constituted for the purposes of the Export Guarantees Act, 1939, shall be continued by the Board of Trade for the purposes of this Act, and in subsection (1) of this section the expression “Advisory Council” means the said Council.

(4) The aggregate amount of the liability at any time of the Board of Trade in respect of guarantees given under this section and under the repealed enactments, excluding guarantees given under the Overseas Trade Guarantees Act, 1939, or under section four of the Export Guarantees Act, 1939, shall not exceed the sum of five hundred million pounds.

2.—(1) For the purpose specified in subsection (1) of the foregoing section, or for the purpose of rendering economic assistance to countries outside the United Kingdom, the Board of Trade may with the consent of the Treasury make arrangements for giving such guarantees to, or for the benefit of, persons carrying on business in the United Kingdom as appear to the Board to be expedient in the national interest.

Further power to give guarantees in national interest.

(2) The aggregate amount of the liability at any time of the Board of Trade in respect of guarantees given under this section, under the Overseas Trade Guarantees Act, 1939, and under section four of the Export Guarantees Act, 1939, shall not exceed the sum of one hundred million pounds.

3.—(1) The Board of Trade may, with the consent of the Treasury, acquire any securities which the Board have guaranteed in the exercise of their powers under this Act, or, before the passing of this Act, in the exercise of their powers under the Export Guarantees Acts, 1939 to 1948, or the Overseas Trade Guarantees Act, 1939, and may, with such consent as aforesaid,—

Power of Board of Trade to acquire securities guaranteed by the Board.

(a) hold any such security so acquired for such period as they think fit and collect any sums falling due, whether by way of principal or of interest, in respect thereof; and

(b) dispose of any such security so acquired at such time and in such manner as they think fit.

(2) The Treasury may from time to time issue to the Board of Trade out of the Consolidated Fund, on such terms and conditions with respect to repayment and payment of interest and otherwise as the Treasury may think fit, such sums as may be required to enable the Board to acquire securities under subsection (1) of this section, and for the purpose of providing for the issue of such sums, or any part of such sums, or for the replacement of all, or any part, of sums so issued, the Treasury may from time to time raise money in any manner in which they are authorised to raise money under the National Loans Act, 1939, and any securities created and issued to raise money under this subsection shall be deemed for all purposes to have been created and issued under that Act.

(3) The Acquisition of Guaranteed Securities Fund (hereafter in this section referred to as "the Fund") established under section four of the Overseas Trade Guarantees Act, 1939, shall

be continued under the control and management of the Board of Trade for the purposes of this section.

(4) The Board of Trade shall pay into the Fund—

- (a) all sums issued to them out of the Consolidated Fund under subsection (2) of this section; and
- (b) all sums received by them in respect of securities acquired under subsection (1) of this section.

(5) The Board of Trade shall out of the Fund—

- (a) pay any sums required for the acquisition of securities under subsection (1) of this section;
- (b) repay into the Exchequer any sums issued to them out of the Consolidated Fund under subsection (2) of this section, and pay into the Exchequer interest on those sums; and
- (c) pay into the Exchequer, at such times and in such manner as the Treasury may direct, any amount by which the sums received by the Board in respect of securities acquired under subsection (1) of this section exceed the sums required to make repayments and payments under paragraph (b) of this subsection.

(6) Of any sums received into the Exchequer under the last foregoing subsection or under subsection (4) of section four of the Overseas Trade Guarantees Act, 1939—

- (a) so much as represents interest on issues out of the Consolidated Fund under subsection (2) of this section shall be issued out of the Consolidated Fund and applied in payment of an equivalent amount of interest which would, but for this provision, have been paid out of the permanent annual charge for the National Debt;
- (b) so much as represents repayment of such issues shall be issued out of the Consolidated Fund and applied in redeeming or paying off debt of such description as the Treasury think fit; and
- (c) the remainder may, if the Treasury think fit, be issued out of the Consolidated Fund and applied as mentioned in the last foregoing paragraph.

(7) The Board of Trade shall prepare, in such form and manner as the Treasury may direct, an account of the sums received into and paid out of the Fund in each financial year, and shall, on or before the thirtieth day of November in each year, transmit the said account to the Comptroller and Auditor-General who shall examine and certify the account and lay copies thereof together with his report thereon before both Houses of Parliament.

(8) In this section the expression "securities" includes bonds, stock, shares, bills and promissory notes; and references in this section to the acquisition of securities under subsection (1) thereof and to securities so acquired shall, except where the context otherwise requires, be construed as including references to the acquisition of securities under section three of the Overseas Trade Guarantees Act, 1939, and to securities acquired under that section.

4.—(1) Save as expressly provided by the last foregoing section, all expenses incurred by the Board of Trade under this Act or the repealed enactments shall be defrayed out of moneys provided by Parliament, but in the event of any amount required for fulfilling any guarantee given under any of the said enactments not being paid out of such moneys, it shall be charged on and issued out of the Consolidated Fund. General expenses and receipts.

(2) Save as aforesaid, all sums received by the Board of Trade in connection with any guarantee given under any of the said enactments or in connection with any credit granted under any of the enactments repealed by the Export Guarantees Act, 1937, shall be paid into the Exchequer.

5. The Board of Trade shall publish quarterly—

Returns.

(a) a return showing, in the case of the first return under this paragraph, the aggregate amount of the guarantees given under section one of this Act, section one of the Export Guarantees Act, 1939, and section two of the Export Guarantees Act, 1945, since the date of the last return published under section three of the said Act of 1939, and, in the case of a subsequent return under this paragraph, the aggregate amount of the guarantees given under section one of this Act since the date of the last previous return under this paragraph;

(b) a return showing, in the case of the first return under this paragraph, the aggregate amount of the guarantees given under section two of this Act and under the Overseas Trade Guarantees Act, 1939, since the date of the last return published under section two of that Act, and, in the case of a subsequent return under this paragraph, the aggregate amount of the guarantees given under section two of this Act since the date of the last previous return under this paragraph.

6. The Export Credits Guarantee Department shall be a separate Department of the Board of Trade under the Secretary for Overseas Trade, and all powers and duties of the Board exercisable under this Act, or exercisable after the passing of this Act in relation to things done under the repealed enactments, shall, subject to the directions of the Board, be exercised and performed through the Secretary for Overseas Trade. Exercise of powers of Board by Export Credits Guarantee Department.

**Supplementary provisions as to guarantees.** 7.—(1) A guarantee given under this Act may be given on such terms and conditions as to the consideration for the giving of the guarantee and otherwise as may be determined in accordance with the arrangements made for giving that guarantee.

(2) References in sections one and two of this Act to the liability of the Board of Trade in respect of a guarantee shall be construed exclusively of any liability in respect of interest on any principal moneys the payment of which is the subject of the guarantee.

**Repeals.** 8.—The Export Guarantees Acts, 1939 to 1948, and the Overseas Trade Guarantees Act, 1939, are hereby repealed.

**Short title and interpretation.** 9.—(1) This Act may be cited as the Export Guarantees Act, 1949.

(2) In this Act the following expressions have the meanings hereby assigned to them respectively, that is to say :—

“business” includes a profession ;

“Consolidated Fund” means the Consolidated Fund of the United Kingdom, and includes the growing produce thereof ;

“guarantee” includes any contract to indemnify, whether wholly or in part, against loss of any description ;

“repealed enactments” means the enactments specified in the last foregoing section, any enactment repealed by any of those enactments, and any enactment repealed by an enactment so repealed.

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TABLE OF STATUTES REFERRED TO IN THIS ACT.

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| Short Title.                            | Session and Chapter.        |
|-----------------------------------------|-----------------------------|
| Export Guarantees Act, 1937 ... ..      | 1 Edw. 8 & 1 Geo. 6. c. 61. |
| Export Guarantees Act, 1939 ... ..      | 2 & 3 Geo. 6. c. 5.         |
| Overseas Trade Guarantees Act, 1939 ... | 2 & 3 Geo. 6. c. 47.        |
| National Loans Act, 1939 ... ..         | 2 & 3 Geo. 6. c. 117.       |
| Export Guarantees Act, 1945 ... ..      | 8 & 9 Geo. 6. c. 9.         |

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## CHAPTER 15

An Act to authorise the payment out of moneys provided by Parliament of sums required by the Minister of Food to fulfil contracts or arrangements entered into by him, whether before or after the passing of this Act, including contracts or arrangements involving commitments extending beyond the financial year current when the contracts or arrangements were made.

[9th March 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Any sums required by the Minister of Food to fulfil any contracts or arrangements entered into by him, whether before or after the passing of this Act, in or in connection with the exercise of his functions as to food and animal feeding stuffs, including contracts or arrangements involving commitments extending beyond the financial year current when the contracts or arrangements were made, shall be paid out of moneys provided by Parliament. Long-term contracts and arrangements of Minister of Food.

2. This Act may be cited as the Minister of Food (Financial Powers) Act, 1949. Short title.

## CHAPTER 16

An Act to authorise the Treasury to contribute towards the cost of a national theatre, and for purposes connected therewith. [9th March 1949.]

**W**HEREAS arrangements have been made between the Trustees of the Shakespeare Memorial Trust (in this Act referred to as "the Trustees") and the London County Council for reserving to the Trustees as a site for the erection of a national theatre by way of memorial to William Shakespeare, certain land in the borough of Lambeth belonging to the Council and for the transfer to the Council of certain land in the Royal Borough of Kensington previously acquired by the Trustees for the purpose aforesaid :

And whereas it is expedient to make provision for authorising the payment out of public funds of contributions towards the erection and equipment of such a theatre by the Trustees:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Power of  
Treasury to  
contribute to  
cost of national  
theatre.

1. Upon the submission to the Treasury of a scheme satisfactory to them for the erection by the Trustees of such a theatre as aforesaid on the site reserved to them for the purpose in accordance with the said arrangements, and for the equipment and management thereof, the Treasury may undertake to make, and may make out of moneys provided by Parliament, upon such terms and subject to such conditions as they think fit, such contributions to the funds of the Trustees as they think fit (not exceeding one million pounds) in respect of the cost of erecting and equipping the theatre in accordance with the scheme.

Appointment  
of trustees of  
Shakespeare  
Memorial  
Trust.

2.—(1) After the commencement of this Act no person shall be appointed as a new or additional trustee of the Shakespeare Memorial Trust unless his appointment is approved by the Treasury.

15 & 16 Geo. 5.  
c. 19.

(2) Notwithstanding anything in subsection (6) of section thirty-six of the Trustee Act, 1925, the number of trustees of the said Trust may be increased by virtue of appointments made under that subsection up to seven and appointments may be made thereunder notwithstanding that the number of trustees of the Trust for the time being exceeds three.

Short title.

3. This Act may be cited as the National Theatre Act, 1949.



## CHAPTER 17

An Act to make certain provision of a financial nature in connection with the assistance furnished to the United Kingdom in pursuance of the Act of the Congress of the United States of America known as the Economic Cooperation Act of 1948, or any other Act of the Congress of the United States of America for amending or supplementing that Act or for making appropriations thereunder, and any assistance furnished by or to the United Kingdom in pursuance of agreements entered into by members of the Organisation for European Economic Co-operation.

[9th March 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) The Treasury shall have the two following accounts, The two  
Treasury  
accounts.  
that is to say—

(a) the special account opened before the passing of this Act in pursuance of Article 4 of the Economic Co-operation Agreement between the Governments of the United Kingdom and the United States of America dated the sixth day of July, nineteen hundred and forty-eight (hereafter in this Act referred to as "the Special Account");

(b) an account to be opened in pursuance of this Act (hereafter in this Act referred to as the "Intra-European Payments Account").

(2) The Treasury shall prepare, in respect of each of the said accounts, statements of account for each financial year and shall transmit them to the Comptroller and Auditor General before the end of November next following the end of the financial year in question, and the Comptroller and Auditor General shall examine and certify the statements of account so prepared and lay copies thereof before each House of Parliament together with his reports thereon.

(3) For the purpose of the last preceding subsection, this Act shall be treated in relation to the Special Account as if it had been passed before the opening thereof, and any operations on and transactions in connection with the Special Account which took place before the passing of this Act shall be dealt with accordingly.

The Special Account.

- 2.—(1) There shall be paid into the Special Account—
- (a) the sterling equivalent of any American aid furnished to the United Kingdom on a grant basis; and
  - (b) except so far as may be otherwise agreed between the Governments of the United Kingdom and the United States of America, the sterling equivalent of any amounts made available to the Government of the United Kingdom by any other member of the Organisation for European Economic Co-operation in pursuance of Part II of the agreement hereinafter referred to.

The said agreement (hereafter in this Act referred to as “the Intra-European Agreement”) is the agreement entitled the Agreement for Intra-European Payments and Compensations which was signed in Paris on the sixteenth day of October, nineteen hundred and forty-eight.

(2) There shall be paid out of the Special Account any amounts which, under any agreement between the Governments of the United Kingdom and the United States of America, have to be made available therefrom to the Government of the United States of America.

(3) If the Government of the United States of America consents that the Government of the United Kingdom should draw upon the Special Account for any purpose, the Special Account may be drawn upon accordingly.

The Intra-European Payments Account.

3.—(1) There shall be paid into the Intra-European Payments Account the sterling equivalent of any American aid furnished to the United Kingdom on condition that the Government of the United Kingdom makes the said equivalent available under Part II of the Intra-European Agreement to other members of the Organisation for European Economic Co-operation.

(2) There shall be paid out of the Intra-European Payments Account any sums which the Government of the United Kingdom has to make available under Part II of the Intra-European Agreement to other members of the Organisation for European Economic Co-operation.

(3) Temporary advances may be made out of the Civil Contingencies Fund to the Intra-European Payments Account for the purpose of enabling payments to be made out of that Account under subsection (2) of this section in advance of payments falling to be made into that Account under subsection (1) of this section, and section three of the Miscellaneous Financial Provisions Act, 1946 (which authorises issues to the Civil Contingencies Fund out of the Consolidated Fund to provide funds for making advances in respect of urgent services) shall apply in relation to advances made under this subsection as if those advances were such advances as are mentioned in subsection (1) of that section.

4. If it appears to the Treasury that any sum which has been paid into or out of the Special Account or into or out of the Intra-European Payments Account ought by reason of any change in circumstances to be treated as a sum falling to be paid into, or, as the case may be, out of, the other of those accounts, the Treasury may make from the one Account to the other Account such payments as are necessary to adjust the matter.

Adjustments  
between the  
Accounts.

5.—(1) Any reference in this Act to the Intra-European Agreement or to any provision thereof shall be construed as a reference to that Agreement or that provision as for the time being amended by any subsequent agreement made between all the parties to that Agreement or by any subsequent agreement approved by the Council of the Organisation for European Economic Co-operation the parties to which include the Government of the United Kingdom.

Agreements  
amending or  
continuing the  
Intra-European  
Agreement.

(2) This Act shall apply in relation to any agreement to which the Government of the United Kingdom is a party which is made, whether directly or indirectly, in continuation of or in substitution for the whole or any part of the Intra-European Agreement as it applies in relation to the Intra-European Agreement, and references in this Act to Part II of the Intra-European Agreement shall be construed as references to the corresponding provisions of any such agreement so made.

6.—(1) Any reference in this Act to American aid furnished to the United Kingdom shall be construed as a reference to goods or services furnished to the United Kingdom by or at the expense of the Government of the United States of America in pursuance of the Act of the Congress of the United States of America known as the Economic Cooperation Act of 1948, or any other Act of the Congress of the United States of America for amending or supplementing that Act or for making appropriations thereunder; and any reference in this Act to American aid furnished to the United Kingdom on a grant basis shall be construed as a reference to American aid furnished to the United Kingdom otherwise than by way of loan and without the Government of the United Kingdom becoming as a result thereof under any obligation to make any sums available to any other member of the Organisation for European Economic Co-operation.

Interpretation.

(2) In this Act, the expression "the Organisation for European Economic Co-operation" means the organisation set up under that name by the convention entitled the Convention for European Economic Co-operation which was signed in Paris on the sixteenth day of April, nineteen hundred and forty-eight.

7. This Act may be cited as the American Aid and European Payments (Financial Provisions) Act, 1949.



## CHAPTER 18

An Act to make further provision for the naval defence of overseas territories. [9th March 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Amendment  
and extension  
of 21 & 22  
Geo. 5. c. 9.

1.—(1) In this Act the expression “the principal Act” means the Colonial Naval Defence Act, 1931 (which makes provision in section one as to the maintenance and use of warships by a colony and in section two as to the discipline and liability to service of naval forces raised by a colony).

(2) The legislature of a colony may provide for raising a force jointly with other colonies for their naval defence within the territorial waters of all or any of them, and the principal Act as amended by the following subsections shall apply in relation to any force so raised as it applies in relation to a force raised by a colony for its naval defence within its own territorial waters.

(3) The principal Act and this Act, as they apply in relation to a colony, shall apply also in relation—

(a) to any territory not forming part of His Majesty's dominions but being a territory in which His Majesty has jurisdiction, other than a territory for the time being administered by His Majesty's Government in a Dominion within the meaning of the Statute of Westminster, 1931; and

(b) to any group of territories to which the principal Act applies, where there is a common legislature for the group with power to legislate for their defence.

(4) Any power conferred by subsection (1) of section two of the principal Act on a legislature to provide that any officers or men shall form part of the Royal Naval Reserve, or of the Royal Naval Volunteer Reserve, shall include power to provide for their forming part of any division of that Reserve (and in particular in the case of the Royal Naval Reserve, for their forming part of the Royal Fleet Reserve), and references in subsection (2) of the said section two to either of the two first-mentioned Reserves shall be construed accordingly.

(5) Subsection (1) of section two of the principal Act shall confer the like powers on a legislature where the legislature is making provision for raising a force as it does where the legislature has already made provision therefor.

22 & 23 Geo. 5.  
c. 4.

(6) Nothing in the principal Act shall be deemed to require the assent of His Majesty in Council before the legislature of a colony may make provisions in exercise of any power conferred by the principal Act or this Act, but no provision so made by a legislature shall have effect unless or until it is approved by His Majesty in Council.

(7) Any reference in the principal Act or this Act to the territorial waters of any territory or group shall include any inland waters.

2. This Act may be cited as the Colonial Naval Defence Act, 1949, and this Act and the principal Act may be cited together as the Colonial Naval Defence Acts, 1931 and 1949. Short title  
and citation.

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## CHAPTER 19.

An Act to amend the provisions of the Education (Scotland) Act, 1946, relating to attendance at junior colleges, to the powers of education authorities to provide education for pupils belonging to the areas of other authorities and to enable persons to take advantage of educational facilities and to other matters; and to amend the provisions of other Acts relating to defective children and the employment of children.

[9th March 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. Sections thirty-nine, forty, forty-one and one hundred and thirty-seven of the Education (Scotland) Act, 1946 (which relate to attendance at junior colleges and to the effect of attendance notices on computation of working hours) shall come into operation on such day as the Secretary of State may appoint, being as early a day as he considers practicable; and the Seventh Schedule to the said Act (hereinafter referred to as "the principal Act") in so far as that Schedule relates to the said sections shall cease to have effect. Attendance  
at junior  
colleges.  
9 & 10 Geo. 6.  
c. 72.

2. In section twenty-four of the principal Act (which relates to the provision by an education authority for the education of pupils belonging to other areas), for subsection (3) there shall be substituted the following subsection:— Amendment  
of s. 24 of  
principal Act.

"(3) The Secretary of State may make regulations prescribing the areas to which particular classes of pupils receiving primary or secondary education are to be deemed

to belong for the purposes of this section and any such pupil to whom the regulations apply shall be deemed to belong to the area determined in accordance with the regulations. Any other pupil receiving primary or secondary education shall, for the aforesaid purposes, be deemed to belong to the area in which his parent is ordinarily resident, and any pupil receiving further education shall be deemed to belong to the area in which he himself is ordinarily resident :

Provided that any pupil who becomes ordinarily resident in any area wholly or mainly for the purpose of attending an educational establishment providing further education shall be deemed to belong not to that area but to any area to which he was deemed to belong immediately before he became so resident."

Dates for  
commencing  
and termin-  
ating school  
attendance.

3. For section thirty-three of the principal Act there shall be substituted the following section:—

" 33.—(1) The Secretary of State may from time to time require an education authority to fix for their area any or all of the following dates (hereinafter referred to as 'fixed dates')—

- (a) two or more fixed dates for commencing school attendance ; and
- (b) three or more fixed dates by reference to which dates for terminating school attendance (hereinafter referred to as 'school leaving dates') shall be ascertained.

(2) The education authority shall submit proposals for fixed dates to the Secretary of State, and the Secretary of State may approve the proposals or may after consultation with the authority and with such other persons as he thinks fit direct the authority to fix other dates. The authority shall thereupon fix the dates approved by the Secretary of State or the dates specified in the said direction as the case may be.

(3) A child who does not attain the age of five years on a fixed date for commencing school attendance shall for the purpose of such attendance be deemed to attain that age on the fixed date next following the fifth anniversary of his birth.

(4) School leaving dates shall be ascertained by reference to the fixed dates under paragraph (b) of subsection (1) of this section as follows—

- (a) where a fixed date falls within a holiday period, the school leaving date ascertained by reference thereto shall be the first day of the holiday period ; and
- (b) where a fixed date falls outwith a holiday period, that fixed date shall also be a school leaving date.



(5) Where the fifteenth anniversary of the day of the birth of a child for whom the upper limit of the school age is fifteen falls outwith a holiday period and does not fall on a school leaving date, the child shall for the purpose of terminating attendance at school be deemed to attain the age of fifteen on the school leaving date next following the said anniversary. Any other child for whom the upper limit of the school age is fifteen shall be entitled to terminate school attendance on the said anniversary. This subsection shall apply to a child for whom the upper limit of the school age is sixteen with the substitution of the word 'sixteen' for the word 'fifteen' and of the word 'sixteenth' for the word 'fifteenth', wherever those words occur.

(6) In this section the expression 'holiday period' means a period of more than nine consecutive days in which no meeting of the school is held, but does not include any period during which the school is closed for exceptional reasons unless the holiday period and the period of closure for exceptional reasons are consecutive. Exceptional reasons include national or local rejoicing or mourning, national or local emergency and the prevention of the spread of disease."

4.—(1) In section forty-three of the principal Act (which empowers education authorities to enable persons to take advantage of educational facilities) in subsection (1) for the words "resident in" there shall be substituted the words "belonging to".

Amendment  
of s. 43 of  
principal Act.

(2) At the end of the said section there shall be inserted the following subsections:—

"(4) For the purposes of this section, a pupil attending school shall be deemed to belong to the area in which his parent is ordinarily resident and any other person shall be deemed to belong to the area in which he himself is ordinarily resident:

Provided that—

(i) any such other person who becomes ordinarily resident in any area wholly or mainly for the purpose of attending a university or theological college or an educational establishment providing further education, shall be deemed to belong not to that area but to any area to which he was deemed to belong immediately before he became so resident; and

(ii) where any such pupil or other person to whom an award for a definite period has been made under this section ceases before the expiry of that period to belong to the area of the education authority by whom the award was made, he shall be deemed to continue to belong to that area until the expiry of the said period.

(5) Where the education authorities concerned are unable to agree as to the education area to which a person is to be deemed to belong for the purposes of this section, the question shall be determined by the Secretary of State."

Miscellaneous amendments of enactments. 5. The amendments set forth in Part I and Part II of the Schedule to this Act, being amendments which relate to minor matters, shall be made in the principal Act and in the Acts specified in the said Part II respectively.

Citation and construction. 6.—(1) This Act may be cited as the Education (Scotland) Act, 1949.

2 & 3 Geo. 6. c. 96.  
10 & 11 Geo. 6. c. 36. (2) The Education (Scotland) (War Service Superannuation) Act, 1939, the Education (Scotland) Act, 1946, the Education (Exemptions) (Scotland) Act, 1947, and this Act shall be construed as one, and may be cited together as the Education (Scotland) Acts, 1939 to 1949.

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## SCHEDULE.

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Section 5.

### MINOR AMENDMENTS.

#### PART I.

#### AMENDMENTS OF THE PRINCIPAL ACT.

9 & 10 Geo. 6. c. 72.

Section three... ... In subsection (1) for the words "for whom primary, secondary or further education is provided by the authority" there shall be substituted the words "receiving primary secondary or further education".

Section eleven ... For subsection (3) the following subsection shall be substituted:—

"(3) It shall be in the power of an education authority to provide—

(a) for pupils in attendance at any school, junior college or other educational establishment under their management, articles of clothing suitable for physical exercise or for other activities of the school, college or establishment for which special clothing is desirable, and

Section eleven—*cont.*

(b) for persons who make use of facilities for physical training made available to them by the authority under subsection (1) of section three of this Act, articles of clothing suitable for physical exercise."

Section seventeen ...

In subsection (1) for the words from "for all pupils" to the end of the subsection there shall be substituted the words "to enable them to carry the said scheme into effect."

Section twenty ...

For section twenty the following section shall be substituted :—

" 20.—(1) The Secretary of State may make regulations prescribing standards applicable to the premises or equipment of schools, junior colleges and other educational establishments under the management of education authorities, and such regulations may prescribe appropriate standards for such types of schools, junior colleges and other educational establishments as may be specified in the regulations. If the Secretary of State is satisfied, after consultation with the education authority, that it is impracticable or would be unreasonable to apply the standards prescribed in the regulations to the premises or equipment of a particular school, college or establishment, he may make an order prescribing modified standards for such school, college or establishment.

(2) Every education authority shall secure that any premises or equipment provided by them for a school, junior college or other educational establishment conform to the standards applicable to the school, college or establishment.

(3) Where the premises or equipment of any school, junior college or other educational establishment under the management of an education authority do not conform to the standards applicable to the school, college or establishment, it shall be in the power of the Secretary of State, after consultation with the education authority, to direct that the premises or equipment be brought into conformity with the said standards within a period to be specified in the direction; and it shall thereupon be the duty of the education authority to comply with the direction.

(4) With a view to securing that the premises and equipment of schools, junior

- Section twenty—*cont.* colleges and other educational establishments under the management of an education authority are maintained in such a condition as to contribute to the good health of the pupils, it shall be the duty of an education authority to cause their medical officers as part of their ordinary work from time to time to inspect and to report to them upon the said premises and equipment, and in making the said inspections the medical officers shall have special regard to the lighting, heating and ventilation, and to the sanitary arrangements. ”
- Section twenty-three In subsection (1) after the words “ this Act ” where they first occur there shall be inserted the words “ and an education authority and any other local authority may make arrangements for co-operation or combination in the exercise of any functions which the authorities have respectively power to exercise ; ” and the following subsection shall be added to the end of the section :—  
“ (4) In this section the expression ‘ local authority ’ means a county, town or district council.”
- Section thirty-two ... In subsection (4) for the words “ that child ” there shall be substituted the words “ and the child is in attendance at a special school, he ”
- Section thirty-five ... The following subsection shall be added at the end of the section :—  
“ (4) For the purposes of this section, a child who has been required to discontinue for any period his attendance at a school on account of his parent’s refusal or failure to comply with the rules, regulations or disciplinary requirements of the school, shall, unless the court otherwise determines, be deemed to have failed without reasonable excuse to attend regularly at the school.”
- Section thirty-nine ... In subsection (1) for the word “ residing ” there shall be substituted the words “ ordinarily resident.”
- Section forty ... In subsection (1) for the word “ resides ” there shall be substituted the words “ is ordinarily resident.”
- Section forty-four ... In subsection (1), in paragraph (a), the words “ resident in their area ” shall be omitted.
- Section forty-five ... In paragraph (c) after the word “ paying ” there shall be inserted the words “ the whole or any part, as the authority think fit, of ”

Section forty-six ... For the word " shall " where it first occurs there shall be substituted the words " may, in their discretion "

Section forty-eight ... In subsection (1) for the words " public school in their area " there shall be substituted the words " school under their management "; after subsection (2) the following subsection shall be inserted :—

" (2A) Without prejudice to any powers conferred upon them by the last two foregoing subsections, an education authority may provide clothing free of charge—

(i) for any pupil who is a boarder at a school, or

(ii) for any pupil in attendance at a nursery school or a nursery class, under the management of the authority " ;

and in subsection (3) in paragraph (a) for the words " in the area of the authority in which he resides " there shall be substituted the words " under the management of the education authority in whose area he is ordinarily resident," and in paragraph (b) for the words " in the area " there shall be substituted the words " under the management."

After section forty-nine the following section shall be inserted :—

**Provision of clothing.**

" 49A. Save as may be otherwise prescribed, provision of clothing by an education authority under any of the powers conferred by this Act may be made in such a way as to confer, at the option of the authority, either a right of property in the clothing or a right to use it only."

Section fifty-five ... In subsection (2), after the word " may " there shall be inserted the words " , within fourteen days after the date of issue thereof."

Section fifty-six ... The following subsections shall be added at the end of the section :—

" (2) If, at any time after a report has been made under the foregoing provisions of this section, the local health authority or an authority or body responsible for the management of an institution in which the child is under care are of opinion that the decision recorded in the report ought to be reviewed, they shall notify the education authority of their opinion and thereupon

B

The Special Account.

2.—(1) There shall be paid into the Special Account—

- (a) the sterling equivalent of any American aid furnished to the United Kingdom on a grant basis; and
- (b) except so far as may be otherwise agreed between the Governments of the United Kingdom and the United States of America, the sterling equivalent of any amounts made available to the Government of the United Kingdom by any other member of the Organisation for European Economic Co-operation in pursuance of Part II of the agreement hereinafter referred to.

The said agreement (hereafter in this Act referred to as “the Intra-European Agreement”) is the agreement entitled the Agreement for Intra-European Payments and Compensations which was signed in Paris on the sixteenth day of October, nineteen hundred and forty-eight.

(2) There shall be paid out of the Special Account any amounts which, under any agreement between the Governments of the United Kingdom and the United States of America, have to be made available therefrom to the Government of the United States of America.

(3) If the Government of the United States of America consents that the Government of the United Kingdom should draw upon the Special Account for any purpose, the Special Account may be drawn upon accordingly.

The Intra-European Payments Account.

3.—(1) There shall be paid into the Intra-European Payments Account the sterling equivalent of any American aid furnished to the United Kingdom on condition that the Government of the United Kingdom makes the said equivalent available under Part II of the Intra-European Agreement to other members of the Organisation for European Economic Co-operation.

(2) There shall be paid out of the Intra-European Payments Account any sums which the Government of the United Kingdom has to make available under Part II of the Intra-European Agreement to other members of the Organisation for European Economic Co-operation.

(3) Temporary advances may be made out of the Civil Contingencies Fund to the Intra-European Payments Account for the purpose of enabling payments to be made out of that Account under subsection (2) of this section in advance of payments falling to be made into that Account under subsection (1) of this section, and section three of the Miscellaneous Financial Provisions Act, 1946 (which authorises issues to the Civil Contingencies Fund out of the Consolidated Fund to provide funds for making advances in respect of urgent services) shall apply in relation to advances made under this subsection as if those advances were such advances as are mentioned in subsection (1) of that section.

4. If it appears to the Treasury that any sum which has been paid into or out of the Special Account or into or out of the Intra-European Payments Account ought by reason of any change in circumstances to be treated as a sum falling to be paid into, or, as the case may be, out of, the other of those accounts, the Treasury may make from the one Account to the other Account such payments as are necessary to adjust the matter.

Adjustments  
between the  
Accounts.

5.—(1) Any reference in this Act to the Intra-European Agreement or to any provision thereof shall be construed as a reference to that Agreement or that provision as for the time being amended by any subsequent agreement made between all the parties to that Agreement or by any subsequent agreement approved by the Council of the Organisation for European Economic Co-operation the parties to which include the Government of the United Kingdom.

Agreements  
amending or  
continuing the  
Intra-European  
Agreement.

(2) This Act shall apply in relation to any agreement to which the Government of the United Kingdom is a party which is made, whether directly or indirectly, in continuation of or in substitution for the whole or any part of the Intra-European Agreement as it applies in relation to the Intra-European Agreement, and references in this Act to Part II of the Intra-European Agreement shall be construed as references to the corresponding provisions of any such agreement so made.

6.—(1) Any reference in this Act to American aid furnished to the United Kingdom shall be construed as a reference to goods or services furnished to the United Kingdom by or at the expense of the Government of the United States of America in pursuance of the Act of the Congress of the United States of America known as the Economic Cooperation Act of 1948, or any other Act of the Congress of the United States of America for amending or supplementing that Act or for making appropriations thereunder; and any reference in this Act to American aid furnished to the United Kingdom on a grant basis shall be construed as a reference to American aid furnished to the United Kingdom otherwise than by way of loan and without the Government of the United Kingdom becoming as a result thereof under any obligation to make any sums available to any other member of the Organisation for European Economic Co-operation.

Interpretation.

(2) In this Act, the expression "the Organisation for European Economic Co-operation" means the organisation set up under that name by the convention entitled the Convention for European Economic Co-operation which was signed in Paris on the sixteenth day of April, nineteen hundred and forty-eight.

7. This Act may be cited as the American Aid and European Payments (Financial Provisions) Act, 1949.

## CHAPTER 18

An Act to make further provision for the naval defence of overseas territories. [9th March 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Amendment  
and extension  
of 21 & 22  
Geo. 5. c. 9.

1.—(1) In this Act the expression “the principal Act” means the Colonial Naval Defence Act, 1931 (which makes provision in section one as to the maintenance and use of warships by a colony and in section two as to the discipline and liability to service of naval forces raised by a colony).

(2) The legislature of a colony may provide for raising a force jointly with other colonies for their naval defence within the territorial waters of all or any of them, and the principal Act as amended by the following subsections shall apply in relation to any force so raised as it applies in relation to a force raised by a colony for its naval defence within its own territorial waters.

(3) The principal Act and this Act, as they apply in relation to a colony, shall apply also in relation—

(a) to any territory not forming part of His Majesty's dominions but being a territory in which His Majesty has jurisdiction, other than a territory for the time being administered by His Majesty's Government in a Dominion within the meaning of the Statute of Westminster, 1931; and

(b) to any group of territories to which the principal Act applies, where there is a common legislature for the group with power to legislate for their defence.

22 & 23 Geo. 5.  
c. 4.

(4) Any power conferred by subsection (1) of section two of the principal Act on a legislature to provide that any officers or men shall form part of the Royal Naval Reserve, or of the Royal Naval Volunteer Reserve, shall include power to provide for their forming part of any division of that Reserve (and in particular in the case of the Royal Naval Reserve, for their forming part of the Royal Fleet Reserve), and references in subsection (2) of the said section two to either of the two first-mentioned Reserves shall be construed accordingly.

(5) Subsection (1) of section two of the principal Act shall confer the like powers on a legislature where the legislature is making provision for raising a force as it does where the legislature has already made provision therefor.



(6) Nothing in the principal Act shall be deemed to require the assent of His Majesty in Council before the legislature of a colony may make provisions in exercise of any power conferred by the principal Act or this Act, but no provision so made by a legislature shall have effect unless or until it is approved by His Majesty in Council.

(7) Any reference in the principal Act or this Act to the territorial waters of any territory or group shall include any inland waters.

2. This Act may be cited as the Colonial Naval Defence Act, 1949, and this Act and the principal Act may be cited together as the Colonial Naval Defence Acts, 1931 and 1949. Short title  
and citation.

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## CHAPTER 19.

An Act to amend the provisions of the Education (Scotland) Act, 1946, relating to attendance at junior colleges, to the powers of education authorities to provide education for pupils belonging to the areas of other authorities and to enable persons to take advantage of educational facilities and to other matters ; and to amend the provisions of other Acts relating to defective children and the employment of children.

[9th March 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Sections thirty-nine, forty, forty-one and one hundred and thirty-seven of the Education (Scotland) Act, 1946 (which relate to attendance at junior colleges and to the effect of attendance notices on computation of working hours) shall come into operation on such day as the Secretary of State may appoint, being as early a day as he considers practicable ; and the Seventh Schedule to the said Act (hereinafter referred to as " the principal Act ") in so far as that Schedule relates to the said sections shall cease to have effect. Attendance  
at junior  
colleges.  
9 & 10 Geo. 6.  
c. 72.

2. In section twenty-four of the principal Act (which relates to the provision by an education authority for the education of pupils belonging to other areas), for subsection (3) there shall be substituted the following subsection :— Amendment  
of s. 24 of  
principal Act.

" (3) The Secretary of State may make regulations prescribing the areas to which particular classes of pupils receiving primary or secondary education are to be deemed

to belong for the purposes of this section and any such pupil to whom the regulations apply shall be deemed to belong to the area determined in accordance with the regulations. Any other pupil receiving primary or secondary education shall, for the aforesaid purposes, be deemed to belong to the area in which his parent is ordinarily resident, and any pupil receiving further education shall be deemed to belong to the area in which he himself is ordinarily resident :

Provided that any pupil who becomes ordinarily resident in any area wholly or mainly for the purpose of attending an educational establishment providing further education shall be deemed to belong not to that area but to any area to which he was deemed to belong immediately before he became so resident."

Dates for commencing and terminating school attendance.

3. For section thirty-three of the principal Act there shall be substituted the following section:—

" 33.—(1) The Secretary of State may from time to time require an education authority to fix for their area any or all of the following dates (hereinafter referred to as 'fixed dates')—

- (a) two or more fixed dates for commencing school attendance ; and
- (b) three or more fixed dates by reference to which dates for terminating school attendance (hereinafter referred to as 'school leaving dates') shall be ascertained.

(2) The education authority shall submit proposals for fixed dates to the Secretary of State, and the Secretary of State may approve the proposals or may after consultation with the authority and with such other persons as he thinks fit direct the authority to fix other dates. The authority shall thereupon fix the dates approved by the Secretary of State or the dates specified in the said direction as the case may be.

(3) A child who does not attain the age of five years on a fixed date for commencing school attendance shall for the purpose of such attendance be deemed to attain that age on the fixed date next following the fifth anniversary of his birth.

(4) School leaving dates shall be ascertained by reference to the fixed dates under paragraph (b) of subsection (1) of this section as follows—

- (a) where a fixed date falls within a holiday period, the school leaving date ascertained by reference thereto shall be the first day of the holiday period ; and
- (b) where a fixed date falls outwith a holiday period, that fixed date shall also be a school leaving date.

(5) Where the fifteenth anniversary of the day of the birth of a child for whom the upper limit of the school age is fifteen falls outwith a holiday period and does not fall on a school leaving date, the child shall for the purpose of terminating attendance at school be deemed to attain the age of fifteen on the school leaving date next following the said anniversary. Any other child for whom the upper limit of the school age is fifteen shall be entitled to terminate school attendance on the said anniversary. This subsection shall apply to a child for whom the upper limit of the school age is sixteen with the substitution of the word ' sixteen ' for the word ' fifteen ' and of the word ' sixteenth ' for the word ' fifteenth ', wherever those words occur.

(6) In this section the expression ' holiday period ' means a period of more than nine consecutive days in which no meeting of the school is held, but does not include any period during which the school is closed for exceptional reasons unless the holiday period and the period of closure for exceptional reasons are consecutive. Exceptional reasons include national or local rejoicing or mourning, national or local emergency and the prevention of the spread of disease."

4.—(1) In section forty-three of the principal Act (which empowers education authorities to enable persons to take advantage of educational facilities) in subsection (1) for the words " resident in " there shall be substituted the words " belonging to ". Amendment  
of s. 43 of  
principal Act.

(2) At the end of the said section there shall be inserted the following subsections :—

" (4) For the purposes of this section, a pupil attending school shall be deemed to belong to the area in which his parent is ordinarily resident and any other person shall be deemed to belong to the area in which he himself is ordinarily resident :

Provided that—

(i) any such other person who becomes ordinarily resident in any area wholly or mainly for the purpose of attending a university or theological college or an educational establishment providing further education, shall be deemed to belong not to that area but to any area to which he was deemed to belong immediately before he became so resident ; and

(ii) where any such pupil or other person to whom an award for a definite period has been made under this section ceases before the expiry of that period to belong to the area of the education authority by whom the award was made, he shall be deemed to continue to belong to that area until the expiry of the said period.

(5) Where the education authorities concerned are unable to agree as to the education area to which a person is to be deemed to belong for the purposes of this section, the question shall be determined by the Secretary of State."

Miscellaneous  
amendments  
of enactments.

5. The amendments set forth in Part I and Part II of the Schedule to this Act, being amendments which relate to minor matters, shall be made in the principal Act and in the Acts specified in the said Part II respectively.

Citation and  
construction.

6.—(1) This Act may be cited as the Education (Scotland) Act, 1949.

2 & 3 Geo. 6.  
c. 96.

10 & 11 Geo. 6.  
c. 36.

(2) The Education (Scotland) (War Service Superannuation) Act, 1939, the Education (Scotland) Act, 1946, the Education (Exemptions) (Scotland) Act, 1947, and this Act shall be construed as one, and may be cited together as the Education (Scotland) Acts, 1939 to 1949.

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## SCHEDULE.

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Section 5.

### MINOR AMENDMENTS.

#### PART I.

#### AMENDMENTS OF THE PRINCIPAL ACT.

9 & 10 Geo. 6. c. 72.

- |                  |     |                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|------------------|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section three... | ... | In subsection (1) for the words "for whom primary, secondary or further education is provided by the authority" there shall be substituted the words "receiving primary, secondary or further education".                                                                                                                                                                                                                            |
| Section eleven   | ... | For subsection (3) the following subsection shall be substituted:—<br>" (3) It shall be in the power of an education authority to provide—<br>(a) for pupils in attendance at any school, junior college or other educational establishment under their management, articles of clothing suitable for physical exercise or for other activities of the school, college or establishment for which special clothing is desirable, and |

Section eleven—*cont.*

(b) for persons who make use of facilities for physical training made available to them by the authority under subsection (1) of section three of this Act, articles of clothing suitable for physical exercise."

Section seventeen ...

In subsection (1) for the words from " for all pupils " to the end of the subsection there shall be substituted the words " to enable them to carry the said scheme into effect."

Section twenty ...

For section twenty the following section shall be substituted :—

" 20.—(1) The Secretary of State may make regulations prescribing standards applicable to the premises or equipment of schools, junior colleges and other educational establishments under the management of education authorities, and such regulations may prescribe appropriate standards for such types of schools, junior colleges and other educational establishments as may be specified in the regulations. If the Secretary of State is satisfied, after consultation with the education authority, that it is impracticable or would be unreasonable to apply the standards prescribed in the regulations to the premises or equipment of a particular school, college or establishment, he may make an order prescribing modified standards for such school, college or establishment.

(2) Every education authority shall secure that any premises or equipment provided by them for a school, junior college or other educational establishment conform to the standards applicable to the school, college or establishment.

(3) Where the premises or equipment of any school, junior college or other educational establishment under the management of an education authority do not conform to the standards applicable to the school, college or establishment, it shall be in the power of the Secretary of State, after consultation with the education authority, to direct that the premises or equipment be brought into conformity with the said standards within a period to be specified in the direction ; and it shall thereupon be the duty of the education authority to comply with the direction.

(4) With a view to securing that the premises and equipment of schools, junior

- Section twenty—*cont.* colleges and other educational establishments under the management of an education authority are maintained in such a condition as to contribute to the good health of the pupils, it shall be the duty of an education authority to cause their medical officers as part of their ordinary work from time to time to inspect and to report to them upon the said premises and equipment, and in making the said inspections the medical officers shall have special regard to the lighting, heating and ventilation, and to the sanitary arrangements."
- Section twenty-three In subsection (1) after the words "this Act" where they first occur there shall be inserted the words "and an education authority and any other local authority may make arrangements for co-operation or combination in the exercise of any functions which the authorities have respectively power to exercise;" and the following subsection shall be added to the end of the section:—  
 "(4) In this section the expression 'local authority' means a county, town or district council."
- Section thirty-two ... In subsection (4) for the words "that child" there shall be substituted the words "and the child is in attendance at a special school, he"
- Section thirty-five ... The following subsection shall be added at the end of the section:—  
 "(4) For the purposes of this section, a child who has been required to discontinue for any period his attendance at a school on account of his parent's refusal or failure to comply with the rules, regulations or disciplinary requirements of the school shall, unless the court otherwise determines be deemed to have failed without reasonable excuse to attend regularly at the school."
- Section thirty-nine ... In subsection (1) for the word "residing" there shall be substituted the words "ordinarily resident."
- Section forty ... In subsection (1) for the word "resides" there shall be substituted the words "ordinarily resident."
- Section forty-four ... In subsection (1), in paragraph (a), the words "resident in their area" shall be omitted.
- Section forty-five ... In paragraph (c) after the word "paying" there shall be inserted the words "the whole or any part, as the authority think fit, of"

- Section forty-six ... For the word " shall " where it first occurs there shall be substituted the words " may, in their discretion "
- Section forty-eight ... In subsection (1) for the words " public school in their area " there shall be substituted the words " school under their management " ; after subsection (2) the following subsection shall be inserted :—
- " (2A) Without prejudice to any powers conferred upon them by the last two foregoing subsections, an education authority may provide clothing free of charge—
- (i) for any pupil who is a boarder at a school, or
- (ii) for any pupil in attendance at a nursery school or a nursery class, under the management of the authority " ;
- and in subsection (3) in paragraph (a) for the words " in the area of the authority in which he resides " there shall be substituted the words " under the management of the education authority in whose area he is ordinarily resident," and in paragraph (b) for the words " in the area " there shall be substituted the words " under the management."
- After section forty-nine the following section shall be inserted :—
- Provision of clothing. " 49A. Save as may be otherwise prescribed, provision of clothing by an education authority under any of the powers conferred by this Act may be made in such a way as to confer, at the option of the authority, either a right of property in the clothing or a right to use it only."
- Section fifty-five ... In subsection (2), after the word " may " there shall be inserted the words " , within fourteen days after the date of issue thereof,"
- Section fifty-six ... The following subsections shall be added at the end of the section :—
- " (2) If, at any time after a report has been made under the foregoing provisions of this section, the local health authority or an authority or body responsible for the management of an institution in which the child is under care are of opinion that the decision recorded in the report ought to be reviewed, they shall notify the education authority of their opinion and thereupon

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- Section twenty—*cont.* colleges and other educational establishments under the management of an education authority are maintained in such a condition as to contribute to the good health of the pupils, it shall be the duty of an education authority to cause their medical officers as part of their ordinary work from time to time to inspect and to report to them upon the said premises and equipment, and in making the said inspections the medical officers shall have special regard to the lighting, heating and ventilation, and to the sanitary arrangements. ”
- Section twenty-three In subsection (r) after the words “ this Act ” where they first occur there shall be inserted the words “ and an education authority and any other local authority may make arrangements for co-operation or combination in the exercise of any functions which the authorities have respectively power to exercise ; ” and the following subsection shall be added to the end of the section :—  
“ (4) In this section the expression ‘ local authority ’ means a county, town or district council. ”
- Section thirty-two ... In subsection (4) for the words “ that child ” there shall be substituted the words “ and the child is in attendance at a special school, he ”
- Section thirty-five ... The following subsection shall be added at the end of the section :—  
“ (4) For the purposes of this section, a child who has been required to discontinue for any period his attendance at a school on account of his parent’s refusal or failure to comply with the rules, regulations or disciplinary requirements of the school, shall, unless the court otherwise determines, be deemed to have failed without reasonable excuse to attend regularly at the school. ”
- Section thirty-nine ... In subsection (r) for the word “ residing ” there shall be substituted the words “ ordinarily resident. ”
- Section forty ... In subsection (r) for the word “ resides ” there shall be substituted the words “ is ordinarily resident. ”
- Section forty-four ... In subsection (r), in paragraph (a), the words “ resident in their area ” shall be omitted.
- Section forty-five ... In paragraph (c) after the word “ paying ” there shall be inserted the words “ the whole or any part, as the authority think fit, of ”



Section forty-six ... For the word " shall " where it first occurs there shall be substituted the words " may, in their discretion "

Section forty-eight ... In subsection (1) for the words " public school in their area " there shall be substituted the words " school under their management " ; after subsection (2) the following subsection shall be inserted :—

" (2A) Without prejudice to any powers conferred upon them by the last two foregoing subsections, an education authority may provide clothing free of charge—

(i) for any pupil who is a boarder at a school, or

(ii) for any pupil in attendance at a nursery school or a nursery class, under the management of the authority " ;

and in subsection (3) in paragraph (a) for the words " in the area of the authority in which he resides " there shall be substituted the words " under the management of the education authority in whose area he is ordinarily resident," and in paragraph (b) for the words " in the area " there shall be substituted the words " under the management."

After section forty-nine the following section shall be inserted :—

Provision of  
clothing.

" 49A. Save as may be otherwise prescribed, provision of clothing by an education authority under any of the powers conferred by this Act may be made in such a way as to confer, at the option of the authority, either a right of property in the clothing or a right to use it only."

Section fifty-five ... In subsection (2), after the word " may " there shall be inserted the words " , within fourteen days after the date of issue thereof,"

Section fifty-six ... The following subsections shall be added at the end of the section :—

" (2) If, at any time after a report has been made under the foregoing provisions of this section, the local health authority or an authority or body responsible for the management of an institution in which the child is under care are of opinion that the decision recorded in the report ought to be reviewed, they shall notify the education authority of their opinion and thereupon

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Section fifty-six—*cont.*

the education authority shall cause the child to be medically examined and the provisions of subsections (2) and (3) of section fifty-four of this Act shall apply for the purpose of such examination in like manner as they apply for the purpose of the duty of the authority under subsection (1) of the said section.

(3) If, after considering the advice given by the medical officer and any reports or information from the local health authority or from the authority or body responsible for the management of the institution in which the child is under care or from other persons, the education authority decide that the child is capable of receiving education at school or education or training in a special school and that it is not inexpedient that he should be educated or trained in association with other children, they shall cancel their original report and shall intimate the cancellation to the authority to whom the report was originally issued, to any other authority or body concerned, to the General Board of Control for Scotland and to the parent.

(4) Where an education authority refuse to cancel a report under the last foregoing subsection they shall intimate such refusal to the authority to whom the report was originally issued, to the authority or body responsible for the management of the institution in which the child is under care and to the parent of the child, and it shall be competent to such authority, body or parent, within fourteen days after receipt of such intimation to appeal against such refusal to the Secretary of State.

(5) On any appeal under the last foregoing subsection the Secretary of State may require the education authority to cancel the report or may confirm their refusal to do so.

(6) Subsections (2), (3), (4) and (5) of this section shall apply to notifications issued under paragraph (b) of subsection (2) of section two of the Mental Deficiency and Lunacy (Scotland) Act, 1913, and to reports issued under subsection (1) of section forty-two of the Education (Scotland) Act, 1945, as they apply to reports issued under subsection (1) of this section."

- Section fifty-seven ... The following subsection shall be added at the end of the section :—  
 “(2) The provisions of subsections (2) and (3) of section fifty-four of this Act shall apply for the purpose of the duty of an education authority under the last foregoing subsection in like manner as those provisions apply for the purpose of the duty of the authority under subsection (1) of the said section.”
- Section fifty-eight ... For the words “ these Acts ” there shall be substituted the words “ the Mental Deficiency Acts ”.
- Section fifty-nine ... In subsection (1), for the proviso the following proviso shall be substituted :—  
 “ Provided that where the Secretary of State certifies that on account of urgency or any special reason any regulations ought to come into immediate operation, he may make such regulations to come into operation immediately as provisional regulations, and shall include a regulation prescribing a period for which the provisional regulations are to remain in force. The provisional regulations shall cease to have effect at the end of the said period unless continued in force by regulations made in accordance with the foregoing provisions or by further provisional regulations.”
- Section seventy ... In paragraph (1), for the words “ of conducting leaving certificate examinations ” there shall be substituted the words “ incurred by the Secretary of State in conducting examinations for the award of certificates relating to secondary education ”.
- Section seventy-seven ... In subsection (3) after the words “ for the purposes of ” there shall be inserted the words “ paragraph (c) of subsection (5) of section one and ”; and for the word “ section ” where it last occurs there shall be substituted the word “ sections ”.
- Section eighty-one ... The following paragraph shall be added at the end of subsection (5) :—  
 “ and  
 (c) the managers of an approved school within the meaning of the Children and Young Persons (Scotland) Act, 1937, and the certificated teachers employed therein.”

- Section ninety-seven      The words from "and satisfies" to "do so" shall be omitted.
- Section ninety-eight...      For the word "subsection" there shall be substituted the word "section".
- Section one hundred and three.      In subsection (3) for the words "rules under the Teachers Superannuation Scheme" there shall be substituted the words "the Teachers Superannuation Scheme or rules made thereunder."
- Section one hundred and twenty-three.      In subsection (1) after the word "heard" there shall be inserted the words "at such inquiry".
- Section one hundred and twenty-five.      In subsection (1) after the word "presented" there shall be inserted the words "or, if the Court of Session have refused the prayer of a petition presented to them under the said subsection".
- Section one hundred and thirty-six.      In subsections (1) and (2) for the words "on the roll of a school in their area" there shall be substituted the words "attending a school under their management".
- Section one hundred and forty.      For section one hundred and forty the following section shall be substituted:—  
     " 140.—(1) Unless the context otherwise requires, no power or duty conferred or imposed by this Act on the Secretary of State, on education authorities or on parents or young persons shall be construed as relating to any person to whom this section applies :  
     Provided that nothing in this section shall prevent an education authority from providing or securing the provision of education for any such person if he is in their opinion capable of deriving benefit therefrom.  
     (2) The persons to whom this section applies are :—  
     (a) any person who is the subject of an order for his detention or of a warrant for his removal and custody under the Lunacy (Scotland) Acts, 1857 to 1913 ;  
     (b) any person who is being entertained and kept in a mental hospital in pursuance of section fifteen of the Lunacy (Scotland) Act, 1866 ;

Section one hundred  
and forty—*cont.*

- (c) any person for whose custody during His Majesty's pleasure His Majesty is authorised to give order ;
- (d) any person who is a prisoner whom the Secretary of State has in pursuance of any Act directed to be removed to a mental hospital for criminal lunatics or to the criminal lunatic department of Perth prison or to a mental hospital ;
- (e) any person placed in an institution or a certified house or under guardianship under section four of the Mental Deficiency and Lunacy (Scotland) Act, 1913, or who is the subject of an order under any such order as is mentioned in section five of that Act ;
- (f) any person who is for the time being the subject of a report in force under section fifty-six of this Act ; and
- (g) any person who is detained in pursuance of an order made by any court or of an order of recall made by the Secretary of State ”.

Section one hundred  
and forty-three.

In subsection (1), in the definition of “premises”, after the word “includes” there shall be inserted the words “the site of such establishment”; at the end of the definition of “pupil” there shall be inserted the words “and a pupil shall be deemed to be attending or in attendance at a school if he is shown by the register of admission and withdrawal kept at the school in accordance with regulations made under this Act, or by any other register approved by the Secretary of State and kept for a similar purpose, to have been admitted to, but not to have been withdrawn from, or to have been readmitted to, and not thereafter to have been withdrawn from, the school; and similar expressions, whether relating to schools or to other educational establishments, shall be similarly interpreted;” and in the definition of “school”, for the word “providing” there shall be substituted the words “for the provision of”.

## PART II.

## AMENDMENTS OF OTHER ENACTMENTS.

*The Mental Deficiency and Lunacy (Scotland) Act, 1913.*

3 &amp; 4 Geo. 5. c. 38.

Section two ... For subsection (4) the following subsection shall be substituted:—

(4) When an education authority in pursuance of section fifty-six of the Education (Scotland) Act, 1946, have issued to a local health authority a report that a child has been found incapable of receiving education or training in a special school, the local health authority shall, unless and until such report is cancelled, be the local authority concerned under this Act in the case of that child.

Section three... For sub-paragraph (v) of paragraph (c) of subsection (1) there shall be substituted the following sub-paragraph:—

“(v) who is for the time being the subject of a report in force under the enactments relating to education that he has been found incapable of receiving education at school, or that by reason of a disability of mind he may require to be dealt with under this Act after leaving school; or”

Section seventy-six ... After the definition of the expression “institution” there shall be inserted the words:—

“The expression ‘suitable provision’ means, in relation to a defective for whom a school board are required to make provision, special educational treatment within the meaning of the Education (Scotland) Act, 1946.”

*The Children and Young Persons (Scotland) Act, 1937.*

1 Edw. 8. &amp; 1 Geo. 6. c. 37.

Section twenty-eight For paragraph (a) of subsection (1) as amended by the Fourth Schedule to the Education (Scotland) Act, 1945, there shall be substituted the following paragraph:—

“(a) before the thirteenth anniversary of the day of his birth when the upper limit of the school age is fifteen, or before the fourteenth anniversary of such day when the said upper limit is sixteen.”

Section thirty-two ... In subsection (3) for the words from "grant a licence" to "residing in their area" there shall be substituted the words "while the upper limit of the school age is fifteen, grant a licence to a child who has actually attained the age of thirteen years and is residing in their area, and, while the said upper limit is sixteen, grant a licence to a child who has actually attained the age of fourteen years and is so resident."

Section thirty-seven... For paragraph (d) there shall be substituted the following paragraph—

"(d) Any reference to a day on which a child is under obligation to attend school shall be construed as a reference to a day upon which a meeting of the school he is attending is held."

After paragraph (f) there shall be added the following paragraph :—

"(g) The expression 'the upper limit of the school age' means the upper limit for the time being fixed by virtue of section thirty-two of the Education (Scotland) Act, 1946, but without regard to the provisions of subsection (4) of that section or of section thirty-three of that Act (which respectively relate to the age of pupils requiring special educational treatment and to deeming pupils not to have attained a given age until a fixed date after they actually attain it)."

*The National Health Service (Scotland) Act, 1947.*

10 & 11 Geo. 6. c. 27.

Section fifty-one ... In subsection (1), for the proviso there shall be substituted the following proviso :—

"Provided that this subsection shall not apply in the case of a person who has been reported as aforesaid and in whose case the report has been cancelled, or in the case of a mental defective in a mental deficiency institution."

Eleventh Schedule ... Part I, so far as it relates to section one hundred and forty of the Education (Scotland) Act, 1946, shall be omitted.



## CHAPTER 20

*Cinematograph Film Production (Special Loans) Act, 1949*

## ARRANGEMENT OF SECTIONS

## Section.

1. The National Film Finance Corporation.
2. Loans by the Corporation.
3. Powers of Board of Trade as to exercise of functions of Corporation.
4. Advances by Board of Trade to Corporation.
5. Establishment of reserve.
6. Accounts and audit.
7. Issues out of Consolidated Fund.
8. Application of, and accounting for, receipts of Board of Trade.
9. Position of Corporation as to taxes, etc.
10. Exercise of powers of Board of Trade.
11. Short title.

SCHEDULE.—Provisions relating to Constitution, etc., of Corporation.

An Act to make temporary provision for the lending of money to be employed in financing the production or distribution of cinematograph films ; to provide for the taking over by a national corporation established for the purpose aforesaid of the assets and liabilities of National Film Finance Company Limited ; and for purposes connected with the matters aforesaid.

[9th March 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

The National  
Film Finance  
Corporation.

1.—(1) There shall be established, in accordance with the provisions of this Act, a body corporate to be called the National Film Finance Corporation (hereinafter in this Act referred to as “ the Corporation ”)—

(a) to take over the assets and liabilities of National Film Finance Company Limited; and

(b) to make, during the five years beginning with the passing of this Act, loans to be employed in financing the production or distribution of cinematograph films to persons who, in the judgment of the Corporation, while having reasonable expectations of being able to arrange for the production or distribution of cinematograph films on a commercially successful basis, are not for the time being in a position otherwise to obtain adequate financial facilities for the purpose on reasonable terms from an appropriate source.



(2) The Corporation shall consist of a chairman and a managing director appointed by the Board of Trade, and such number of other members, not being less than three nor more than five, as the Board may from time to time determine.

(3) The members of the Corporation shall be appointed from among persons appearing to the Board of Trade qualified as having had experience, and shown capacity, in matters relating to finance, industry, commerce, administration or law.

(4) The provisions of the Schedule to this Act shall have effect with respect to the remuneration of members of the Corporation out of funds of the Corporation, as to the appointment, and tenure and vacation of office, of the said members, as to the dissolution of the Corporation and otherwise in relation to the Corporation.

2.—(1) Loans by the Corporation shall be for such period Loans by the Corporation. not exceeding five years from the date of the making thereof, and shall carry such interest, as the Corporation may determine, and the Corporation may require any such security to be given for the repayment thereof, together with any sums due in respect of interest, as may be available.

(2) The interest determined by the Corporation in respect of a loan shall be such interest as the Corporation consider reasonable, regard being had to the current market rates of interest, to the standing of the borrower and to the degree of likelihood that the making of the loan will result in the production or distribution of films on a commercially successful basis.

(3) The Corporation shall not, except in such classes of case as the Board of Trade may approve, make a loan to any person unless he is carrying on the business of distributing cinematograph films to persons carrying on the business of exhibiting such films to the public, and the loan is to be employed in financing the production of such films.

(4) The Corporation shall not make a loan to any person for the purpose of financing the production of a film or programme of films unless that person agrees to produce from time to time to the Corporation, as and when required by them so to do, an estimate of the cost of producing—

(a) that film or, as the case may be, each film in that programme of films; and

(b) any other films the production of which he finances, either in whole or in part, or in the commercial success of which he has any financial interest, at any time before the loan is completely repaid,

and, in making any such loan and exercising their other powers under this Act in relation to any such loan, the Corporation shall

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have regard to the amount which might reasonably be expected to be received by the person to whom the loan is made from the distribution—

- (i) of the film or films the production of which is to be financed by means of the loan ; and
- (ii) to such extent, if any, as appears proper in the circumstances, of the said other films.

(5) In this section, references to interest (except in the phrase “ the current market rates of interest ”) include references to rights to share in profits.

Powers of Board of Trade as to exercise of functions of Corporation.

3.—(1) The Board of Trade may, after consultation with the Corporation, give to them directions of a general character as to the exercise of their functions and the Corporation shall comply with any such directions.

(2) The Corporation shall furnish the Board of Trade with such information concerning the financial position of the Corporation as the Board of Trade may from time to time require.

(3) The Corporation shall as soon as possible after the end of each financial year of the Corporation make a general report to the Board of Trade as to the exercise by the Corporation of their functions during that year, and the report for any year shall set out the directions given to the Corporation under subsection (1) of this section during that year.

(4) The Board of Trade shall lay a copy of every such report of the Corporation before Parliament.

Advances by Board of Trade to Corporation.

4.—(1) For the purposes of enabling the Corporation to perform their functions, the Board of Trade, with the consent of the Treasury, may, within the five years beginning with the passing of this Act, make advances to the Corporation :

Provided that the aggregate amount of the principal outstanding in respect of any advances under this subsection shall not at any time exceed five million pounds.

(2) The Corporation shall make to the Board of Trade, at such times and in such manner as the Board may with the approval of the Treasury direct,—

- (a) payments of such amounts as the Board may with like approval direct in or towards repayment of advances made to the Corporation under subsection (1) of this section; and
- (b) payment of interest on any sums for the time being outstanding in respect of such advances at such rate as the Board may with the like approval direct.

(3) Different rates of interest may be directed under this section as respects different advances and as respects interest for different periods.

(4) The Board of Trade shall lay before each House of Parliament a statement of any payment due from the Corporation under this section which is not duly paid to the Board as required thereunder.

5.—(1) The Corporation shall establish a reserve, applicable to the purposes of the Corporation at such times and in such manner as the Corporation may, subject to the provisions of this section, determine. Establishment of reserve.

(2) The management of the reserve and the sums to be carried from time to time to the reserve shall, subject as aforesaid, be as the Corporation may determine.

(3) The power of the Board of Trade to give directions to the Corporation shall extend to the giving to them, with the approval of the Treasury, of directions as to any matter relating to the establishment or management of the reserve, the carrying of sums thereto, or the application thereof to the purposes of the Corporation, notwithstanding that the directions may be of a specific character.

6.—(1) The Corporation shall keep proper accounts and proper records in relation to the accounts, and shall prepare in respect of each financial year of the Corporation a statement of accounts in such form as the Board of Trade with the approval of the Treasury direct, being a form conforming with the best commercial standards. Accounts and audit.

(2) The accounts of the Corporation shall be audited by auditors to be appointed annually by the Board of Trade.

(3) A person shall not be qualified to be so appointed unless he is a member of one or more than one of the following bodies:—

The Institute of Chartered Accountants in England and Wales;

The Society of Incorporated Accountants and Auditors;

The Society of Accountants in Edinburgh;

The Institute of Accountants and Actuaries in Glasgow;

The Society of Accountants in Aberdeen;

The Association of Certified and Corporate Accountants;

The Institute of Chartered Accountants in Ireland.

(4) So soon as the accounts of the Corporation for any financial year have been audited, the Corporation shall send to the Board of Trade a copy of the statement of accounts prepared in respect of that year together with a copy of any report made by the auditors on the statement or on the accounts.

(5) The Board of Trade shall lay a copy of every such statement and report before Parliament.

Issues out of Consolidated Fund.

7.—(1) The Treasury may issue to the Board of Trade out of the Consolidated Fund or the growing produce thereof such sums as are necessary to enable the Board to make advances to the Corporation under this Act.

(2) For the purpose of providing sums or any part of sums to be issued under this section, or to provide for the replacement of all or any part of sums so issued, the Treasury may, at any time, if they think fit, raise money in any manner in which they are authorised to raise money under the National Loans Act, 1939, and any securities created and issued to raise money under this subsection shall be deemed for all purposes to be created and issued under that Act.

2 & 3 Geo. 6.  
c. 117.

Application of, and accounting for, receipts of Board of Trade.

8.—(1) Sums received by the Board of Trade from the Corporation in respect of advances made by the Board shall be paid into the Exchequer and shall be issued out of the Consolidated Fund or the growing produce thereof at such times as the Treasury may direct and shall be applied by the Treasury as follows, that is to say—

- (a) so much thereof as represents principal shall be applied in redeeming or in paying off debt of such description as the Treasury think fit ;
- (b) so much thereof as represents interest shall be applied to the payment of interest which would, apart from this provision have fallen to be paid out of the permanent annual charge for the National Debt.

(2) The Board of Trade shall, as respects each financial year, prepare in such form and manner as the Treasury may direct an account of sums issued to the Board under subsection (1) of the last preceding section and of sums received by the Board from the Corporation in respect of advances made by the Board, and of the disposal by the Board of those sums respectively.

(3) Any account prepared under this section shall, on or before the thirtieth day of November next following the expiration of the financial year in question, be submitted to the Comptroller and Auditor-General who shall examine and certify the account and lay copies thereof together with his report before each House of Parliament.

Position of Corporation as to taxes, etc.

9.—(1) No stamp duty shall be chargeable on any conveyance or other instrument executed for the purpose of making over to the Corporation any of the assets or liabilities of National Film Finance Company Limited.

(2) It is hereby declared that, save as provided in subsection (1) of this section, nothing in this Act exempts the Corporation from liability to any tax, duty, rate, levy or other charge whatsoever, whether general or local.

10. Anything authorised or required by this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board, any secretary, under-secretary or assistant secretary of the Board, or any person authorised in that behalf by the President. Exercise of powers of Board of Trade.

11. This Act may be cited as the Cinematograph Film Production (Special Loans) Act, 1949. Short title.

## SCHEDULE

Section 1.

### PROVISIONS RELATING TO CONSTITUTION ETC. OF CORPORATION

1. The Corporation shall have a common seal, and shall have power to hold land and to do all things incidental to the proper discharge of their functions.

2. A person shall be disqualified for being appointed or being a member of the Corporation so long as he is a member of the Commons House of Parliament.

3.—(1) The Board of Trade shall have power, exercisable by statutory instrument, to make regulations with respect to—

- (a) the appointment of the members of the Corporation and their tenure and vacation of office;
- (b) the execution of instruments and the mode of entering into contracts by or on behalf of the Corporation, and the proof of documents purporting to be executed, issued or signed by the Corporation or a member or officer thereof.

(2) Subject to the provisions of regulations under sub-paragraph (1) of this paragraph, the Corporation shall have power to regulate their own procedure, including the manner in which matters subject to the determination of the Corporation are to be determined by or on behalf of the Corporation.

(3) Regulations made under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

4. The validity of any proceedings of the Corporation shall not be affected by any vacancy among the members thereof or by any defect in the appointment of a member thereof.

5. The Corporation shall—

- (a) pay to the members of the Corporation such salaries or other remuneration, and such allowances, as the Board of Trade may, with the consent of the Treasury, determine; and
- (b) as regards any member in whose case the Board of Trade may with the consent of the Treasury, determine to make provision for the payment on his death or retirement of a pension, gratuity or other like benefit, pay or provide for the payment of such pension, gratuity or other like benefit to him or to others by reference to his service as the Board of Trade with the like consent may determine.

6. The Corporation shall—

- (a) pay to their officers, servants and agents such remuneration as the Corporation may determine; and
- (b) as regards any officers, servants or agents in whose case it may be determined by the Corporation with the approval of the Board of Trade to make provision for the payment on their death or retirement of pensions, gratuities or other like benefits, pay, or provide for the payment of, such pensions, gratuities or other like benefits to them or to others by reference to their service as may be so determined.

7. Provision for pensions, gratuities or other like benefits under this Schedule may be made either by contributory or by non-contributory arrangements or partly by the one and partly by the other.

8.—(1) If, at any time after the expiration of the five years beginning with the passing of this Act, the Treasury are satisfied that there is no sufficient reason for the continuation of the Corporation, the Treasury may by order dissolve the Corporation.

(2) Any such order—

- (a) may provide for the cancellation in whole or in part of any liability of the Corporation to the Board of Trade;
- (b) may vest any property, rights or liabilities of the Corporation in the Crown or such person acting on behalf of the Crown as may be specified in the order;
- (c) may contain any such incidental or consequential provisions as may appear to the Treasury to be necessary or expedient;
- (d) may be varied by a subsequent order of the Treasury.

(3) Any power conferred by this paragraph to make an order shall be exercisable by statutory instrument.

(4) Before any order is made under this paragraph, a draft thereof shall be laid before the Commons House of Parliament and the order shall not be made until approved by resolution of that House.

(5) Any sums received after the dissolution of the Corporation in respect of any of the property or rights thereof shall be paid into the Exchequer and any sums required after the dissolution of the Corporation to defray any liabilities thereof shall be paid out of moneys provided by Parliament.



## CHAPTER 21

An Act to repeal the enactments requiring certain legal practitioners in Great Britain to take out stamped practising certificates, and to make consequential provision as to their right to practise and other matters.  
[23rd March 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

- 1.—(1) The following enactments shall cease to have effect, namely:—
- (a) in the Stamp Act, 1891, sections forty-three and forty-five to forty-eight and the heading in the First Schedule relating to the practising certificates of solicitors and others; Abolition of stamp duty and consequential amendments. 54 & 55 Vict. c. 39.
- (b) any other enactment in so far as it either—
- (i) requires a solicitor's practising certificate to be stamped; or
- (ii) confers any right, privilege or exemption by reference to a person's being a conveyancer, special pleader or draftsman in equity.
- (2) Every practising certificate issued under the Solicitors Act, 1932, after the commencement of this Act shall have effect from the beginning of the day of which it bears the date, and that date shall be entered by the registrar on the roll, and any such certificate in force on the fifteenth day of November in any year shall expire at the end of that day. 22 & 23 Geo. 5. c. 37.
- (3) A reference in any enactment to a duly certificated notary public shall, as respects things done after the commencement of this Act, be taken as a reference to a notary public who either—
- (a) has in force a practising certificate as a solicitor issued under the Solicitors Act, 1932, and duly entered in the court of faculties of the Archbishop of Canterbury in accordance with rules made by the master of faculties; or
- (b) has in force a practising certificate as a public notary issued by the said court of faculties in accordance with rules made as aforesaid
- (4) In the enactments specified in the First Schedule to this Act, there shall be made the amendments specified in the second

column of Part I of the Schedule, being amendments consequential on the foregoing provisions of this section; and those enactments (as amended by subsequent enactments) shall accordingly have effect as set out in Part II of that Schedule.

(5) The enactments specified in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

Short title,  
commence-  
ment and  
extent.

2.—(1) This Act may be cited as the Solicitors, Public Notaries, &c., Act, 1949.

(2) This Act shall come into force on the first day of November, 1949:

Provided that it shall not affect the law relating to Scottish solicitors unless or until they are required to take out practising certificates by some Act other than the Stamp Act, 1891.

(3) This Act shall not extend to Northern Ireland.

## SCHEDULES

### FIRST SCHEDULE

#### CONSEQUENTIAL AMENDMENTS

##### PART I

##### ENACTMENTS AMENDED AND AMENDMENTS

| <i>Enactment</i>                                                               | <i>Amendment</i>                                                                                                                                                                                                                                                                 |
|--------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The Revenue (No. 1) Act,<br/>1861,—<br/>Section thirteen ...</p>            | <p>For the words “ attorney, solicitor, proctor, writer to the signet, agent or procurator admitted in any court of law, or any conveyancer, who shall as such have taken out his annual certificate ” there shall be substituted the words “ duly certificated solicitor ”.</p> |
| <p>The Solicitors Act, 1932,—<br/>Subsection (1) of<br/>section forty-two.</p> | <p>For the words “ Commissioners of Inland Revenue ” there shall be substituted the word “ Society ”, and the words “ and conveyancers ” and the word “ stamped ” shall be omitted.</p>                                                                                          |
| <p>Subsection (1) of<br/>section forty-seven.</p>                              | <p>For the words “ law agent, writer to the signet, notary public, conveyancer, special pleader, or draftsman in equity ” in the subsection as originally enacted there shall be substituted the words “ solicitor in Scotland, or notary public ”.</p>                          |
| <p>Section forty-eight ...</p>                                                 | <p>For the words “ notary public or conveyancer ” there shall be substituted the words “ or notary public ”.</p>                                                                                                                                                                 |

Section 1.



Section forty-nine ... For the words " notary public, conveyancer, special pleader, or draftsman in equity " there shall be substituted the words " or notary public ".

1ST SCH.  
—cont.

The Solicitors Act, 1936,—

Section fifteen ... In paragraph (b) for the words " Comptroller of Stamps and Taxes at Edinburgh " there shall be substituted the words " Registrar of Solicitors in Scotland ", and for the words " no stamped certificate covering any part of that period was issued in Scotland to that person under section forty-seven of the Stamp Act, 1891," there shall be substituted the words " that person did not at any time during that period have in force a practising certificate as a solicitor in Scotland ".

## PART II

### ENACTMENTS REPRINTED AS AMENDED

#### A: THE REVENUE (NO. 1) ACT, 1861

##### Section 13

Provided always, that this Act shall not extend to require any agent employed in the management of landed estates, or any duly certificated solicitor, or any auctioneer or appraiser, having in force a licence as such, to take out a licence under this Act as a house agent.

#### B: THE SOLICITORS ACT, 1932

##### Section 42 (1)

Any list purporting to be published by authority of the Society and to contain the names of solicitors who have obtained practising certificates for the current year before the second day of January in that year shall, until the contrary is proved, be evidence that the persons named therein as solicitors holding such certificates as aforesaid for the current year are solicitors holding such certificates.

##### Section 47 (1)

Any person, not being a barrister, or a duly certificated solicitor, solicitor in Scotland, or notary public, who, unless he proves that the act was not done for or in expectation of any fee, gain or reward, either directly or indirectly, draws or prepares any instrument relating to real or personal estate or any legal proceeding, shall be liable on summary conviction to a fine not exceeding fifty pounds.

##### Section 48

Any person, not being a barrister or a duly certificated solicitor or notary public, who, unless he proves that the act was not done for or in expectation of any fee, gain or reward, either directly or indirectly, draws or prepares any instrument of transfer or charge for the purposes of the Land Registration Act, 1925, or any statutory modification or

## 6. The Corporation shall—

- (a) pay to their officers, servants and agents such remuneration as the Corporation may determine; and
- (b) as regards any officers, servants or agents in whose case it may be determined by the Corporation with the approval of the Board of Trade to make provision for the payment on their death or retirement of pensions, gratuities or other like benefits, pay, or provide for the payment of, such pensions, gratuities or other like benefits to them or to others by reference to their service as may be so determined.

7. Provision for pensions, gratuities or other like benefits under this Schedule may be made either by contributory or by non-contributory arrangements or partly by the one and partly by the other.

8.—(1) If, at any time after the expiration of the five years beginning with the passing of this Act, the Treasury are satisfied that there is no sufficient reason for the continuation of the Corporation, the Treasury may by order dissolve the Corporation.

## (2) Any such order—

- (a) may provide for the cancellation in whole or in part of any liability of the Corporation to the Board of Trade;
- (b) may vest any property, rights or liabilities of the Corporation in the Crown or such person acting on behalf of the Crown as may be specified in the order;
- (c) may contain any such incidental or consequential provisions as may appear to the Treasury to be necessary or expedient;
- (d) may be varied by a subsequent order of the Treasury.

(3) Any power conferred by this paragraph to make an order shall be exercisable by statutory instrument.

(4) Before any order is made under this paragraph, a draft thereof shall be laid before the Commons House of Parliament and the order shall not be made until approved by resolution of that House.

(5) Any sums received after the dissolution of the Corporation in respect of any of the property or rights thereof shall be paid into the Exchequer and any sums required after the dissolution of the Corporation to defray any liabilities thereof shall be paid out of moneys provided by Parliament.

## CHAPTER 21

An Act to repeal the enactments requiring certain legal practitioners in Great Britain to take out stamped practising certificates, and to make consequential provision as to their right to practise and other matters.  
[23rd March 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) The following enactments shall cease to have effect, Abolition of stamp duty and consequential amendments. 54 & 55 Vict. c. 39.  
namely:—

(a) in the Stamp Act, 1891, sections forty-three and forty-five to forty-eight and the heading in the First Schedule relating to the practising certificates of solicitors and others;

(b) any other enactment in so far as it either—

(i) requires a solicitor's practising certificate to be stamped; or

(ii) confers any right, privilege or exemption by reference to a person's being a conveyancer, special pleader or draftsman in equity.

(2) Every practising certificate issued under the Solicitors Act, 1932, after the commencement of this Act shall have effect from the beginning of the day of which it bears the date, and that date shall be entered by the registrar on the roll, and any such certificate in force on the fifteenth day of November in any year shall expire at the end of that day. 22 & 23 Geo. 5. c. 37.

(3) A reference in any enactment to a duly certificated notary public shall, as respects things done after the commencement of this Act, be taken as a reference to a notary public who either—

(a) has in force a practising certificate as a solicitor issued under the Solicitors Act, 1932, and duly entered in the court of faculties of the Archbishop of Canterbury in accordance with rules made by the master of faculties; or

(b) has in force a practising certificate as a public notary issued by the said court of faculties in accordance with rules made as aforesaid

(4) In the enactments specified in the First Schedule to this Act, there shall be made the amendments specified in the second

column of Part I of the Schedule, being amendments consequential on the foregoing provisions of this section; and those enactments (as amended by subsequent enactments) shall accordingly have effect as set out in Part II of that Schedule.

(5) The enactments specified in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

Short title,  
commence-  
ment and  
extent.

2.—(1) This Act may be cited as the *Solicitors, Public Notaries, &c.*, Act, 1949.

(2) This Act shall come into force on the first day of November, 1949:

Provided that it shall not affect the law relating to Scottish solicitors unless or until they are required to take out practising certificates by some Act other than the Stamp Act, 1891.

(3) This Act shall not extend to Northern Ireland.

## SCHEDULES

### FIRST SCHEDULE

#### CONSEQUENTIAL AMENDMENTS

##### PART I

#### ENACTMENTS AMENDED AND AMENDMENTS

| <i>Enactment</i>                                                   | <i>Amendment</i>                                                                                                                                                                                                                                                          |
|--------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The Revenue (No. 1) Act, 1861,—<br>Section thirteen                | ... For the words "attorney, solicitor, proctor, writer to the signet, agent or procurator admitted in any court of law, or any conveyancer, who shall as such have taken out his annual certificate" there shall be substituted the words "duly certificated solicitor". |
| The Solicitors Act, 1932,—<br>Subsection (1) of section forty-two. | For the words "Commissioners of Inland Revenue" there shall be substituted the word "Society", and the words "and conveyancers" and the word "stamped" shall be omitted.                                                                                                  |
| Subsection (1) of section forty-seven.                             | For the words "law agent, writer to the signet, notary public, conveyancer, special pleader, or draftsman in equity" in the subsection as originally enacted there shall be substituted the words "solicitor in Scotland, or notary public".                              |
| Section forty-eight                                                | ... For the words "notary public or conveyancer" there shall be substituted the words "or notary public".                                                                                                                                                                 |

Section 1.

Section forty-nine ... For the words " notary public, conveyancer, special pleader, or draftsman in equity " there shall be substituted the words " or notary public ".

1ST SCH.  
—cont.

The Solicitors Act, 1936,—

Section fifteen ... In paragraph (b) for the words " Comptroller of Stamps and Taxes at Edinburgh " there shall be substituted the words " Registrar of Solicitors in Scotland ", and for the words " no stamped certificate covering any part of that period was issued in Scotland to that person under section forty-seven of the Stamp Act, 1891," there shall be substituted the words " that person did not at any time during that period have in force a practising certificate as a solicitor in Scotland ".

## PART II

### ENACTMENTS REPRINTED AS AMENDED

#### A: THE REVENUE (No. 1) ACT, 1861

##### Section 13

Provided always, that this Act shall not extend to require any agent employed in the management of landed estates, or any duly certificated solicitor, or any auctioneer or appraiser, having in force a licence as such, to take out a licence under this Act as a house agent.

#### B: THE SOLICITORS ACT, 1932

##### Section 42 (1)

Any list purporting to be published by authority of the Society and to contain the names of solicitors who have obtained practising certificates for the current year before the second day of January in that year shall, until the contrary is proved, be evidence that the persons named therein as solicitors holding such certificates as aforesaid for the current year are solicitors holding such certificates.

##### Section 47 (1)

Any person, not being a barrister, or a duly certificated solicitor, solicitor in Scotland, or notary public, who, unless he proves that the act was not done for or in expectation of any fee, gain or reward, either directly or indirectly, draws or prepares any instrument relating to real or personal estate or any legal proceeding, shall be liable on summary conviction to a fine not exceeding fifty pounds.

##### Section 48

Any person, not being a barrister or a duly certificated solicitor or notary public, who, unless he proves that the act was not done for or in expectation of any fee, gain or reward, either directly or indirectly, draws or prepares any instrument of transfer or charge for the purposes of the Land Registration Act, 1925, or any statutory modification or

1st SCH.  
—cont.

re-enactment thereof, or makes any application or lodges any document for registration under that Act at the registry, shall on summary conviction be liable to a fine not exceeding fifty pounds:

Provided that this section shall not extend to—

- (a) any public officer drawing or preparing instruments and applications in the course of his duty; or
- (b) any person employed merely to engross any instrument or application.

#### Section 49

Any person, not being a barrister or a duly certificated solicitor or notary public, who, unless he proves that the act was not done for or in expectation of any fee, gain or reward, either directly or as an agent of any other person, whether a person qualified as above mentioned or not, takes instructions for or draws or prepares any papers on which to found or oppose a grant of probate or of letters of administration shall, without prejudice to any liability or disability to which he may be subject under any other section of this Act or under any other Act, be liable on summary conviction to a penalty not exceeding ten pounds for each such offence.

### C: THE SOLICITORS ACT, 1936

#### Section 15

For the purposes of the principal Act—

- (a) a letter purporting to be signed by or on behalf of the Registrar of Solicitors in Scotland stating that a person specified therein is or is not a solicitor in Scotland shall be evidence that that person is or, as the case may be, is not a solicitor in Scotland; and
- (b) a letter purporting to be signed by or on behalf of the Registrar of Solicitors in Scotland stating with respect to a person and a period specified in the letter that that person did not at any time during that period have in force a practising certificate as a solicitor in Scotland shall be evidence that that person was not during any part of that period a duly certificated solicitor in Scotland.

Section 1

## SECOND SCHEDULE

### REPEALS

| Session and Chapter      | Short Title                  | Extent of Repeal                                                                                                                                        |
|--------------------------|------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| 23 & 24 Vict.<br>c. 127. | The Solicitors Act,<br>1860. | Sections twenty-two and thirty-four.                                                                                                                    |
| 33 & 34 Vict.<br>c. 77.  | The Juries Act, 1870.        | In the Schedule, the words "certificated conveyancers and special pleaders".                                                                            |
| 54 & 55 Vict.<br>c. 39.  | The Stamp Act, 1891.         | Sections forty-three and forty-five to forty-eight; in the First Schedule the heading which begins with the words "Certificate to be taken out yearly". |

2ND SCH.  
—cont.

| Session and Chapter                   | Short Title                          | Extent of Repeal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---------------------------------------|--------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 15 & 16 Geo. 5.<br>c. 21.             | The Land Registration Act, 1925.     | In paragraph (vi) of subsection (1) of section one hundred and forty-four, the words "or certificated conveyancers".                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 22 & 23 Geo. 5.<br>c. 37.             | The Solicitors Act, 1932.            | In paragraph (b) of section twenty, the words "or a practising certificated special pleader in England"; in section thirty-six, the words "subject to their certificates being duly stamped"; sections thirty-nine and forty; in section forty-one, subsections (2) to (4); in section forty-two, the words "and conveyancers" and the word "stamped"; in section forty-three, the words "duly stamped".<br>Sections eight and forty-seven.                                                                                                                                                                                                                                                                                                                                                                                                |
| 23 & 24 Geo. 5.<br>c. 21.             | The Solicitors (Scotland) Act, 1933. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 26 Geo. 5. and<br>1 Edw. 8.<br>c. 35. | The Solicitors Act, 1936.            | The Schedule so far as it amends section forty-seven of the Solicitors Act, 1932.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 4 & 5 Geo. 6.<br>c. 46.               | The Solicitors Act, 1941.            | In section five, in the new subsection (1) of section thirty-seven of the Solicitors Act, 1932, the words from "and (ii) at" to "signed" where next occurring and the words "and a duplicate"; in section ten, in the new section thirty-eight of the Solicitors Act, 1932, the words "duly stamped and" in paragraphs (a) and (d) of subsection (1); section thirteen; subsection (3) of section twenty-three; in Form B in the Second Schedule, the words "on this certificate being duly stamped as required by law" and the words from "Produced" to "duty"; so much of the Third Schedule as reproduces the following provisions of the Solicitors Act, 1932, namely, subsection (4) of section forty-one, subsection (1) of section forty-seven, section forty-eight and section forty-nine.<br>Subsection (3) of section fifty-six. |
| 10 & 11 Geo. 6.<br>c. 35.             | The Finance Act, 1947.               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

## CHAPTER 22

*British North America Act, 1949*

## ARRANGEMENT OF SECTIONS

## Section.

1. Confirmation of Terms of Union.
2. Repeal of 24 & 25 Geo. 5. c. 2.
3. Short title and citation.

SCHEDULE.—Memorandum of Agreement entered into on the Eleventh Day of December, 1948, between Canada and Newfoundland.

An Act to confirm and give effect to Terms of Union agreed between Canada and Newfoundland.

[23rd March 1949.]

**W**HEREAS by means of a referendum the people of Newfoundland have by a majority signified their wish to enter into confederation with Canada;

And whereas the Agreement containing Terms of Union between Canada and Newfoundland set out in the Schedule to this Act has been duly approved by the Parliament of Canada and by the Government of Newfoundland;

And whereas Canada has requested, and consented to, the enactment of an Act of the Parliament of the United Kingdom to confirm and give effect to the said Agreement, and the Senate and House of Commons of Canada in Parliament assembled have submitted an address to His Majesty praying that His Majesty may graciously be pleased to cause a Bill to be laid before the Parliament of the United Kingdom for that purpose:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Confirmation  
of Terms  
of Union.

1. The Agreement containing Terms of Union between Canada and Newfoundland set out in the Schedule to this Act is hereby confirmed and shall have the force of law notwithstanding anything in the British North America Acts, 1867 to 1946.

Repeal of  
24 & 25 Geo. 5.  
c. 2.

2. In accordance with the preceding section the provisions of the Newfoundland Act, 1933, other than section three thereof (which relates to guarantee of certain securities of Newfoundland) shall be repealed as from the coming into force of the said Terms of Union.

Short title and  
citation.

3. This Act may be cited as the **British North America Act, 1949**, and the British North America Acts, 1867 to 1946, and this Act may be cited together as the **British North America Acts, 1867 to 1949**.



## SCHEDULE

## TERMS OF UNION

## OF

## NEWFOUNDLAND WITH CANADA

MEMORANDUM OF AGREEMENT ENTERED INTO ON THE ELEVENTH DAY OF DECEMBER, 1948, BETWEEN CANADA AND NEWFOUNDLAND

Whereas a delegation appointed from its members by the National Convention of Newfoundland, a body elected by the people of Newfoundland, consulted in 1947 with the Government of Canada to ascertain what fair and equitable basis might exist for the union of Newfoundland with Canada ;

Whereas, following discussions with the delegation, the Government of Canada sent to His Excellency the Governor of Newfoundland for submission to the National Convention a statement of terms which the Government of Canada would be prepared to recommend to the Parliament of Canada as a fair and equitable basis for union, should the people of Newfoundland desire to enter into confederation ;

Whereas the proposed terms were debated in the National Convention in Newfoundland and were before the people of Newfoundland when, by a majority at a referendum held on the twenty-second day of July, 1948, they expressed their desire to enter into confederation with Canada ;

Whereas the Governments of the United Kingdom, Canada and Newfoundland agreed after the referendum that representatives of Canada and Newfoundland should meet and settle the final terms and arrangements for the union of Newfoundland with Canada ;

And whereas authorized representatives of Canada and authorized representatives of Newfoundland have settled the terms hereinafter set forth as the Terms of Union of Newfoundland with Canada ;

It is therefore agreed as follows:

## TERMS OF UNION

## UNION

1. On, from, and after the coming into force of these Terms (hereinafter referred to as the date of Union), Newfoundland shall form part of Canada and shall be a province thereof to be called and known as the Province of Newfoundland.

2. The Province of Newfoundland shall comprise the same territory as at the date of Union, that is to say, the island of Newfoundland and the islands adjacent thereto, the Coast of Labrador as delimited in the report delivered by the Judicial Committee of His Majesty's Privy Council on the first day of March, 1927, and approved by His Majesty in His Privy Council on the twenty-second day of March, 1927, and the islands adjacent to the said Coast of Labrador.

## APPLICATION OF THE BRITISH NORTH AMERICA ACTS

3. The British North America Acts, 1867 to 1946, shall apply to the Province of Newfoundland in the same way and to the like extent as they apply to the provinces heretofore comprised in Canada, as if the Province of Newfoundland had been one of the provinces originally united, except insofar as varied by these Terms and except such provisions as are in terms made or by reasonable intendment may be held to be specially applicable to or only to affect one or more and not all of the provinces originally united.

## REPRESENTATION IN PARLIAMENT

4. The Province of Newfoundland shall be entitled to be represented in the Senate by six members, and in the House of Commons by seven members out of a total membership of two hundred and sixty-two.

5. Representation in the Senate and in the House of Commons shall from time to time be altered or readjusted in accordance with the British North America Acts, 1867 to 1946.

6.—(1) Until the Parliament of Canada otherwise provides, the Province of Newfoundland shall for the purposes of the election of members to serve in the House of Commons, be divided into the electoral divisions named and delimited in the Schedule to these Terms, and each such division shall be entitled to return one member.

(2) For the first election of members to serve in the House of Commons, if held otherwise than as part of a general election, the Governor General in Council may cause writs to be issued and may fix the day upon which the polls shall be held, and, subject to the foregoing, the laws of Canada relating to by-elections shall apply to an election held pursuant to any writ issued under this Term.

(3) The Chief Electoral Officer shall have authority to adapt the provisions of The Dominion Elections Act, 1938, to conditions existing in the Province of Newfoundland so as to conduct effectually the first election of members to serve in the House of Commons.

## PROVINCIAL CONSTITUTION

7. The Constitution of Newfoundland as it existed immediately prior to the sixteenth day of February, 1934, is revived at the date of Union and shall, subject to these Terms and the British North America Acts, 1867 to 1946, continue as the Constitution of the Province of Newfoundland from and after the date of Union, until altered under the authority of the said Acts.

*Executive*

8.—(1) For the Province of Newfoundland there shall be an officer styled the Lieutenant-Governor, appointed by the Governor General in Council by instrument under the Great Seal of Canada.

(2) Pending the first appointment of a Lieutenant-Governor for the Province of Newfoundland and the assumption of his duties as such, the Chief Justice, or if the office of Chief Justice is vacant, the senior judge, of the Supreme Court of Newfoundland, shall execute the office and functions of Lieutenant-Governor under his oath of office as such Chief Justice or senior judge.

9. The Constitution of the Executive Authority of Newfoundland as it existed immediately prior to the sixteenth day of February, 1934, shall, subject to these Terms and the British North America Acts, 1867 to 1946, continue as the Constitution of the Executive Authority of the Province of Newfoundland from and after the date of Union, until altered under the authority of the said Acts.

10. The Lieutenant-Governor in Council shall as soon as may be after the date of Union adopt and provide a Great Seal of the Province of Newfoundland and may from time to time change such seal.

11. All powers, authorities, and functions that under any statute were at or immediately prior to the date of Union vested in or exercisable by the Governor of Newfoundland individually, or in Council, or in Commission,

(a) as far as they are capable of being exercised after the date of Union in relation to the Government of Canada, shall be vested in and shall or may be exercised by the Governor General, with the advice, or with the advice and consent, or in conjunction with, the King's Privy Council for Canada or any member or members thereof, or by the Governor General individually, as the case requires, subject nevertheless to be abolished or altered by the Parliament of Canada under the authority of the British North America Acts, 1867 to 1946; and

(b) as far as they are capable of being exercised after the date of Union in relation to the Government of the Province of Newfoundland, shall be vested in and shall or may be exercised by the Lieutenant-Governor of the Province of Newfoundland, with the advice, or with the advice and consent, or in conjunction with, the Executive Council of the Province of Newfoundland or any member or members thereof, or by the Lieutenant-Governor individually, as the case requires, subject nevertheless to be abolished or altered by the Legislature of the Province of Newfoundland under the authority of the British North America Acts, 1867 to 1946.

12. Until the Parliament of Canada otherwise provides, the powers, authorities, and functions vested in or imposed on any member of the Commission of Government of Newfoundland, as such member or as a Commissioner charged with the administration of a Department of the Government of Newfoundland, at or immediately prior to the date of Union in relation to matters other than those coming within the classes of subjects by the British North America Acts, 1867 to 1946, assigned exclusively to the Legislature of a province, shall in the Province of Newfoundland be vested in or imposed on such person or persons as the Governor General in Council may appoint or designate.

13. Until the Legislature of the Province of Newfoundland otherwise provides, the powers, authorities, and functions vested in or imposed on any member of the Commission of Government of Newfoundland, as such member or as a Commissioner charged with the administration of a Department of the Government of Newfoundland, at or immediately prior to the date of Union in relation to matters coming within the classes of subjects by the British North America

Acts, 1867 to 1946, assigned exclusively to the Legislature of a province, shall in the Province of Newfoundland be vested in or imposed on such person or persons as the Lieutenant-Governor in Council may appoint or designate.

#### *Legislature*

14.—(1) Subject to paragraph two of this Term, the Constitution of the Legislature of Newfoundland as it existed immediately prior to the sixteenth day of February, 1934, shall, subject to these Terms and the British North America Acts, 1867 to 1946, continue as the Constitution of the Legislature of the Province of Newfoundland from and after the date of Union, until altered under the authority of the said Acts.

(2) The Constitution of the Legislature of Newfoundland insofar as it relates to the Legislative Council shall not continue, but the Legislature of the Province of Newfoundland may at any time re-establish the Legislative Council or establish a new Legislative Council.

15.—(1) Until the Legislature of the Province of Newfoundland otherwise provides, the powers, authorities, and functions vested in or imposed on a Minister or other public officer or functionary under any statute of Newfoundland relating to the Constitution of the Legislature of Newfoundland as it existed immediately prior to the sixteenth day of February, 1934, shall, subject to these Terms and the British North America Acts, 1867 to 1946, be vested in or imposed on such person or persons as the Lieutenant-Governor in Council may appoint or designate.

(2) Until the Legislature of the Province of Newfoundland otherwise provides,

- (a) the list of electors prepared pursuant to The List of Electors Act, 1947, shall be deemed to be the list of electors for the purposes of The Election Act, 1913, subject to the provisions of The Election Act, 1913, respecting supplementary lists of electors ;
- (b) the franchise shall be extended to female British subjects who have attained the full age of twenty-one years and are otherwise qualified as electors ;
- (c) the Coast of Labrador together with the islands adjacent thereto shall constitute an additional electoral district to be known as Labrador and to be represented by one member, and residents of the said district who are otherwise qualified as electors shall be entitled to vote ; and
- (d) the Lieutenant-Governor in Council may by proclamation defer any election in the electoral district of Labrador for such period as may be specified in the proclamation.

16. The Legislature of the Province of Newfoundland shall be called together not later than four months after the date of Union.

#### EDUCATION

17. In lieu of section ninety-three of the British North America Act, 1867, the following Term shall apply in respect of the Province of Newfoundland :

In and for the Province of Newfoundland the Legislature shall have exclusive authority to make laws in relation to education.

but the Legislature will not have authority to make laws prejudicially affecting any right or privilege with respect to denominational schools, common (amalgamated) schools, or denominational colleges, that any class or classes of persons have by law in Newfoundland at the date of Union, and out of public funds of the Province of Newfoundland provided for education,

- (a) all such schools shall receive their share of such funds in accordance with scales determined on a non-discriminatory basis from time to time by the Legislature for all schools then being conducted under authority of the Legislature ; and
- (b) all such colleges shall receive their share of any grant from time to time voted for all colleges then being conducted under authority of the Legislature, such grant being distributed on a non-discriminatory basis.

#### CONTINUATION OF LAWS

##### *General*

18.—(1) Subject to these Terms, all laws in force in Newfoundland at or immediately prior to the date of Union shall continue therein as if the Union had not been made, subject nevertheless to be repealed, abolished, or altered by the Parliament of Canada or by the Legislature of the Province of Newfoundland according to the authority of the Parliament or of the Legislature under the British North America Acts, 1867 to 1946, and all orders, rules, and regulations made under any such laws shall likewise continue, subject to be revoked or amended by the body or person that made such orders, rules, or regulations or the body or person that has power to make such orders, rules, or regulations after the date of Union, according to their respective authority under the British North America Acts, 1867 to 1946.

(2) Statutes of the Parliament of Canada in force at the date of Union, or any part thereof, shall come into force in the Province of Newfoundland on a day or days to be fixed by Act of the Parliament of Canada or by proclamation of the Governor General in Council issued from time to time, and any such proclamation may provide for the repeal of any of the laws of Newfoundland that

- (a) are of general application ;
- (b) relate to the same subject matter as the statute or part thereof so proclaimed ; and
- (c) could be repealed by the Parliament of Canada under paragraph one of this Term.

(3) Notwithstanding anything in these Terms, the Parliament of Canada may with the consent of the Legislature of the Province of Newfoundland repeal any law in force in Newfoundland at the date of Union.

(4) Except as otherwise provided by these Terms, all courts of civil and criminal jurisdiction and all legal commissions, powers, authorities, and functions, and all officers and functionaries, judicial, administrative, and ministerial, existing in Newfoundland at or immediately prior to the date of Union, shall continue in the Province

of Newfoundland as if the Union had not been made, until altered, abolished, revoked, terminated, or dismissed by the appropriate authority under the British North America Acts, 1867 to 1946.

### *Supply*

19. Any statute of Newfoundland enacted prior to the date of Union for granting to His Majesty sums of money for defraying expenses of, and for other purposes relating to, the public service of Newfoundland, for the financial year ending the thirty-first day of March, one thousand nine hundred and fifty, shall have effect after the date of Union according to its terms, until otherwise provided by the Legislature of the Province of Newfoundland.

### *Patents*

20.—(1) Subject to this Term, Canada will provide that letters patent for inventions issued under the laws of Newfoundland prior to the date of Union shall be deemed to have been issued under the laws of Canada, as of the date and for the term thereof.

(2) Canada will provide further that in the event of conflict between letters patent for an invention issued under the laws of Newfoundland prior to the date of Union and letters patent for an invention issued under the laws of Canada prior to the date of Union

- (a) the letters patent issued under the laws of Newfoundland shall have the same force and effect in the Province of Newfoundland as if the Union had not been made, and all rights and privileges acquired under or by virtue thereof may continue to be exercised or enjoyed in the Province of Newfoundland as if the Union had not been made ; and
- (b) the letters patent issued under the laws of Canada shall have the same force and effect in any part of Canada other than the Province of Newfoundland as if the Union had not been made, and all rights and privileges acquired under or by virtue thereof may continue to be exercised or enjoyed in any part of Canada other than the Province of Newfoundland as if the Union had not been made.

(3) The laws of Newfoundland existing at the date of Union shall continue to apply in respect of applications for the grant of letters patent for inventions under the laws of Newfoundland pending at the date of Union, and any letters patent for inventions issued upon such applications shall, for the purposes of this Term, be deemed to have been issued under the laws of Newfoundland prior to the date of Union ; and letters patent for inventions issued under the laws of Canada upon applications pending at the date of Union shall, for the purposes of this Term, be deemed to have been issued under the laws of Canada prior to the date of Union.

(4) Nothing in this Term shall be construed to prevent the Parliament of Canada from providing that no claims for infringement of a patent issued in Canada prior to the date of Union shall be entertained by any court against any person for anything done in Newfoundland prior to the date of Union in respect of the invention protected by such patent, and that no claims for infringement of a patent issued

in Newfoundland prior to the date of Union shall be entertained by any court against any person for anything done in Canada prior to the date of Union in respect of the invention protected by such patent.

#### *Trade Marks*

21.—(1) Canada will provide that the registration of a trade mark under the laws of Newfoundland prior to the date of Union shall have the same force and effect in the Province of Newfoundland as if the Union had not been made, and all rights and privileges acquired under or by virtue thereof may continue to be exercised or enjoyed in the Province of Newfoundland as if the Union had not been made.

(2) The laws of Newfoundland existing at the date of Union shall continue to apply in respect of applications for the registration of trade marks under the laws of Newfoundland pending at the date of Union and any trade marks registered upon such applications shall, for the purposes of this Term, be deemed to have been registered under the laws of Newfoundland prior to the date of Union.

#### *Fisheries*

22.—(1) In this Term, the expression "Fisheries Laws" means the Act No. 11 of 1936, entitled "An Act for the creation of the Newfoundland Fisheries Board", the Act No. 14 of 1936, entitled "An Act to Prevent the Export of Fish Without Licence", the Act No. 32 of 1936, entitled "An Act to Amend the Newfoundland Fisheries Board Act (No. 11 of 1936)", the Act No. 37 of 1938, entitled "An Act further to Amend the Newfoundland Fisheries Board Act, 1936", the Act No. 10 of 1942, entitled "An Act Respecting Permits for the Exportation of Salt Fish", the Act No. 39 of 1943, entitled "An Act Further to Amend the Newfoundland Fisheries Board Act, 1936", the Act No. 16 of 1944, entitled "An Act Further to Amend the Newfoundland Fisheries Board Acts, 1936-38," and the Act No. 42 of 1944, entitled "An Act Further to Amend the Newfoundland Fisheries Board Act, 1936," insofar as they relate to the export marketing of salted fish from Newfoundland to other countries or to any provinces of Canada.

(2) Subject to this Term, all Fisheries Laws and all orders, rules, and regulations made thereunder shall continue in force in the Province of Newfoundland as if the Union had not been made, for a period of five years from the date of Union and thereafter until the Parliament of Canada otherwise provides, and shall continue to be administered by the Newfoundland Fisheries Board; and the costs involved in the maintenance of the Board and the administration of the Fisheries Laws shall be borne by the Government of Canada.

(3) The powers, authorities, and functions vested in or imposed on the Governor in Commission or the Commissioner for Natural Resources under any of the Fisheries Laws shall after the date of Union respectively be vested in or imposed on the Governor General in Council and the Minister of Fisheries of Canada or such other Minister as the Governor General in Council may designate.

(4) Any of the Fisheries Laws may be repealed or altered at any time within the period of five years from the date of Union by the Parliament of Canada with the consent of the Lieutenant-Governor in Council of the Province of Newfoundland and all orders, rules, and regulations made under the authority of any Fisheries Laws may be revoked or altered by the body or person that made them or, in relation to matters to which paragraph three of this Term applies, by the body or person that under the said paragraph three has power to make such orders, rules, or regulations under the Fisheries Laws after the date of Union.

(5) The Chairman of the Newfoundland Fisheries Board or such other member of the Newfoundland Fisheries Board as the Governor General in Council may designate shall perform in the Province of Newfoundland the duties of Chief Supervisor and Chief Inspector of the Department of Fisheries of the Government of Canada, and employees of the Newfoundland Fisheries Board shall become employees in that Department in positions comparable to those of the employees in that Department in other parts of Canada.

(6) Terms eleven, twelve, thirteen and eighteen are subject to this Term.

#### FINANCIAL TERMS

##### *Debt*

23. Canada will assume and provide for the servicing and retirement of the stock issued or to be issued on the security of Newfoundland pursuant to The Loan Act, 1933, of Newfoundland and will take over the Sinking Fund established under that Act.

##### *Financial Surplus*

24.—(1) In this Term the expression “financial surplus” means the balances standing to the credit of the Newfoundland Exchequer at the date of Union (less such sums as may be required to discharge accounts payable at the date of Union in respect of appropriations for the public services) and any public moneys or public revenue (including loans and advances referred to in Term twenty-five) in respect of any matter, thing, or period prior to the date of Union recovered by the Government of the Province of Newfoundland subsequent to the date of Union.

(2) Newfoundland will retain its financial surplus subject to the following conditions:

- (a) one-third of the surplus shall be set aside during the first eight years from the date of Union, on deposit with the Government of Canada, to be withdrawn by the Government of the Province of Newfoundland only for expenditures on current account to facilitate the maintenance and improvement of Newfoundland public services, and any portion of this one-third of the surplus remaining unspent at the end of the eight-year period shall become available to the Province of Newfoundland without the foregoing restriction;



- (b) the remaining two-thirds of the surplus shall be available to the Government of the Province of Newfoundland for the development of resources and for the establishment or extension of public services within the Province of Newfoundland ; and
  - (c) no part of the surplus shall be used to subsidize the production or sale of products of the Province of Newfoundland in unfair competition with similar products of other provinces of Canada, but nothing in this paragraph shall preclude the Province of Newfoundland from assisting industry by developmental loans on reasonable conditions or by ordinary provincial administrative services.
- (3) The Government of the Province of Newfoundland will have the right within one year from the date of Union to deposit with the Government of Canada all or any part of its financial surplus held in dollars and on the thirty-first day of March and the thirtieth day of September in each year to receive with respect thereto interest at the rate of two and five-eighths per centum per annum during a maximum period of ten years from the date of Union on the minimum balance outstanding at any time during the six-month period preceding payment of interest.

#### *Loans*

25.—(1) The Province of Newfoundland will retain its interest in, and any securities arising from or attaching to, any loans or advances of public funds made by the Government of Newfoundland prior to the date of Union.

(2) Unless otherwise agreed by the Government of Canada, paragraph one of this Term shall not apply to any loans or advances relating to any works, property, or services taken over by Canada pursuant to Term thirty-one or Term thirty-three.

#### *Subsidies*

26. Canada will pay to the Province of Newfoundland the following subsidies :

- (a) an annual subsidy of \$180,000 and an annual subsidy equal to 80 cents per head of the population of the Province of Newfoundland (being taken at 325,000 until the first decennial census after the date of Union), subject to be increased to conform to the scale of grants authorised by the British North America Act, 1907, for the local purposes of the Province and the support of its Government and Legislature, but in no year shall sums payable under this paragraph be less than those payable in the first year after the date of Union ; and
- (b) an additional annual subsidy of \$1,100,000 payable for the like purposes as the various fixed annual allowances and subsidies provided by statutes of the Parliament of Canada from time to time for the Provinces of Nova Scotia, New Brunswick, and Prince Edward Island or any of them and in recognition of the special problems of the Province of Newfoundland by reason of geography and its sparse and scattered population.

*Tax Agreement*

27.—(1) The Government of Canada will forthwith after the date of Union make an offer to the Government of the Province of Newfoundland to enter into a tax agreement for the rental to the Government of Canada of the income, corporation income, and corporation tax fields, and the succession duties tax field.

(2) The offer to be made under this Term will be similar to the offers to enter into tax agreements made to other provinces, necessary changes being made to adapt the offer to circumstances arising out of the Union, except that the offer will provide that the agreement may be entered into either for a number of fiscal years expiring at the end of the fiscal year in 1952, as in the case of other provinces, or for a number of fiscal years expiring at the end of the fiscal year in 1957, at the option of the Government of the Province of Newfoundland, but if the Government of the Province of Newfoundland accepts the latter option the agreement will provide that the subsequent entry into a tax agreement by the Government of Canada with any other province will not entitle the Government of the Province of Newfoundland to any alteration in the terms of its agreement.

(3) The offer of the Government of Canada to be made under this Term may be accepted by the Government of the Province of Newfoundland within nine months after the date of the offer but if it is not so accepted will thereupon expire.

(4) The Government of the Province of Newfoundland shall not by any agreement entered into pursuant to this Term be required to impose on any person or corporation taxation repugnant to the provisions of any contract entered into with such person or corporation before the date of the agreement and subsisting at the date of the agreement.

(5) If the Province of Newfoundland enters into a tax agreement pursuant to this Term the subsidies payable under Term twenty-six will, as in the case of similar subsidies to other provinces, be included in the computation of tax agreement payments.

*Transitional Grants*

28.—(1) In order to facilitate the adjustment of Newfoundland to the status of a province of Canada and the development by the Province of Newfoundland of revenue-producing services, Canada will pay to the Province of Newfoundland each year during the first twelve years after the date of Union a transitional grant as follows, payment in each year to be made in equal quarterly instalments commencing on the first day of April, namely,

|                     | \$        |
|---------------------|-----------|
| First year ... ..   | 6,500,000 |
| Second year ... ..  | 6,500,000 |
| Third year ... ..   | 6,500,000 |
| Fourth year ... ..  | 5,650,000 |
| Fifth year ... ..   | 4,800,000 |
| Sixth year ... ..   | 3,950,000 |
| Seventh year ... .. | 3,100,000 |
| Eighth year ... ..  | 2,250,000 |

|                      | \$        |
|----------------------|-----------|
| Ninth year ... ..    | 1,400,000 |
| Tenth year ... ..    | 1,050,000 |
| Eleventh year ... .. | 700,000   |
| Twelfth year ... ..  | 350,000   |

(2) The Government of the Province of Newfoundland will have the right to leave on deposit with the Government of Canada any portion of the transitional grant for the first eight years with the right to withdraw all or any portion thereof in any subsequent year and on the thirty-first day of March and the thirtieth day of September in each year to receive in respect of any amounts so left on deposit interest at the rate of two and five-eighths per centum per annum up to a maximum period of ten years from the date of Union on the minimum balance outstanding at any time during the six-month period preceding payment of interest.

#### *Review of Financial Position*

29. In view of the difficulty of predicting with sufficient accuracy the financial consequences to Newfoundland of becoming a province of Canada, the Government of Canada will appoint a Royal Commission within eight years from the date of Union to review the financial position of the Province of Newfoundland and to recommend the form and scale of additional financial assistance, if any, that may be required by the Government of the Province of Newfoundland to enable it to continue public services at the levels and standards reached subsequent to the date of Union, without resorting to taxation more burdensome, having regard to capacity to pay, than that obtaining generally in the region comprising the Maritime Provinces of Nova Scotia, New Brunswick, and Prince Edward Island.

#### MISCELLANEOUS PROVISIONS

##### *Salaries of Lieutenant-Governor and Judges*

30. The salary of the Lieutenant-Governor and the salaries, allowances, and pensions of the judges of such superior, district, and county courts as are now or may hereafter be constituted in the Province of Newfoundland shall be fixed and provided by the Parliament of Canada.

##### *Public Services, Works and Property*

31. At the date of Union, or as soon thereafter as practicable, Canada will take over the following services and will as from the date of Union relieve the Province of Newfoundland of the public costs incurred in respect of each service taken over, namely,

- (a) the Newfoundland Railway, including steamship and other marine services ;
- (b) the Newfoundland Hotel, if requested by the Government of the Province of Newfoundland within six months from the date of Union ;
- (c) postal and publicly-owned telecommunication services ;
- (d) civil aviation, including Gander Airport ;
- (e) customs and excise ;

- (f) defence ;
- (g) protection and encouragement of fisheries and operation of bait services ;
- (h) geological, topographical, geodetic, and hydrographic surveys ;
- (i) lighthouses, fog alarms, buoys, beacons, and other public works and services in aid of navigation and shipping ;
- (j) marine hospitals, quarantine, and the care of ship-wrecked crews ;
- (k) the public radio broadcasting system ; and
- (l) other public services similar in kind to those provided at the date of Union for the people of Canada generally.

32.—(1) Canada will maintain in accordance with the traffic offering a freight and passenger steamship service between North Sydney and Port aux Basques, which, on completion of a motor highway between Corner Brook and Port aux Basques, will include suitable provision for the carriage of motor vehicles.

(2) For the purpose of railway rate regulation the Island of Newfoundland will be included in the Maritime region of Canada, and through-traffic moving between North Sydney and Port aux Basques will be treated as all-rail traffic.

(3) All legislation of the Parliament of Canada providing for special rates on traffic moving within, into, or out of, the Maritime region will, as far as appropriate, be made applicable to the Island of Newfoundland.

33. The following public works and property of Newfoundland shall become the property of Canada when the service concerned is taken over by Canada, subject to any trusts existing in respect thereof, and to any interest other than that of Newfoundland in the same, namely,

- (a) the Newfoundland Railway, including rights of way, wharves, drydocks, and other real property, rolling stock, equipment, ships, and other personal property ;
- (b) the Newfoundland Airport at Gander, including buildings and equipment, together with any other property used for the operation of the Airport ;
- (c) the Newfoundland Hotel and equipment ;
- (d) public harbours, wharves, break-waters, and aids to navigation ;
- (e) bait depots and the motor vessel Malakoff ;
- (f) military and naval property, stores, and equipment ;
- (g) public dredges and vessels except those used for services that remain the responsibility of Newfoundland and except the nine motor vessels known as the Clarendville boats ;
- (h) the public telecommunication system, including rights of way, land lines, cables, telephones, radio stations, and other real and personal property ;

- (i) real and personal property of the Broadcasting Corporation of Newfoundland ; and
- (j) subject to the provisions of Term thirty-four, customs houses, and post-offices and generally all public works and property, real and personal, used primarily for services taken over by Canada.

34. Where at the date of Union any public buildings of Newfoundland included in paragraph (j) of Term thirty-three are used partly for services taken over by Canada and partly for services of the Province of Newfoundland the following provisions shall apply :

- (a) where more than half the floor space of a building is used for services taken over by Canada the building shall become the property of Canada and where more than half the floor space of a building is used for services of the Province of Newfoundland the building shall remain the property of the Province of Newfoundland ;
- (b) Canada shall be entitled to rent from the Province of Newfoundland on terms to be mutually agreed such space in the buildings owned by the Province of Newfoundland as is used for the services taken over by Canada and the Province of Newfoundland shall be entitled to rent from Canada on terms to be mutually agreed such space in the buildings owned by Canada as is used for the services of the Province of Newfoundland ;
- (c) the division of buildings for the purposes of this Term shall be made by agreement between the Government of Canada and the Government of the Province of Newfoundland as soon as practicable after the date of Union ; and
- (d) if the division in accordance with the foregoing provisions results in either Canada or the Province of Newfoundland having a total ownership that is substantially out of proportion to the total floor space used for its services an adjustment of the division will be made by mutual agreement between the two Governments.

35. Newfoundland public works and property not transferred to Canada by or under these Terms will remain the property of the Province of Newfoundland.

36. Without prejudice to the legislative authority of the Parliament of Canada under the British North America Acts, 1867 to 1946, any works, property, or services taken over by Canada pursuant to these Terms shall thereupon be subject to the legislative authority of the Parliament of Canada.

#### *Natural Resources*

37. All lands, mines, minerals, and royalties belonging to Newfoundland at the date of Union, and all sums then due or payable for such lands, mines, minerals, or royalties, shall belong to the Province of Newfoundland, subject to any trusts existing in respect thereof, and to any interest other than that of the Province in the same.

*Veterans*

38. Canada will make available to Newfoundland veterans the following benefits, on the same basis as they are from time to time available to Canadian veterans, as if the Newfoundland veterans had served in His Majesty's Canadian forces, namely,

- (a) The War Veterans Allowance Act, 1946, free hospitalization and treatment, and civil service preference will be extended to Newfoundland veterans who served in the First World War or the Second World War or both ;
- (b) Canada will assume as from the date of Union the Newfoundland pension liability in respect of the First World War, and in respect of the Second World War Canada will assume as from the date of Union the cost of supplementing disability and dependants' pensions paid by the Government of the United Kingdom or an Allied country to Newfoundland veterans up to the level of the Canadian rates of pensions, and, in addition, Canada will pay pensions arising from disabilities that are pensionable under Canadian law but not pensionable either under the laws of the United Kingdom or under the laws of an Allied country ;
- (c) The Veterans' Land Act, 1942, Part IV of the Unemployment Insurance Act, 1940, The Veterans' Business and Professional Loans Act, and The Veterans Insurance Act will be extended to Newfoundland veterans who served in the Second World War ;
- (d) a re-establishment credit will be made available to Newfoundland veterans who served in the Second World War equal to the re-establishment credit that might have been made available to them under The War Service Grants Act, 1944, if their service in the Second World War had been service in the Canadian forces, less the amount of any pecuniary benefits of the same nature granted or paid by the Government of any country other than Canada ;
- (e) Canada will assume, as from the date of Union, the cost of vocational and educational training of Newfoundland veterans of the Second World War on the same basis as if they had served in His Majesty's Canadian forces ; and
- (f) sections six, seven, and eight of The Veterans Rehabilitation Act will be extended to Newfoundland veterans of the Second World War who have not received similar benefits from the Government of any country other than Canada.

*Public Servants*

39.—(1) Employees of the Government of Newfoundland in the services taken over by Canada pursuant to these Terms will be offered employment in these services or in similar Canadian services under the terms and conditions from time to time governing employment in those services, but without reduction in salary or loss of pension rights acquired by reason of service in Newfoundland.

(2) Canada will provide the pensions for such employees so that the employees will not be prejudiced, and the Government of the Province of Newfoundland will reimburse Canada for the pensions

for, or at its option make to Canada contributions in respect of, the service of these employees with the Government of Newfoundland prior to the date of Union, but these payments or contributions will be such that the burden on the Government of the Province of Newfoundland in respect of pension rights acquired by reason of service in Newfoundland will not be increased by reason of the transfer.

(3) Pensions of employees of the Government of Newfoundland who were retired on pension before the service concerned is taken over by Canada will remain the responsibility of the Province of Newfoundland.

#### *Welfare and Other Public Services*

40. Subject to these Terms, Canada will extend to the Province of Newfoundland, on the same basis and subject to the same terms and conditions as in the case of other provinces of Canada, the welfare and other public services provided from time to time by Canada for the people of Canada generally, which, in addition to the veterans' benefits, unemployment insurance benefits, and merchant seamen benefits set out in Terms thirty-eight, forty-one, and forty-two respectively, include family allowances under The Family Allowances Act, 1944, unemployment insurance under The Unemployment Insurance Act, 1940, sick mariners' benefits for merchant seamen and fishermen under the Canada Shipping Act, 1934, assistance for housing under The National Housing Act, 1944, and, subject to the Province of Newfoundland entering into the necessary agreements or making the necessary contributions, financial assistance under The National Physical Fitness Act for carrying out plans of physical fitness, health grants, and contributions under the Old Age Pensions Act for old age pensions and pensions for the blind.

#### *Unemployment Insurance*

41.—(1) Subject to this Term, Canada will provide that residents of the Province of Newfoundland in insurable employment who lose their employment within six months prior to the date of Union and are still unemployed at that date, or who lose their employment within a two-year period after that date, will be entitled for a period of six months from the date of Union or six months from the date of unemployment, whichever is the later, to assistance on the same scale and under the same conditions as unemployment insurance benefits.

(2) The rates of payment will be based on the individual's wage record for the three months preceding his loss of employment, and to qualify for assistance a person must have been employed in insurable employment for at least thirty per centum of the working days within the period of three months preceding his loss of employment or thirty per centum of the working days within the period since the date of Union, whichever period is the longer.

#### *Merchant Seamen*

42.—(1) Canada will make available to Newfoundland merchant seamen who served in the Second World War on British ships or on

ships of Allied countries employed in service essential to the prosecution of the war, the following benefits, on the same basis as they are from time to time available to Canadian merchant seamen, as if they had served on Canadian ships, namely,

- (a) disability and dependants' pensions will be paid, if disability occurred as a result of enemy action or counter-action, including extraordinary marine hazards occasioned by the war, and a Newfoundland merchant seaman in receipt of a pension from the Government of the United Kingdom or an Allied country will be entitled, during residence in Canada, to have his pension raised to the Canadian level ; and
- (b) free hospitalization and treatment, vocational training, The Veterans' Land Act, 1942, and The Veterans Insurance Act will be extended to disability pensioners.

(2) Vocational training, Part IV of The Unemployment Insurance Act, 1940, and The Veterans Insurance Act will be extended to Newfoundland merchant seamen who were eligible for a Special Bonus or a War Service Bonus, on the same basis as if they were Canadian merchant seamen.

(3) The Unemployment Insurance Act, 1940, and The Merchant Seamen Compensation Act will be applied to Newfoundland merchant seamen as they are applied to other Canadian merchant seamen.

#### *Citizenship*

43. Suitable provision will be made for the extension of the Canadian citizenship laws to the Province of Newfoundland.

#### *Defence Establishments*

44. Canada will provide for the maintenance in the Province of Newfoundland of appropriate reserve units of the Canadian defence forces, which will include the Newfoundland Regiment.

#### *Economic Survey*

45.—(1) Should the Government of the Province of Newfoundland institute an economic survey of the Province of Newfoundland with a view to determining what resources may profitably be developed and what new industries may be established or existing industries expanded, the Government of Canada will make available the services of its technical employees and agencies to assist in the work.

(2) As soon as may be practicable after the date of Union, the Government of Canada will make a special effort to collect and make available statistical and scientific data about the natural resources and economy of the Province of Newfoundland, in order to bring such information up to the standard attained for the other provinces of Canada.

#### *Oleomargarine*

46.—(1) Oleomargarine or margarine may be manufactured or sold in the Province of Newfoundland after the date of the Union and the Parliament of Canada shall not prohibit or restrict such



manufacture or sale except at the request of the Legislature of the Province of Newfoundland, but nothing in this Term shall affect the power of the Parliament of Canada to require compliance with standards of quality applicable throughout Canada.

(2) Unless the Parliament of Canada otherwise provides or unless the sale and manufacture in, and the interprovincial movement between, all provinces of Canada other than Newfoundland, of oleo-margarine and margarine, is lawful under the laws of Canada, oleo-margarine or margarine shall not be sent, shipped, brought, or carried from the Province of Newfoundland into any other province of Canada.

#### *Income Taxes*

47. In order to assist in the transition to payment of income tax on a current basis Canada will provide in respect of persons (including corporations) resident in Newfoundland at the date of Union, who were not resident in Canada in 1949 prior to the date of Union, and in respect of income that under the laws of Canada in force immediately prior to the date of Union was not liable to taxation, as follows:

- (a) that prior to the first day of July, 1949, no payment will be required or deduction made from such income on account of income tax ;
- (b) that for income tax purposes no person shall be required to report such income for any period prior to the date of Union ;
- (c) that no person shall be liable to Canada for income tax in respect of such income for any period prior to the date of Union ; and
- (d) that for individuals an amount of income tax for the 1949 taxation year on income for the period after the date of Union shall be forgiven so that the tax on all earned income and on investment income of not more than \$2,250 will be reduced to one-half the tax that would have been payable for the whole year if the income for the period prior to the date of Union were at the same rate as that subsequent to such date.

#### *Statute of Westminster*

48. From and after the date of Union the Statute of Westminster, 1931, shall apply to the Province of Newfoundland as it applies to the other Provinces of Canada.

#### *Saving*

49. Nothing in these Terms shall be construed as relieving any person from any obligation with respect to the employment of Newfoundland labour incurred or assumed in return for any concession or privilege granted or conferred by the Government of Newfoundland prior to the date of Union.

*Coming into Force*

50. These Terms are agreed to subject to their being approved by the Parliament of Canada and the Government of Newfoundland; shall take effect notwithstanding the Newfoundland Act, 1933, or any instrument issued pursuant thereto; and shall come into force immediately before the expiration of the thirty-first day of March, 1949, if His Majesty has theretofore given His Assent to an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland confirming the same.

Signed in duplicate at Ottawa this eleventh day of December, 1948.

*On behalf of Canada :*

“ LOUIS S. ST. LAURENT ”  
“ BROOKE CLAXTON ”

*On behalf of Newfoundland :*

“ ALBERT J. WALSH ”  
“ F. GORDON BRADLEY ”  
“ PHILIP GRUCHY ”  
“ JOHN B. McEVOY ”  
“ JOSEPH R. SMALLWOOD ”  
“ G. A. WINTER ”

## SCHEDULE

In this Schedule the expression “ District ” means District as named and delimited in the Act 22 George V, Chapter 7 entitled “ An Act to amend Chapter 2 of the Consolidated Statutes of Newfoundland (Third Series) entitled ‘ Of the House of Assembly ’ ”.

*Grand Falls-White Bay* shall consist of the Districts of White Bay, Green Bay, and Grand Falls, and all the territory within a radius of five miles of the Railway Station at Gander, together with the Coast of Labrador and the Islands adjacent thereto.

*Bonavista-Twillingate* shall consist of the Districts of Twillingate, Fogo, Bonavista North, and Bonavista South, but shall not include any part of the territory within a radius of five miles from the Railway Station at Gander.

*Trinity-Conception* shall consist of the Districts of Trinity North, Trinity South, Carbonear-Bay de Verde, Harbour Grace, and Port de Grave.

*St. John's East* shall consist of the District of Harbour Main-Bell Island and that part of the Province bounded as follows, that is to say: By a line commencing at a point where the centre line of Beck's Cove Hill intersects the North shore of the Harbour of St. John's, thence following the centre line of Beck's Cove Hill to the centre of Duckworth Street, thence westerly along the centre line of Duckworth Street to the centre of Theatre Hill, thence following the centre line of Theatre Hill to the centre of Carter's Hill, thence following the centre line of Carter's Hill and Carter's Street to the centre of Freshwater Road, thence following the

centre line of Freshwater Road to its intersection with the centre of Kenmount Road, and thence along the centre line of Kenmount Road to its intersection with the North Eastern boundary of the District of Harbour Main-Bell Island, thence along the said North Eastern boundary of the District of Harbour Main-Bell Island to the shore of Conception Bay and thence following the coastline around Cape St. Francis and on to the Narrows of St. John's Harbour and continuing along by the North Shore of St. John's Harbour to a point on the North shore of the said Harbour intersected by the centre line of Beck's Cove Hill, the point of commencement.

*St. John's West* shall consist of the Districts of Placentia-St. Mary's and Ferryland, and that part of the Province bounded as follows, that is to say : By a line commencing at the Motion Head of Petty Harbour and running in a straight line to the Northern Goulds Bridge (locally known as Doyle's Bridge) thence following the centre line of Doyle's Road to Short's Road, thence in a straight line to a point one mile west of Quigley's, thence in a straight line to the point where the North Eastern boundary of the District of Harbour Main-Bell Island intersects Kenmount Road, thence along the centre line of Kenmount Road and Freshwater Road to Carter's Street, thence down the centre line of Carter's Street and Carter's Hill to Theatre Hill and thence along the centre line of said Theatre Hill to the centre line of Duckworth Street and thence easterly along the centre line of Duckworth Street to the top of Beck's Cove Hill, thence from the centre line of said Beck's Cove Hill to the shore of St. John's Harbour and thence following the shore of St. John's Harbour and, passing through the Narrows by the North of Fort Amherst and thence following the coastline Southerly to the Motion Head of Petty Harbour, the point of commencement.

*Burin-Burgeo* shall consist of the Districts of Placentia West, Burin, Fortune Bay-Hermitage, and Burgeo and LaPoile and all the unorganized territory bounded on the North and West by the District of Grand Falls, on the South by the Districts of Burgeo and LaPoile and Fortune Bay-Hermitage, on the East by the Districts of Trinity North, Bonavista South and Bonavista North.

*Humber-St. George's* shall consist of the Districts of St. George's-Port au Port, Humber, and St. Barbe, and all the unorganized territory bounded on the North by the District of Humber, on the East by the District of Grand Falls, on the South by the District of Burgeo and LaPoile, and on the West by the District of St. George's-Port au Port.



## CHAPTER 23

An Act to confirm and give effect to an agreement made between the Treasury and the Ministry of Finance for Northern Ireland with a view to assimilating the burdens on the Exchequer of the United Kingdom and the Exchequer of Northern Ireland in respect of certain social and allied services. [23rd March 1949.]

**W**HEREAS provision was made by the Unemployment and Family Allowances (Northern Ireland Agreement) Act, 1946, for confirming and giving effect to an agreement made between the Treasury and the Ministry of Finance for Northern Ireland with a view to assimilating the burdens on the Exchequer of the United Kingdom and the Exchequer of Northern Ireland in respect of social insurance and allied services:

And whereas it has been agreed between the Treasury and the Ministry of Finance for Northern Ireland that the said agreement should be superseded by that set forth in the Schedule to this Act (hereafter in this Act referred to as "the scheduled agreement"):

And whereas it is provided by the scheduled agreement that it shall not come into operation until confirmed by Acts of the Parliaments of the United Kingdom and Northern Ireland respectively, but upon being so confirmed shall apply as from the fifth day of July, nineteen hundred and forty-eight:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Confirmation of scheduled agreement.

1.—(1) The scheduled agreement is hereby confirmed.

(2) Any sums payable under or by virtue of the scheduled agreement from the Exchequer of the United Kingdom to the Exchequer of Northern Ireland shall be charged on and paid out of the Consolidated Fund of the United Kingdom or the growing produce thereof.

Short title, repeal, commencement and duration.  
 10 & 11 Geo. 6.  
 c. 3.

2.—(1) This Act may be cited as the Social Services (Northern Ireland Agreement) Act, 1949.

(2) The Unemployment and Family Allowances (Northern Ireland Agreement) Act, 1946, is hereby repealed.

(3) This Act shall not come into operation unless and until His Majesty by Order in Council declares that a corresponding Act has been passed by the Parliament of Northern Ireland, and shall cease to be in force if and when His Majesty by Order in Council declares that the corresponding Act of the Parliament of Northern Ireland has ceased to be in force.

## SCHEDULE

### AGREEMENT MADE BETWEEN THE TREASURY AND THE MINISTRY OF FINANCE FOR NORTHERN IRELAND

The Commissioners of His Majesty's Treasury and the Ministry of Finance for Northern Ireland, having consulted together as required by paragraph (2) of Article 7 of the Agreement of the Eighteenth September, One thousand nine hundred and forty-six, relating to unemployment insurance, unemployment assistance, and family allowances, scheduled to the Unemployment and Family Allowances (Northern Ireland Agreement) Act, 1946, have, with a view to assimilating the burdens on the Exchequer of the United Kingdom and the Exchequer of Northern Ireland in respect of such social and allied services as are hereinafter mentioned, entered into the following Agreement which supersedes as from the Fifth day of July, One thousand nine hundred and forty-eight, the aforesaid agreement of the Eighteenth September, One thousand nine hundred and forty-six.

1. (i) There shall be ascertained in respect of each financial year during which this Agreement is in operation the total net Exchequer cost in Great Britain and in Northern Ireland under the following enactments as they may be amended from time to time :—

- (a) Parts II and IV of the National Assistance Act, 1948, and the corresponding enactments in Northern Ireland;
- (b) the Old Age Pensions Act, 1936, (as amended by the Blind Persons Act, 1938, and by section 46 of the National Assistance Act, 1948, and as modified by Regulations made under section 74 of the National Insurance Act, 1946) and the corresponding enactments and regulations in Northern Ireland;
- (c) the Family Allowances Act, 1945, and the corresponding enactment in Northern Ireland;
- (d) the National Health Service Act, 1946, the National Health Service (Scotland) Act, 1947, and the corresponding enactments in Northern Ireland; and
- (e) section 62 of the National Insurance Act, 1946, (which provides for temporary provision as to unemployment benefit) and the corresponding enactment in Northern Ireland.

(ii) (a) The net Exchequer cost under paragraph (i) of this Article shall be the actual cost as certified annually by the Commissioners of His Majesty's Treasury as respects the services in Great Britain and by the Ministry of Finance for Northern Ireland as respects the services in Northern Ireland, save that the net Exchequer cost of the Family

Allowances Act, 1945, shall be the sums certified by the Ministry of National Insurance as representing the amounts that would have been charged to this service in Great Britain if the minimum school-leaving age in Great Britain had been the same as the minimum school-leaving age in Northern Ireland ;

(b) the net Exchequer cost under sub-paragraphs (a), (b), (c) and (e) of paragraph (i) of this Article in Northern Ireland shall, in relation to the net Exchequer cost of these services in Great Britain, be determined subject to such adjustments, if any, as may be necessary to take account, from time to time, of any differences between methods of administration in Great Britain and in Northern Ireland ;

(c) the net Exchequer cost under sub-paragraph (d) of paragraph (i) of this Article in Northern Ireland shall, in relation to the net Exchequer cost of those services in Great Britain, be determined subject to such adjustments, if any, as may be necessary to take account, from time to time, of any differences between methods of administration in Great Britain and in Northern Ireland, so, however, that where differences in methods of administration exist in different parts of Great Britain, account shall be taken so far as is practicable of such methods in any part of Great Britain which is comparable with Northern Ireland for this purpose, and to factors which specially affect Northern Ireland in the administration of comprehensive health services.

2. (i) If in respect of any financial year the total net Exchequer cost in Northern Ireland under Article 1 hereof is less than 2·5 per cent. of the total net Exchequer cost in Great Britain and Northern Ireland, there shall be paid from the Exchequer of Northern Ireland to the Exchequer of the United Kingdom 80 per cent. of the amount by which the said Exchequer cost in Northern Ireland is less than the said 2·5 per cent.

(ii) If in respect of any financial year the total net Exchequer cost in Northern Ireland under Article 1 hereof exceeds 2·5 per cent. of the total net Exchequer cost in Great Britain and Northern Ireland there shall be paid to the Exchequer of Northern Ireland from the Exchequer of the United Kingdom 80 per cent. of the amount by which the said Exchequer cost in Northern Ireland exceeds the said 2·5 per cent.

(iii) At the end of the third financial year ending after the date of this Agreement and thereafter at such intervals as may be agreed between them the Commissioners of His Majesty's Treasury and the Ministry of Finance for Northern Ireland shall review the said proportion of 2·5 per cent. specified in paragraphs (i) and (ii) of this Article, and shall take into consideration that the said proportion was calculated by reference to the proportions which at the date of this Agreement the population and taxable capacity of Northern Ireland bore respectively to the total population and total taxable capacity of Great Britain and Northern Ireland, and if since the date of this Agreement or the last review, as the case may be, there shall have been any material change in the proportions which the population and taxable capacity of Northern Ireland bear respectively to the total population and taxable capacity of Great Britain and Northern Ireland, such proportion as may be agreed between the Commissioners of His Majesty's

Treasury and the Ministry of Finance for Northern Ireland and approved by the Joint Exchequer Board, or, in default of agreement or approval, shall be determined by the Joint Exchequer Board, shall, for the purposes of paragraphs (i) and (ii) of this Article, be substituted for the said proportion of 2·5 per cent. in respect of each succeeding financial year.

3. It is hereby agreed that subject to such discrepancies as may exist between the scheme for family allowances in Great Britain and the corresponding scheme in Northern Ireland by reason of the difference in the minimum school-leaving age in Great Britain and Northern Ireland respectively, and subject to such other differences as may from time to time exist between the methods of administration in Great Britain and in Northern Ireland of the services covered by this Agreement, the Government of Northern Ireland undertakes :—

- (a) to maintain the rates of benefits in respect of assistance grants, non-contributory old age pensions and pensions for the blind, family allowances and temporary unemployment benefit, in general parity with the rates of benefits obtaining in Great Britain; and
- (b) to keep the scale and standard of comprehensive health services in Northern Ireland in general conformity with the scale and standard of such services in Great Britain and to ensure that the rates of remuneration of persons employed in such services in Northern Ireland correspond as nearly as may be with the rates for such services obtaining in Great Britain.

4. Payments on account of such contributions as may ultimately be found to be due under Article 2 hereof from one Exchequer to the other shall be made of such amounts and at such times as may be agreed between the Commissioners of His Majesty's Treasury and the Ministry of Finance for Northern Ireland.

5. Any question arising under this Agreement, whether as to the amount of any adjustments necessary in the determination of net Exchequer costs in Great Britain and Northern Ireland for the purposes of Article 1 hereof, or of any contribution from one Exchequer to the other under Article 2 hereof, or otherwise, shall, in default of agreement between the Commissioners of His Majesty's Treasury and the Ministry of Finance for Northern Ireland, be determined by the Joint Exchequer Board whose decision shall be final.

6. This Agreement shall not come into operation until confirmed by Acts of the Parliaments of the United Kingdom and Northern Ireland respectively, but upon being so confirmed shall apply as from the Fifth day of July, One thousand nine hundred and forty-eight.

7. (i) For the purposes of the previous Agreement of Eighteenth September, One thousand nine hundred and forty-six, the financial year which commenced on the First day of April, One thousand nine hundred and forty-seven shall be deemed to have ended on the Fourth day of July, One thousand nine hundred and forty-eight.

(ii) For the purposes of this Agreement the financial year ending on the Thirty-first day of March, One thousand nine hundred and forty-nine shall be deemed to have commenced on the Fifth day of July, One thousand nine hundred and forty-eight.

IN WITNESS whereof Sir RICHARD STAFFORD CRIPPS and ROBERT JOHN TAYLOR two of the Commissioners of His Majesty's Treasury have hereunto set their hands and seals and the Official Seal of the Ministry of Finance for Northern Ireland has been hereunto affixed this Eleventh day of February, One thousand nine hundred and forty-nine.

SIGNED SEALED AND DELIVERED by  
SIR RICHARD STAFFORD CRIPPS  
one of the Commissioners of His  
Majesty's Treasury in the presence  
of :—

R. STAFFORD CRIPPS.

L.S.

B. TREND, Civil Servant,  
H.M. Treasury, London.

SIGNED SEALED AND DELIVERED by  
ROBERT JOHN TAYLOR one of the  
Commissioners of His Majesty's  
Treasury in the presence of:—

R. J. TAYLOR.

L.S.

C. J. HARRIS, Civil Servant,  
12 Downing Street, London.

THE OFFICIAL SEAL OF THE MINISTRY  
OF FINANCE FOR NORTHERN  
IRELAND was hereunto affixed in  
the presence of :—

J. M. SINCLAIR.

L.S.

W. D. SCOTT, Civil Servant,  
Ministry of Finance, Northern Ireland.

## CHAPTER 24

An Act to apply certain sums out of the Consolidated Fund to the service of the years ending on the thirty-first day of March, one thousand nine hundred and forty-eight, one thousand nine hundred and forty-nine and one thousand nine hundred and fifty.

[29th March 1949]

Most Gracious Sovereign,

**WE**, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards making good the supply which we have cheerfully granted to Your Majesty in this session of Parliament, have resolved to grant unto Your Majesty the sums hereinafter



mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. The Treasury may issue out of the Consolidated Fund of the United Kingdom and apply towards making good the supply granted to His Majesty for the service of the years ending on the thirty-first day of March, one thousand nine hundred and forty-eight and one thousand nine hundred and forty-nine, the sum of three hundred and eight million, three hundred and eighty-one thousand, one hundred and seventy-one pounds, three shillings and six pence.

Issue of  
£308,381,171 3s. 6d.  
out of the Con-  
solidated Fund for  
the service of the  
years ending  
31st March, 1948  
and 1949.

2. The Treasury may issue out of the Consolidated Fund of the United Kingdom and apply towards making good the supply granted to His Majesty for the service of the year ending on the thirty-first day of March, one thousand nine hundred and fifty, the sum of one thousand two hundred and ten million, six hundred and forty-three thousand pounds.

Issue of  
£1,210,643,000 out  
of the Consolidated  
Fund for the service  
of the year ending  
31st March, 1950.

3.—(1) The Treasury may borrow from any person by the issue of Treasury Bills or otherwise, and the Bank of England and the Bank of Ireland may advance to the Treasury on the credit of the said sums, any sum or sums not exceeding in the whole one thousand five hundred and nineteen million, twenty-four thousand, one hundred and seventy-one pounds, three shillings and six pence.

Power for  
the Treasury  
to borrow.

(2) The date of payment of any Treasury Bills issued under this section shall be a date not later than the thirty-first day of March, one thousand nine hundred and fifty, and section six of the Treasury Bills Act, 1877 (which relates to the renewal of bills) shall not apply with respect to those bills.

40 & 41 Vict.  
c. 2.

(3) Any money borrowed otherwise than on Treasury Bills shall be repaid, with interest not exceeding three pounds per cent. per annum, out of the growing produce of the Consolidated Fund, at any period not later than the next succeeding quarter to that in which the money was borrowed.

(4) Any money borrowed under this section shall be placed to the credit of the account of the Exchequer, and shall form part of the said Consolidated Fund, and be available in any manner in which such Fund is available.

(5) The interest on any money borrowed under this section shall be paid out of the permanent annual charge for the National Debt.

4. This Act may be cited as the Consolidated Fund (No. 1) Short title. Act, 1949.



## CHAPTER 25

An Act to make provision with regard to tenancies of shops in Scotland. [29th March 1949.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Provision for renewal of tenancies of shops.

1.—(1) If the landlord of any premises consisting of a shop and occupied by a tenant gives or has given to the tenant notice of termination of tenancy taking effect after the passing of this Act, and the tenant is unable to obtain a renewal of his tenancy on terms that are satisfactory to him, he may, at any time before the notice takes effect and not later than the expiry of twenty-one days after the service of the notice or after the passing of this Act, whichever is the later, apply to the sheriff for a renewal of his tenancy.

(2) On any application under the foregoing subsection the sheriff may, subject as hereinafter provided, determine that the tenancy shall be renewed for such period, not exceeding one year, at such rent, and on such terms and conditions as he shall, in all the circumstances, think reasonable, and thereafter the parties shall be deemed to have entered into a new lease of the premises for that period, at that rent and on those terms and conditions.

(3) Notwithstanding anything in the last foregoing subsection, the sheriff may, if in all the circumstances he thinks it reasonable to do so, dismiss any application under this section, and shall not determine that a tenancy shall be renewed, if he is satisfied—

- (a) that the tenant is in breach of any condition of his tenancy which in the opinion of the sheriff is material ;  
or
- (b) that the tenant is notour bankrupt or is divested of his estate by virtue of a trust deed for behoof of creditors, or, being a company, is unable to pay its debts ; or
- (c) that the landlord has offered to sell the premises to the tenant at such price as may, failing agreement, be fixed by a single arbiter agreed on by the parties or appointed, failing such agreement, by the sheriff ; or
- (d) that the landlord has offered to afford to the tenant, on terms and conditions which in the opinion of the sheriff are reasonable, alternative accommodation which, in the opinion of the sheriff, is suitable for the purposes of the business carried on by the tenant in the premises ; or

- (e) that the tenant has given notice of termination of tenancy and in consequence of that notice the landlord has contracted to sell or let the premises or has taken any other steps as a result of which he would in the opinion of the sheriff be seriously prejudiced if he could not obtain possession of the premises ; or
- (f) that, having regard to all the circumstances of the case, greater hardship would be caused by determining that the tenancy shall be renewed than by refusing so to do.

(4) Where a tenancy has been renewed under subsection (2) of this section, the tenant shall have the like right to apply for further renewals as if the tenancy had been renewed by agreement between the landlord and the tenant, and accordingly the foregoing provisions of this section shall, with any necessary modifications, apply to a tenancy which has been renewed under the said subsection (2) or under this subsection.

(5) If on any application under this section the sheriff is satisfied that it will not be possible to dispose finally of the application before the notice of termination of tenancy takes effect, he may make an interim order authorising the tenant to continue in occupation of the premises at such rent, for such period (which shall not exceed three months) and on such terms and conditions as the sheriff may think fit.

(6) Where the Secretary of State has under Regulation fifty-one of the Defence (General) Regulations, 1939, taken possession of any such premises as aforesaid, any person who at the passing of this Act is occupying those premises with the authority of the Secretary of State shall, for the purposes of the foregoing provisions of this section, be deemed to be the tenant of the premises and to have received from the landlord thereof notice of termination of tenancy taking effect at the term of Whitsunday, nineteen hundred and forty-nine, and the Secretary of State shall be deemed to have given up possession of the premises at that term.

(7) Applications under this section shall be conducted and disposed of in the summary manner in which proceedings are conducted and disposed of under the Small Debt (Scotland) Acts, 1837 to 1889, and the decision of the sheriff in any such application shall be final and not subject to review.

2. The foregoing section shall apply to any such premises as are mentioned therein in which the interest of the landlord to Crown or tenant belongs to His Majesty in right of the Crown or to a government department or is held on behalf of His Majesty for the purposes of a government department, in like manner as the said section applies to any other such premises.

Citation,  
extent, inter-  
pretation and  
duration.

3.—(1) This Act may be cited as the Tenancy of Shops (Scotland) Act, 1949, and shall extend to Scotland only.

(2) In this Act the expression “shop” includes any shop within the meaning of the Shops Acts, 1912 to 1936, or any of those Acts.

(3) This Act shall continue in force until the thirty-first day of December, nineteen hundred and fifty, and shall then expire except as regards applications for renewal of tenancy presented before the said date and determinations thereon.

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## CHAPTER 26

### *Public Works (Festival of Britain) Act, 1949*

#### ARRANGEMENT OF SECTIONS

##### Section.

1. Authorised works.
2. Use and acquisition of lands.
3. Application of usual ancillary provisions.
4. Stopping up of streets, etc.
5. Car parks.
6. Duration and removal of temporary works, etc.
7. Modifications of Town and Country Planning Act, 1947.
8. Grants from Minister of Transport.
9. Agreements between Commission, Council and others.
10. Saving as respects Belvedere Road, Upper Ground and Jenkins Street for persons having statutory powers.
11. For protection of Port of London Authority.
12. For protection of certain water, gas and hydraulic power undertakers.
13. Interpretation.
14. Short title.

##### SCHEDULES :

First Schedule.—Descriptions of Authorised Works.

Second Schedule.—Enactments Applied to New Tramways.

Third Schedule.—Ancillary Provisions as to Execution of Works and Acquisition of Land.

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An Act to provide, in connection with the Festival of Britain, 1951, for conferring further powers on the British Transport Commission and the London County Council, for the making by the Minister of Transport of grants in respect of expenses incurred by or on behalf of those bodies, for suspending or restricting the use by the public of certain streets and for other matters.  
[29th March 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1.—(1) The works authorised by this section consist of the **Authorised** following works situated in the administrative county of London, **works.** that is to say—

- (a) three temporary footbridges (hereafter in this Act respectively referred to as “the river footbridge,” “the York Road footbridge” and “the Hungerford footbridge extension”) namely—
- (i) a footbridge giving access to the exhibition across the river and consisting of Works Nos. 1 and 2 described in Part I of the First Schedule to this Act ;
  - (ii) a footbridge giving access to the exhibition across York Road and consisting of Work No. 3 described as aforesaid ;
  - (iii) an extension of Hungerford footbridge across York Road consisting of Work No. 4 described as aforesaid ;
- (b) such landing stages giving access to the exhibition site from the river as the Council, with the approval of the Minister of Transport, may determine, and either temporary or not as may be so determined ;
- (c) the railway works described in Part II of the said First Schedule (being works providing means of access to platforms at Waterloo and Charing Cross underground stations) ;
- (d) the new tramways described in Part III of the said First Schedule (being tramways required where existing tramways do not conform with the proposed exhibition traffic arrangements).

(2) The works authorised by this section may, subject to the provisions of this Act, be made and maintained—

- (a) in the case of the river footbridge, the York Road footbridge and the landing stages aforesaid, by the Council; and
- (b) in any other case, by the Commission.

(3) The works authorised by this section shall be made in the lines or situations and according to the levels shown on the deposited plans and sections :

Provided that in the execution of the works or any part of them the Commission or Council may deviate from the lines or situations shown on the deposited plans to the extent of the limits of deviation so shown or, in the case of the new tramways, (subject to the next following subsection) to any extent not exceeding three feet, and may deviate from the levels shown on the deposited sections to such extent as may be found necessary or convenient.

(4) In the case of the new tramways no deviation shall without the consent of the Minister of Transport be made laterally under the proviso to the last foregoing subsection so that a less space than nine feet six inches shall intervene between the outer rail of the tramway and the outer edge of the footway on either side of the road, if one-third of the owners or one-third of the occupiers of the premises abutting on the place where such less space shall intervene shall by writing under their hands, addressed and delivered to the Commission within three weeks after receiving from the Commission notice of their intention, express their objection thereto.

(5) The power to make and maintain any of the works mentioned in subsection (1) of this section shall include power to make and maintain such works and conveniences connected therewith as may be necessary or proper, including in particular (but without prejudice to the generality of the foregoing words or any other provision of this Act) steps, stairs, platforms, escalators, lifts, inclines, approaches, lights, dolphins and piers, and (in the case of the tramways) rails, plates, junctions, crossings and passing places; and references in this Act to the works authorised by this section or any of them shall be construed accordingly.

(6) Subject to the provisions of this Act, the Hungerford footbridge extension shall be deemed for all purposes to form part of Hungerford footbridge, the railway works authorised by this section shall be deemed for all purposes to form part of the railways with which they are connected, and the tramways authorised by this section shall be deemed for all purposes to

form part of the tramways in Westminster Bridge Road authorised by the London County Council (Tramways and Improvements) Act, 1906.

(7) Nothing in this Act shall be taken as entitling members of the public to use the river footbridge or the York Road footbridge or the landing stages authorised by this section, except to such extent and subject to such conditions as the Council may from time to time determine.

2.—(1) Subject to the provisions of this Act, the Commission and the Council may respectively enter upon, use and appropriate so much of any public highway (including the space under or over any public highway) as shall be necessary for the purpose of any work authorised by section one of this Act without being required to purchase the same or any easement therein or to make any payment therefor. Use and acquisition of lands

(2) Subject to the provisions of this Act, the Commission and the Council may also respectively enter upon, take and use or appropriate, for the purpose of any work authorised by section one of this Act, any land which they may require for that purpose and which is within the limits of deviation shown on the deposited plans for the work and is described in the deposited book of reference.

(3) Subject to the provisions of this Act, the Council may also enter upon, take and use or appropriate, for the purpose of providing substituted sites or facilities for persons displaced from the exhibition site and persons displaced from other land in connection with the exhibition traffic arrangements, all or any of the lands situate in the borough of Lambeth which are delineated and numbered 60 to 75 (inclusive) on the deposited plans and are described in the deposited book of reference, and may for the purpose aforesaid provide such buildings and facilities, whether permanent or not, as they think desirable on any lands taken under this subsection.

(4) Nothing in this section shall authorise the Commission or the Council to enter upon, take or use (except by agreement) any cellar or vault belonging to or connected with any building and situate in or under any street, unless the cellar or vault or the building to which it belongs or with which it is connected is delineated on the deposited plans and described in the deposited book of reference.

(5) The powers of the Commission and of the Council for the compulsory purchase of land under this section shall cease on the first day of October, nineteen hundred and fifty-one.

Application of usual ancillary provisions.

3.—(1) The Lands Clauses Acts so far as they are applicable for the purposes of the foregoing provisions of this Act and are not varied by or inconsistent with this Act are, for those purposes, hereby incorporated with and form part of this Act subject to this, that—

- (a) sections one hundred and twenty-seven to one hundred and thirty-three of the Lands Clauses Consolidation Act, 1845, shall not apply ; and
- (b) references to the promoters of the undertaking shall be taken as references to the Commission or the Council, as the case may be.

(2) The Railways Clauses Consolidation Act, 1845, so far as it is applicable for the purposes of the foregoing provisions of this Act relating to the railway works authorised by section one of this Act and is not varied by or inconsistent with this Act is, for those purposes, hereby incorporated with and forms part of this Act subject to this, that—

- (a) sections seven, eight and nine shall not apply ; and
- (b) references to the railway and to the company shall be taken respectively as references to the railway works aforesaid and to the Commission.

(3) Subsection (6) of section one of this Act shall not have the effect of applying in relation to the tramways authorised by that section the enactments specified in the First and Third Schedules to the Act of 1906 mentioned in that subsection, but—

- (a) the enactments mentioned in the Second Schedule to this Act shall have effect in relation to the tramways so authorised as they have effect in relation to those for which they were enacted ;
- (b) references in section four of the London County Tramways (Electrical Power) Act, 1900, to the passing of that Act shall in the application of that section (by virtue of the said Act of 1906) to the tramways so authorised be taken as references to the passing of this Act.

In the application of Parts II and III of the Tramways Act, 1870, to the tramways so authorised the expression “road” shall be construed to include, in addition to the carriageway of any public highway, the footways of the highway.

(4) The Third Schedule to this Act (which contains ancillary provisions such as are commonly included in Acts conferring powers similar to those conferred by the foregoing provisions of this Act) shall have effect for the purposes of those provisions of this Act.



(5) Paragraph 9 of the said Third Schedule shall also apply in relation to land which is required by the Council for the purposes of the exhibition traffic arrangements and which they have power to acquire compulsorily apart from this Act as it applies in relation to land which they have power to acquire compulsorily under section two of this Act.

4.—(1) All rights of way over—

Stopping up  
of streets, etc.

- (a) that part of Belvedere Road in the borough of Lambeth which extends northward from Chicheley Street, together with the public steps leading from Belvedere Road to Waterloo Road and so much of Upper Ground as is beneath the arch carrying Waterloo Road ;
- (b) that part of Jenkins Street in the borough of Lambeth which lies between Belvedere Road and York Road ; and
- (c) the existing approach to Hungerford footbridge from Belvedere Road to the point from which the Hungerford footbridge extension begins ;

shall, subject to the provisions of this Act, be suspended temporarily during such periods as the Minister of Transport may from time to time by order direct and, during the suspension, all or any part of the land in question may be used for any purpose connected with the exhibition.

(2) In connection with the exhibition traffic arrangements or the footbridges authorised by section one of this Act, the Minister of Transport, on the application of the Council, may by order restrict, for such period as may from time to time be directed by any such order, the use by vehicular traffic of the whole or part of any of the following streets, namely, in the City of Westminster, Northumberland Avenue and, in the borough of Lambeth, Waterloo Road, Buckley Street, Whichcote Street, Boyce Street, York Road, Westminster Bridge Road, Lambeth Palace Road and Stangate.

(3) Before making an application under the last foregoing subsection with respect to any part of a public service vehicle route or a tramway route, the Council shall give the Commission fourteen days notice of their intention so to do, and before making an order under that subsection with respect to part of any such route the Minister of Transport shall consider any representations made to him by the Commission.

(4) The Council may from time to time construct and remove such barriers, footways and refuges as they think fit in connection with any restrictions imposed by virtue of subsection (2) of this section, and erect and remove such notices as the Minister

of Transport may authorise calling attention to any restriction imposed as aforesaid or to the suspension of any right of way under subsection (1) of this section.

(5) Any authorisation under the last foregoing subsection may be given subject to conditions as to the lighting of the notice or otherwise.

(6) Anything constructed or erected by the Council under subsection (4) of this section shall, subject to the power of the Council to remove it, be maintained by the highway authority.

(7) Where it appears to the Minister of Transport that, by reason of any restriction imposed by virtue of subsection (2) of this section, it has become necessary with a view to facilitating the movement of vehicular traffic or the safety of the public to restrict the use by vehicular traffic of the whole or part of any street not mentioned in that subsection, he shall have the like power to make orders with respect thereto as if the street were so mentioned, but without the necessity for any application by the Council.

(8) Any person contravening any restriction imposed by virtue of subsection (2) or (7) of this section, or without lawful authority removing or interfering with anything constructed or erected under subsection (4) thereof, shall be liable on summary conviction to a fine not exceeding twenty pounds for each offence.

(9) The powers conferred by section fifty-two of the Metropolitan Police Act, 1839, and section twenty-two of the City of London Police Act, 1839, on the commissioners of the metropolitan police and the City police to make regulations for routes to be observed and for preventing obstruction shall be exercisable as respects any part of the period for which the exhibition is open, and not only as respects times of public processions, public rejoicings or illuminations.

#### Car parks.

5.—(1) The Council may provide, maintain and manage such temporary car parks (whether for private cars or otherwise) in the administrative county of London as they think necessary or desirable in connection with the Festival, and may make and recover such reasonable charges as they think fit for the use of any car park provided by them under this section.

(2) The Council may execute such works as they think necessary or desirable for the purpose of preparing or maintaining the site of any such car park (including works for facilitating ingress and egress), and may provide and maintain such conveniences, employ such persons, do such acts and make and enforce such restrictions or conditions as they think necessary or desirable in the management of any such car park.

Any reference in this Act to a car park provided under this section shall, unless the context otherwise requires, include any works executed or conveniences provided in connection therewith.

(3) The Council may make and enforce bye-laws with respect to any car park provided under this section and for regulating the use of it and the conduct of persons using it; and for the purposes of section one hundred and forty-seven of the London Government Act, 1939, in its application to bye-laws under this subsection, the confirming authority shall be the Minister of Transport.

(4) The Council may set apart and use such part as they think fit of Clapham Common and the Geraldine Mary Harmsworth Park for the purpose of their powers under this section, so that the land set apart under this subsection does not in the case of Clapham Common exceed in the whole eight acres.

(5) All public rights over land set apart under the last foregoing subsection shall be temporarily suspended.

(6) The Council may also, by agreement, purchase or take on lease any land required by them for the purpose of their powers under this section and, subject to the following subsections, may be authorised by the Minister of Transport to purchase any such land compulsorily or without purchasing it to take any such land compulsorily for a period ending not later than the end of June, nineteen hundred and fifty-two.

(7) The Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply to the compulsory purchase or taking of land under the last foregoing subsection as if this section had been in force immediately before the commencement of that Act, but subject to the following modifications:—

- (a) section two (which confers temporary powers for the speedy acquisition of land in urgent cases) shall not apply;
- (b) any compulsory purchase order shall state whether the land is to be purchased absolutely or, if not, the period for which it is to be taken;
- (c) any such order may apply for the purposes thereof any of the provisions of the Third Schedule to this Act, with or without modification;
- (d) subject to the provisions of this section the said Act of 1946 shall apply to a taking otherwise than by way of absolute purchase as if the land were being purchased.

(8) Where any such order is made authorising the taking of land under this section otherwise than by way of absolute purchase—

- (a) the order may modify the operation in relation thereto of the Second Schedule to the said Act of 1946 (which incorporates the Lands Clauses Acts and other provisions usual on a compulsory purchase);
- (b) compensation shall be payable as it would be under the Compensation (Defence) Act, 1939, if the Council were acting on behalf of His Majesty in a case to which section two of that Act applied, except that the compensation shall be paid by the Council, and the said section two and, so far as applicable for the purposes of that section, sections seven to seventeen of that Act shall apply accordingly with the necessary modifications;
- (c) subsection (3) of section seventy-three of the Town and Country Planning Act, 1947 (which requires a determination of the amount of a development charge to be varied in certain cases), shall apply to any such determination relating to the land, with or without other land, as it applies where part of the land to which such a determination relates is compulsorily acquired.

(9) Nothing in subsection (6) of this section shall authorise the compulsory purchase or taking of any land to which subsection (2) of section one of the Acquisition of Land (Authorisation Procedure) Act, 1946, applies or of buildings which are of substantial construction and in a usable condition.

Duration  
and removal  
of temporary  
works, etc.

6.—(1) This Act, in so far as it provides for anything which is expressed to be temporary or to happen temporarily, shall authorise the interference with public and private rights only until the closing of the exhibition and during such further period as the Minister of Transport may by order allow to give time for the exercise of the powers of this section or otherwise for the removal of works constructed on the exhibition site for the purposes of the exhibition.

(2) The powers conferred by this Act to make and maintain temporary footbridges and temporary landing stages and to provide temporary car parks shall include power to take up and remove any works constructed for the purpose and to do such things as are reasonably necessary to reinstate or otherwise make good the site of any works so taken up.

(3) Paragraphs 3, 4 and 5 of the Third Schedule to this Act shall (so far as applicable) apply in relation to the taking up and removal of any works under this section as they apply in

relation to the execution of the works authorised by section one of this Act, but with the substitution in the said paragraph 5 for references to the opening of a work for traffic of references to the completion of its removal.

(4) Different periods may be allowed by orders under subsection (1) of this section for different matters, and the period so allowed for any matter may be from time to time extended by a further order under that subsection.

(5) Nothing in this section shall be taken as limiting the period for which land may be purchased or taken for a car park under subsection (6) of the last foregoing section or as requiring the Council to remove any works from or otherwise to reinstate or make good any land so purchased or taken.

7.—(1) Subject to the provisions of this section, where any land for the time being held by the Council is used by them—

(a) for the purposes of any of their powers under section one or five of this Act ; or

(b) for the purposes of the exhibition traffic arrangements ;

or, in the case of land forming part of the exhibition site, is used by any person for the purposes of the exhibition, then, whether or not the land was on the appointed day under the Town and Country Planning Act, 1947, land to which section eighty-two of that Act applies, no development charge shall be payable under Part VII of that Act in respect of that use of the land or in respect of any operations carried out on the land in connection with that use.

(2) Subject to the provisions of this section, no development charge shall be payable as aforesaid in respect of operations carried out on any land, or of the use of any land, for the purposes of the Hungerford footbridge extension or of the tramways authorised by section one of this Act.

(3) Where section eighty-two of the said Act of 1947 applies to any land for the time being held by the Council, that section shall not cease to apply to the land by reason of its being put to any use to which either of the foregoing subsections applies.

(4) Permission shall be deemed for the purposes of the said Act of 1947 to have been granted under Part III thereof—

(a) for the carrying out of any operations and for any use of land to which subsection (1) or (2) of this section applies ; and

(b) for the railway works authorised by section one of this Act.

Modifications  
of Town and  
Country  
Planning Act,  
1947.

(5) Subsections (1) and (2) of this section shall not apply to any use of land extending beyond the period hereinafter mentioned, and any permission deemed to have been granted by virtue of paragraph (a) of the last foregoing subsection shall be deemed to have been granted for a period limited accordingly.

(6) The period referred to in the last foregoing subsection shall expire at the closing of the exhibition, except in so far as it may from time to time be extended—

- (a) in relation to anything authorised by section one, four or five of this Act or in relation to anything done for the purposes of the exhibition traffic arrangements, by order of the Minister of Transport ;
- (b) in relation to anything else, by order of the Minister of Town and Country Planning.

(7) Nothing in the foregoing provisions of this section shall prevent the making at any time of an application for permission in respect of any operations or use to which subsection (1) or (2) of this section applies to be granted under Part III of the said Act of 1947 otherwise than for the limited period hereinbefore mentioned or, where application is so made, shall affect the operation of the said Act of 1947 in relation thereto.

Grants from  
Minister of  
Transport.

**8.**—(1) The Minister of Transport may, with the consent of the Treasury, make grants towards meeting—

- (a) any expenses incurred by or on behalf of the Commission and the Council respectively in or by reason of the exercise of the powers conferred on them by this Act ;
- (b) any other expenses incurred by or on behalf of the Council in connection with the exhibition traffic arrangements.

(2) Any grants under this section may be made subject to such conditions as the Minister of Transport with the approval of the Treasury may determine.

(3) Any expenses of the Minister of Transport under this section shall be defrayed out of moneys provided by Parliament.

Agreements  
between  
Commission,  
Council and  
others.

**9.**—(1) Any two or more of the following, that is to say, the Commission, the Council, the Westminster and Lambeth borough councils, the Port of London Authority, and any person who has the control or management of any water, gas or other pipes or electric or other wires or apparatus and is affected in relation

thereto by the provisions of this Act, may enter into and carry into effect agreements with reference to those provisions:

Provided that this subsection shall not authorise the making of any agreement to which neither the Commission nor the Council is a party.

(2) Any such agreement entered into by the Commission or the Council may provide for any of the powers conferred by this Act on them to be exercised on their behalf by some other party to the agreement.

10.—(1) Notwithstanding anything in section four of this Act, any person to whom any apparatus situate in or under the parts of Belvedere Road, Upper Ground and Jenkins Street mentioned in that section belongs shall be afforded such facilities of access to the apparatus as may be reasonably required for the purpose of inspecting, maintaining or removing the apparatus.

Saving as respects Belvedere Road, Upper Ground and Jenkins Street for persons having statutory powers.

(2) In the foregoing subsection the expression "apparatus" means sewers, drains, culverts, water courses and mains, pipes, valves, tubes, cables, wires or other works or apparatus used for or in connection with the carrying, conveying or supplying of a supply of water or water for hydraulic power, gas or electricity or for telegraphic or other purposes.

11.—(1) In this section unless the context otherwise requires—

- (a) "the port authority" means the Port of London Authority ;
- (b) "the river" means the part of the River Thames which is within the jurisdiction of the port authority and includes the bed, banks and shores thereof ;
- (c) "the river works" means such part of any of the works authorised by section one of this Act as is situate in, on, over or under the river.

For protection of Port of London Authority.

(2) The river works shall be executed in accordance with plans and sections approved by the port authority before the works are commenced, and the under side of each navigation opening of the river footbridge shall be not less than twenty-five feet above the level of Trinity high water.

(3) The following provisions shall have effect with respect to the construction of the river works, that is to say—

- (a) the traffic of the river shall not be interfered with more than may be reasonably necessary ;
- (b) such floating booms, if any, as the port authority may think necessary to secure safety of navigation shall be provided by the Council in accordance with plans approved by the port authority ;

- (c) all piles and other works not forming part of any of the river works but placed in, on, over or under the river for the purpose of its construction shall be drawn from the river by the Council on or before the completion of the work or, if it is not reasonably practicable immediately to draw them from the river, shall be cut off at such level below the level of the bed of the river as the port authority may approve ;
- (d) the Council shall not, without the previous consent of the port authority—
- (i) take any gravel, soil or other material from the river, except so far as may be necessary in the construction of the river works ; or
  - (ii) dredge any part of the river.

(4) Without prejudice to section six of this Act, the Council shall within the period allowed under that section completely remove any of the river works which is temporary, and any piles or other works placed in, on, over, or under the river for the purpose of constructing or removing it (including those cut off under the last foregoing subsection) ; and paragraphs (a), (b) and (d) of the last foregoing subsection shall apply in relation to the removal of the river works as they apply in relation to their construction.

(5) If the Council fail to remove any of the river works or to remove, draw or cut off any piles or other works as required by either of the last two foregoing subsections after receipt of a request in that behalf from the port authority, the port authority may do so and may dispose of any materials obtained by so doing.

(6) Owners and masters of vessels shall not be liable to make good damage caused to any of the river works, or to any piles or other works placed in, on, over, or under the river for the purpose of its construction or removal, except damage arising from the wilful act or default of such owners or masters or their servants or agents.

(7) The Council shall, during the construction of the river works, and during the subsequent repair and removal thereof hang out and exhibit on or near to the works, and on the works when completed, every night from sunset to sunrise such lights (to be kept burning by and at the expense of the Council), and during every day such marks, as the port authority may think necessary to secure the safety of navigation, and the lights and marks shall be so placed and used as the port authority may from time to time approve ; and for any contravention of this subsection the Council shall be liable on summary conviction to a fine not exceeding twenty pounds.



(8) Before applying to the Minister of Transport for him to approve a determination that a landing stage authorised by section one of this Act shall not be temporary, the Council shall give the port authority fourteen days' notice of their intention so to do, and before approving any such determination the Minister shall consider any representations made to him by the port authority.

(9) In respect of any such landing stage which is not temporary, the Council shall make to the port authority such payments as the port authority may require, being payments of the like nature as, and not exceeding, those which the port authority could have required as consideration for the grant of a licence to erect the landing stage under section two hundred and forty-three of the Port of London (Consolidation) Act, 1920, and the amount of that consideration shall be determined in accordance with section two hundred and fifty-four of that Act:

Provided that in determining the amount of that consideration regard shall be had to the public purposes for which the landing stage is made.

(10) The Council shall on demand pay to the port authority—

(a) any expenses reasonably incurred by the port authority in carrying out a survey of the river in the vicinity of the site of any of the river works for the purpose of ensuring that subsection (4) of this section has been complied with ;

(b) any expenses reasonably incurred by the port authority in the exercise of the powers conferred on the port authority by subsection (5) of this section less the value of any materials obtained by the port authority in the exercise of the powers ;

(c) any expenses reasonably incurred by the port authority in altering, removing, repositioning and subsequently replacing any moorings and mooring chains, in such manner as the port authority think necessary or desirable by reason of the construction of the river works, and in any work of dredging which the port authority think necessary or desirable as aforesaid or otherwise in removing any silt which may have accumulated in the vicinity of any of the river works as the result of and during the existence thereof.

(11) Nothing in this Act shall authorise the Council to discharge or allow to escape either directly or indirectly into the river or its tributaries any offensive or injurious matter in suspension or otherwise, or shall affect the operation of sections two hundred and twenty-six to two hundred and thirty-nine of

the Port of London (Consolidation) Act, 1920 (which relate to pollution).

(12) The port authority shall not unreasonably withhold any approval or consent required under this section, and where any plan, section or proposal requiring such approval or consent is delivered to the port authority the approval or consent shall be deemed to have been given if the port authority do not within one month of the delivery express their disapproval.

(13) Subject to the last foregoing subsection, any approval, disapproval, consent or request of the port authority under this section shall be in writing under the hand of their secretary or other authorised officer.

(14) Any difference arising between the Council and the port authority under this section (except subsection (9) thereof) shall be referred to and settled by a single arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers.

For protection  
of certain  
water, gas and  
hydraulic  
power  
undertakers.

12.—(1) In this section unless the context otherwise requires—

- (a) “undertakers” means the Metropolitan Water Board, the North Thames Gas Board, the South Eastern Gas Board or the London Hydraulic Power Company;
- (b) “operators” means the Commission or Council, and references to the acts or defaults of the operators include the acts or defaults of their contractors, agents, workmen or servants or any person in their employ;
- (c) “apparatus” means any pipes, mains, siphons, plugs, wires or other works of the undertakers in or under any street;
- (d) “the authorised works” means the works authorised by section one of this Act;
- (e) “specified work” means such part of any of the authorised works as in its execution in or under any street will or may interfere with any apparatus;
- (f) “plans” means plans, sections or descriptions.

(2) At least fourteen days before commencing to execute any specified work the operators shall deliver to the undertaker plans of the specified work; and if it should appear to the undertakers that the specified work will interfere with or endanger their apparatus, or impede the supply of water, gas or hydraulic power, the undertakers may within fourteen days after the receipt by them of the plans give notice to the operators to lower or otherwise alter the position of such apparatus or to support the same or to substitute other apparatus in such manner as may be necessary.

(3) Where notice is given by the undertakers under the last foregoing subsection, the protective works required by the notice shall be done and executed by and at the expense of the operators, but to the satisfaction and under the superintendence of the engineer of the undertakers (if after notice given by the operators to the undertakers of the time and place of such execution the engineer chooses to attend), and the reasonable costs, charges and expenses of such superintendence shall be paid by the operators:

Provided that, if the undertakers by notice in writing to the operators within seven days after the receipt by the undertakers of notice of the intended commencement by the operators of the specified work so require, the undertakers may themselves do and execute such protective works, and the operators shall on the completion thereof pay to the undertakers the reasonable expenses incurred by them in the execution of such protective works.

(4) Where no notice is given by the undertakers under subsection (2) of this section with respect to any specified work, the work may be executed, but not otherwise than in accordance with the plans delivered under that subsection.

(5) The undertakers may if they deem fit employ watchmen or inspectors to watch and inspect any specified work during its execution, repair or renewal where any apparatus of the undertakers will be interfered with or affected thereby, and the reasonable wages of such watchmen or inspectors shall be borne by the operators and be paid by them to the undertakers.

(6) The operators shall indemnify the undertakers against all claims, demands, proceedings, costs, damages and expenses made or taken against or recovered from or incurred by the undertakers by reason or in consequence of any interruption in the supply of water, gas or hydraulic power by the undertakers which may, without the written authority of the undertakers, be in any way occasioned either by reason of the exercise by the operators of the powers of this Act relating to the authorised works, or by the acts or defaults (in or in connection with such exercise) of the operators; and the operators shall pay to the undertakers the value of any gas or water which the undertakers may lose by reason of the acts or defaults of the operators in the execution of any specified work.

(7) The reasonable expense of all repairs or renewals of any apparatus of the undertakers or any works in connection therewith which may at any time hereafter be rendered necessary either by reason of the exercise by the operators of the powers of this Act relating to the authorised works or by the acts or defaults

(in or in connection with such exercise) of the operators, or which may during the construction or within twelve months after the completion of any of the authorised works be rendered necessary by any subsidence resulting from that work, shall be borne and paid by the operators.

(8) Notwithstanding the stopping up of any street under the powers of paragraph 3 of the Third Schedule to this Act, the undertakers may exercise the same rights of access as they now enjoy to any apparatus of the undertakers (including apparatus not situate in or under a street):

Provided that, in exercising the rights of access saved by this subsection, the undertakers, their engineers or workmen or others in the employ of the undertakers shall not interrupt the execution, maintenance or use of any works of the operators by this or any other Act authorised, and the undertakers shall compensate the operators for any damage to such last mentioned works occasioned by the exercise of the said rights.

(9) The operators shall not in the execution of any specified work raise, sink or otherwise alter the position of any apparatus, or alter the level of any street in which such apparatus is situate, so as to leave over such apparatus in any part a covering of less than the existing covering or three feet, whichever may be the less, (unless the operators shall in such case protect such apparatus from injury by artificial covering to the reasonable satisfaction of the undertakers) or of more than the existing covering or five feet, whichever may be the greater.

(10) Any difference arising between the operators and the undertakers under this section shall be referred to and settled by a single arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers.

(11) In settling any question under this section an arbitrator shall have regard to any duties or obligations which the undertakers may be under in respect of their apparatus and to any duties or obligations which the operators may be under in respect of the specified work, and may if he thinks fit require the operators to execute any works so as to avoid so far as may be practicable interference with any purpose for which the apparatus of the undertakers is used.

**Interpretation.** 13.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“borough” means metropolitan borough, and “borough council” means the council of a borough;

“Commission” means the British Transport Commission and any reference to the Commission in relation to any functions of the Commission which are for the

time being delegated to an Executive in pursuance of section five of the Transport Act, 1947, shall be construed as a reference to that Executive ;

“ Council ” means the London County Council ;

“ the deposited plans ”, “ the deposited sections ” and “ the deposited book of reference ” mean respectively the plans, sections and book of reference which were deposited with the clerk of the Council in connection with the Bill for this Act ;

“ the exhibition ” means the chief exhibition held or to be held on the south bank of the Thames as part of the Festival, and “ the exhibition site ” shall be construed accordingly ;

“ the exhibition traffic arrangements ” means traffic arrangements for facilitating the movement of vehicular traffic or the safety of the public, being arrangements certified by the Minister of Transport to be occasioned by the exhibition ;

“ the Festival ” means the Festival of Britain, 1951 ;

“ land ” or “ lands ” includes any interest in land and any easement or right in, to or over land.

(2) A reference in this Act to any enactment shall, unless the context otherwise requires, be taken as a reference to that enactment as amended, extended or applied by or under any other enactment, and in particular references to the Lands Clauses Acts or any enactment therein contained shall be taken as including a reference to any provisions modifying the said Acts or enactment which are contained in the Acquisition of Land (Assessment of Compensation) Act, 1919, or the Town and Country Planning Act, 1947.

(3) Except in so far as the contrary intention appears, the provisions of this Act shall have effect notwithstanding anything contained in any local or private Act or any order or instrument of local application which has effect by virtue of any Act.

(4) The powers conferred by this Act shall be in addition to and not in derogation of any powers of the Minister of Transport, the Commission or the Council apart from this Act.

14. This Act may be cited as the Public Works (Festival of Short title. Britain) Act, 1949.

## SCHEDULES

## FIRST SCHEDULE

Section 1.

## DESCRIPTIONS OF AUTHORISED WORKS

[NOTE.—This Schedule is to be read as if the words “or thereabouts” were inserted after each distance and length therein mentioned.]

## PART I

*Temporary Footbridges*

(These works are in the borough of Lambeth, except that Work No. 1 is wholly, and Work No. 2 partly, in the City of Westminster.)

Work No. 1: A footbridge commencing above a point on the southern footway of Northumberland Avenue one hundred and three feet westward of the junction of Northumberland Avenue and Victoria Embankment and terminating above a point on the northern footway of Northumberland Avenue ninety-six feet north-westward of that junction.

Work No. 2: A footbridge commencing by a junction with Work No. 1 at its point of termination and terminating above a point sixty-eight feet westward of the south-western corner of the south-eastern abutment of Charing Cross railway bridge.

Work No. 3: A footbridge commencing above a point two hundred and twenty-four feet westward of the junction of Sutton Walk and York Road and terminating within Waterloo station above a point two hundred and twenty feet south-eastward of that junction.

Work No. 4: A footbridge commencing by a junction with the south-eastern end of Hungerford footbridge and terminating above a point one hundred and twenty-four feet southward of the junction of Tenison Street and York Road.

## PART II

*Railway Works*

(These works are in the City of Westminster, except that Works Nos. 5 and 6 are in the borough of Lambeth.)

Work No. 5: A subway one hundred and nine yards in length commencing at the existing passenger subway leading onto the platforms of the Northern and Bakerloo Lines at Waterloo underground station and terminating sixty yards north-east of the junction of Belvedere Crescent and Jenkins Street.

Work No. 6: A subway thirty-one yards in length commencing by a junction with Work No. 5 and terminating between the north-bound and south-bound station tunnels of the Northern Line at Waterloo underground station.

Work No. 7: A subway thirty-nine yards in length commencing in the ticket hall of Charing Cross underground station and terminating at the western end of the subway beneath the west-bound platform of the District Railway at that station.

Work No. 8: A subway forty-three yards in length commencing by a junction with Work No. 7 and terminating at the eastern end of the subway above referred to in the description of that work.

1ST SCH.  
—cont.

Work No. 9: A stairway eighteen yards in length commencing at the east-bound platform of the District Railway at Charing Cross underground station and terminating in the public footway leading from Villiers Street to Victoria Embankment.

Work No. 10: A stairway fourteen yards in length commencing at the west-bound platform of the District Railway at Charing Cross underground station and terminating on Victoria Embankment at or near the junction therewith of the said footway leading from Villiers Street.

### PART III

#### *New Tramways*

(These works are in the borough of Lambeth. The new street referred to below in describing them is a street to be constructed so as to join Westminster Bridge Road and Addington Street.)

Tramway Work No. 1: A single line two hundred and seventy-five yards in length, commencing by a junction with the northern track of the existing tramway in Westminster Bridge Road at or near its junction with York Road and terminating by a junction with the north-eastern track of the existing tramway in Westminster Bridge Road at or near its junction with the new street.

Tramway Work No. 2: A single line fifty-nine yards in length, commencing by a junction with Tramway Work No. 1 at a point in Addington Street at or near the south-western corner of its junction with the new street and terminating in Addington Street at a point two yards west of the railway viaduct.

Tramway Work No. 3: A single line thirty-seven yards in length, commencing by a junction with Tramway Work No. 2 at a point in Addington Street at or near the south-eastern corner of its junction with the new street and terminating in the new street by a junction with Tramway Work No. 1 at a point twenty-seven yards north-east of the junction of the new street with Westminster Bridge Road.

Tramway Work No. 4: A single line two hundred and eighty-two yards in length, commencing by a junction with the southern track of the existing tramway in Westminster Bridge Road at or near its junction with Lambeth Palace Road and terminating by a junction with the eastern track of the existing tramway in Lambeth Palace Road at a point eighty-nine yards south-west of its junction with Crozier Street.

Tramway Work No. 5: A single line eighty-two yards in length, commencing by a junction with Tramway Work No. 4 in Lambeth Palace Road at or near its junction with Stangate Street and terminating by a junction with the western track of the existing tramway in Stangate at a point eighty-five yards south of its junction with Westminster Bridge Road.

Tramway Work No. 6: A single line fifty-two yards in length, commencing by a junction with the western track of the existing tramway in Stangate at or near its junction with Westminster

1st SCH.  
—cont.

Bridge Road and terminating by a junction with the northern track of the existing tramway in Westminster Bridge Road at or near its junction with Belvedere Road.

Tramway Work No. 7: A single line fifty-two yards in length, commencing by a junction with the northern track of the existing tramway in Westminster Bridge Road at or near its junction with York Road and terminating by a junction with Tramway Work No. 4 in Lambeth Palace Road at a point thirty-six yards south-west of its junction with Westminster Bridge Road.

## Section 3.

## SECOND SCHEDULE

## ENACTMENTS APPLIED TO NEW TRAMWAYS

| <i>Enactment</i>                                                     | <i>Subject matter</i>                                               |
|----------------------------------------------------------------------|---------------------------------------------------------------------|
| London County Tramways<br>(Electrical Power) Act,<br>1900:           |                                                                     |
| Section six ... ..                                                   | Power to construct and provide appliances.                          |
| Section seven ... ..                                                 | Further provisions as to paving materials of roads.                 |
| Section nine ... ..                                                  | Application of materials excavated in construction of works.        |
| Section eleven ... ..                                                | Electrical power works subject to Tramways Act, 1870.               |
| Section twelve ... ..                                                | Drainage and cleaning of rails and conduit.                         |
| Section thirteen ... ..                                              | Reference of certain questions to arbitration.                      |
| Section fourteen ... ..                                              | Posts, etc., to be removed if user discontinued.                    |
| London County Council<br>(Tramways and Improve-<br>ments) Act, 1901: |                                                                     |
| Section seven ... ..                                                 | Tramways not to be opened until certified by Minister of Transport. |
| Section nine ... ..                                                  | Rails to be maintained on level of roadways.                        |
| Section ten ... ..                                                   | Saving rights of access to sewers.                                  |
| Section seventeen ... ..                                             | Power to work tramways.                                             |
| Section nineteen (except<br>paragraph (B) (5) ).                     | Protection of Postmaster-General.                                   |
| Section twenty-two ... ..                                            | Provision against interference with tramways.                       |
| London County Council<br>(Tramways and Improve-<br>ments) Act, 1907: |                                                                     |
| Section fourteen ... ..                                              | Power to make additional crossovers and to double tramway lines.    |



## THIRD SCHEDULE

Sections 3, 12.

ANCILLARY PROVISIONS AS TO EXECUTION OF WORKS  
AND ACQUISITION OF LAND

1.—(1) In this Schedule the expression “ authorised works ” means Preliminary.  
the works authorised by section one of this Act, the expression “ the Act of 1845 ” means the Lands Clauses Consolidation Act, 1845, and the expression “ the tribunal ” means the arbitrator or other authority to whom any question of disputed purchase money or compensation under section two of this Act is referred in pursuance of the Acquisition of Land (Assessment of Compensation) Act, 1919.

(2) Where, by this Schedule, any matter is directed to be referred to arbitration, the matter shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party, after notice in writing to the other, by the President of the Institution of Civil Engineers.

2.—(1) If any omission, misstatement or wrong description of any land or of the owner, lessee or occupier of any land is found to have been made on the deposited plans or in the deposited book of reference, the Commission or Council, as the case may be, after giving ten days' notice to the owner, lessee and occupier of the land in question may apply to a metropolitan police magistrate for the correction thereof. Correction of errors in deposited plans and book of reference.

(2) If on any such application it appears to the magistrate that the omission, misstatement or wrong description arose from mistake, he shall certify the fact accordingly and shall in his certificate state the particulars of the omission or in what respect any matter is misstated or wrongly described.

(3) Any such certificate shall be deposited with the clerk of the Council, and a copy thereof shall be deposited with the town clerk of the borough in which the land in question is situated, and thereupon the deposited plans and book of reference shall be deemed to be corrected according to the certificate, and the Commission or Council may proceed accordingly.

(4) Any certificate or copy deposited under this paragraph with any person shall be kept by him with the other documents to which it relates.

3.—(1) The Commission or Council, as the case may be, may for the purposes of and during the execution of any of the authorised works stop up, interfere with, alter or divert temporarily all or any part of the carriage way or footway of any street or part of a street within the limits of deviation shown on the deposited plans for that work and may execute and do all necessary works and things for or in connection with such stopping up, interference, alteration or diversion and for keeping such carriage way or footway open for traffic, and may after consultation with the Commissioner of Police for the metropolis remove or alter any drinking troughs, lamp posts, street refuges, lavatories, posts and other erections upon the said lands. Power to stop up ways temporarily.

(2) The Commission or Council shall provide reasonable access for all persons bona fide going to or from any premises in any street of which the carriage way or footway is stopped up, interfered with, altered or diverted under the powers of this paragraph.

3RD SCH.  
—cont.

(3) The Commission may also for the purposes of and during the execution of any of the authorised works at Charing Cross underground station stop up temporarily the stairway giving access from Victoria Embankment to Hungerford footbridge.

Use of sewers  
for removing  
water.

4.—(1) The Commission or Council, as the case may be, may use for the discharge of any water pumped or found by them during the execution of any of the authorised works any available stream or watercourse or any sewer or drain of the Council or of any borough council, and for that purpose may lay down, take up and alter conduits, pipes and other works and make any convenient connections with any such stream, watercourse, sewer or drain within the limits of deviation shown on the deposited plans for that work.

(2) The Commission or Council shall not under this paragraph make any opening into any sewer or drain not vested in them save in accordance with plans reasonably approved by and under the superintendence of the council in whom the sewer or drain is vested.

(3) Any question or difference arising under the last foregoing sub-paragraph shall be referred to arbitration.

Underpinning  
of houses near  
works.

5.—(1) Where it is necessary to underpin or otherwise strengthen any house or building within one hundred feet of any of the authorised works in order to avoid injury to the house or building from the execution or use of that work, the Commission or Council, as the case may be, (subject to the following sub-paragraphs) may, and if required by the owners or lessees of the house or building shall, at their own costs and charges underpin or otherwise strengthen it.

(2) Any person acting on behalf of the Commission or Council and duly authorised in writing in that behalf may at all reasonable times enter on any land for the purpose of examining a house or building as to the necessity of underpinning or strengthening it under this paragraph or as to the manner in which it should be underpinned or strengthened:

Provided that no land shall be entered under this sub-paragraph unless the Commission or Council, as the case may be, not less than twenty-four hours before the first entry and not less than twelve hours before any subsequent entry have given notice in writing to the owners, lessees and occupiers of the land.

(3) At least ten days' notice shall (except in case of emergency) be given to the owners, lessees and occupiers or by the owners or lessees where any house or building is intended or required to be underpinned or otherwise strengthened under this paragraph.

(4) If any owner, lessee or occupier of any house or building or the Commission or Council, as the case may be, within seven days after the giving of notice under the last foregoing sub-paragraph gives a counternotice in writing disputing the necessity of the underpinning or strengthening, the question of the necessity shall be referred to arbitration.

(5) Any notice under this paragraph if given by the Commission or Council shall be served in manner prescribed by section nineteen of the Act of 1845 and if given to the Commission or Council shall be sent to their principal office.

3RD SCH.  
—cont.

(6) Where a question is referred to arbitration under sub-paragraph (4) of this paragraph, the arbitrator shall forthwith upon the application of either party proceed to inspect the house or building and determine the matter referred to him, and in the event of his deciding that the underpinning or strengthening is necessary he may, and if so required by the owner, lessee or occupier shall, prescribe the mode in which it shall be executed, and the Commission or Council may and shall proceed forthwith so to underpin or strengthen the house or building.

(7) The Commission or Council shall not be entitled or required to exercise the powers of this paragraph in connection with any work after the expiration of twelve months from the opening of that work for traffic but, subject to that, shall be entitled and may be required to exercise those powers in relation to any house or building, notwithstanding that it has already been underpinned or strengthened in the exercise of those powers.

(8) The Commission or Council, as the case may be, shall be liable to compensate the owners, lessees and occupiers of any house or building for any loss or damage which may result to them by reason of the exercise in relation thereto of the powers granted by this paragraph, if the claim for compensation in respect of the loss or damage is made within three months from the occurrence thereof.

(9) Where any house or building is underpinned or strengthened under the powers of this paragraph, and within twelve months from the opening for traffic of the work in connection with which the underpinning or strengthening is done the underpinning or strengthening proves inadequate for the support or protection of the house or building against further injury arising from the execution or use of the work, the Commission or Council shall make compensation to the owner, lessee and occupier of the house or building for the injury, if the claim for compensation in respect of the injury is made within one month from the discovery thereof.

(10) Nothing in this paragraph nor any dealing with any property in pursuance of this paragraph shall relieve the Commission or Council from the liability to compensate under section sixty-eight of the Act of 1845 or any other provision.

(11) Every case of compensation to be ascertained under this paragraph shall be ascertained according to the provisions of the Lands Clauses Acts.

6.—(1) Section ninety-two of the Act of 1845 shall not apply and in lieu thereof the following sub-paragraphs shall have effect.

(2) No person shall be required under section two of this Act to sell a part only of any house, building or factory if he is willing and able to sell the whole of the house, building or factory unless the tribunal determines that such part as is proposed to be taken can be taken without material detriment to the house, building or factory.

(3) If the tribunal determines as aforesaid, compensation shall be awarded in respect of any loss due to the severance of the part proposed to be taken in addition to the value of that part and thereupon the person interested shall be required to sell to the Commission or Council that part of the house, building or factory.

Acquisition of  
part only of  
certain  
properties.

## 3RD SCH.

—cont.

Power to acquire easements only.

7.—(1) In lieu of acquiring any land that may be acquired under section two of this Act the Commission or Council may for the purpose of any of the authorised works acquire such easements and rights in that land as they may require for that purpose.

(2) Accordingly they may give notice to treat in respect of any such easement or right, describing the nature thereof, and the provisions of the Lands Clauses Acts shall apply in relation to the acquisition of such easements and rights as if they were lands within the meaning of those Acts.

(3) Where the Commission or Council have acquired an easement or right only in any land under this paragraph—

- (a) they shall not be required or be (except by agreement) entitled to fence or sever that land from the adjoining land;
- (b) the owner or occupier of the land for the time being shall, subject to the easement or right, have the same right to use the land as if this Act had not been passed.

(4) If in his particulars of claim the owner of any land in respect of which notice to treat for an easement or right is given under this paragraph requires the Commission or Council, as the case may be, to acquire the land, they shall not be entitled under this section to acquire the easement or right unless the tribunal determines that the easement or right can be granted without material detriment to the land.

(5) A notice to treat given under this paragraph shall be endorsed with notice of the effect of sub-paragraph (4) thereof.

Grant of easements by persons under disability.

8.—(1) Any person empowered by the Lands Clauses Acts to sell, convey or release lands may, if he thinks fit, subject to the provisions of those Acts, grant to the Commission or Council any easement or right, in, over or affecting any such lands which is required by them for the purpose of any of the authorised works.

(2) The provisions of the said Acts with respect to lands and rent charges so far as they are applicable shall extend and apply to any such grant and to any such easement or right as aforesaid.

Power to expedite entry.

9. At any time after serving a notice to treat in respect of any land that may be acquired by them compulsorily under section two of this Act, but not less than one month after giving the owner and occupier of the land notice in writing of their intention to exercise the powers of this paragraph, the Commission or Council, as the case may be, may enter on and take possession of the land or such part thereof as is specified in the last mentioned notice without previous consent and without compliance with sections eighty-four to ninety of the Act of 1845:

Provided that the Commission or Council, as the case may be, shall pay the like compensation for land of which possession is taken under this paragraph and the like interest on the compensation awarded as would have been payable if the provisions of those sections had been complied with.

10.—(1) Any person acting on behalf of the Commission or Council and duly authorised in writing in that behalf may at all reasonable times enter on any land that may be acquired compulsorily by them under section two of this Act for the purpose of surveying or valuing the land:

3RD SCH.

—cont.

Power to enter  
for survey or  
valuation.

Provided that no land shall be entered under this paragraph unless the Commission or Council, as the case may be, not less than twenty-four hours before the first entry and not less than twelve hours before any subsequent entry have given notice in writing to the owner and occupier of the land in manner provided by section one hundred and eighty-three of the London Government Act, 1939.

(2) For the purposes of this paragraph, the said section one hundred and eighty-three shall apply in relation to the Commission as it applies in relation to the Council.

11.—(1) All private rights of way over any lands which may be acquired compulsorily by the Commission or Council under section two of this Act shall as from the acquisition of the lands by them (whether compulsorily or by agreement) be extinguished:

Extinction of  
private rights  
of way.

Provided that in the case of lands acquired by the Council, the Council may by resolution exclude the application of this sub-paragraph in any particular case to such extent as may be provided by the resolution.

(2) The Commission or Council shall make compensation to all parties interested in respect of any private right of way extinguished by virtue of this paragraph, and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

12. In determining any question of disputed compensation or purchase money in respect of land acquired under section two of this Act the tribunal shall not take into account—

Disregard of  
recent  
improvements  
and interests.

(a) any improvement or alteration made or building erected after the nineteenth day of January, nineteen hundred and forty-nine; or

(b) any interest in the land created after the said date;

which in the opinion of the tribunal was not reasonably necessary and was made, erected or created with a view to obtaining or increasing the compensation or purchase money.

13.—(1) The Council may—

(a) retain and hold or use for such time as they think fit (making any adjustments in their accounts in consequence of such use); or

(b) demise, lease or let for any term or (subject or not as the case may be to any such demise, lease or letting) sell and convey or exchange for other lands in the administrative county of London, either with or without paying or receiving any money for equality of exchange; or

(c) grant any easements, rights or privileges in, under or over;

any land acquired by them under section two of this Act or taken in exchange under the powers of this paragraph, and may do any act or thing requisite or proper for any of the purposes aforesaid.

Sale or leasing  
etc., of lands.

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3RD SCH.  
—cont.

(2) Any such sale, conveyance, demise, lease, letting or exchange may be made at such price or rent (including a peppercorn rent) or for such consideration, and may be subject to such restrictions, conditions and stipulations (whether as to the title to be deduced to such land or as to the nature of the buildings at any time erected or to be erected thereon or as to the use or enjoyment thereof or otherwise), and may be effectuated in one or more parcels or lots and either by public auction or private contract, as the Council think reasonable; and any restriction, condition or stipulation contained in any deed or instrument entered into or made under this paragraph may at all times thereafter be enforced by the Council for the benefit of the Council or of any person entitled to other property adjoining or held under title derived from the Council.

Table of Statutes referred to in this Act.

| Short Title                                                        | Session and Chapter         |
|--------------------------------------------------------------------|-----------------------------|
| Metropolitan Police Act, 1839 ... ..                               | 2 & 3 Vict. c. 47.          |
| City of London Police Act, 1839 ... ..                             | 2 & 3 Vict. c. xciv.        |
| Lands Clauses Consolidation Act, 1845 ... ..                       | 8 & 9 Vict. c. 18.          |
| Railways Clauses Consolidation Act, 1845 ... ..                    | 8 & 9 Vict. c. 20.          |
| Tramways Act, 1870 ... ..                                          | 33 & 34 Vict. c. 78.        |
| London County Tramways (Electrical Power) Act, 1900 ... ..         | 63 & 64 Vict. c. ccxxxviii. |
| London County Council (Tramways and Improvements) Act, 1901 ... .. | 1 Edw. 7. c. cclxxi.        |
| London County Council (Tramways and Improvements) Act, 1906 ... .. | 6 Edw. 7. c. clxxxi.        |
| London County Council (Tramways and Improvements) Act, 1907 ... .. | 7 Edw. 7. c. cxliv.         |
| Acquisition of Land (Assessment of Compensation) Act, 1919 ... ..  | 9 & 10 Geo. 5. c. 57.       |
| Port of London (Consolidation) Act, 1920 ... ..                    | 10 & 11 Geo. 5. c. clxxiii. |
| London Government Act, 1939 ... ..                                 | 2 & 3 Geo. 6. c. 40.        |
| Compensation (Defence) Act, 1939 ... ..                            | 2 & 3 Geo. 6. c. 75.        |
| Acquisition of Land (Authorisation Procedure) Act, 1946 ... ..     | 9 & 10 Geo. 6. c. 49.       |
| Transport Act, 1947 ... ..                                         | 10 & 11 Geo. 6. c. 49.      |
| Town and Country Planning Act, 1947 ... ..                         | 10 & 11 Geo. 6. c. 51.      |

## CHAPTER 27

### *Juries Act, 1949*

#### ARRANGEMENT OF SECTIONS

##### PART I

##### ENGLAND

##### *Payments in respect of Jury Service*

###### Section.

1. Payments in respect of jury service.
2. Person by whom the amount of a payment is to be ascertained.
3. Mode of making payments.
4. Appropriate local treasurers and funds.
5. Reimbursement of local authorities of payments attributable to civil business at assizes.
6. Special provisions as respects assizes and quarter sessions for certain counties.
7. Duty of councils, &c., to cause treasurer to be present at court.
8. Power to adapt foregoing sections to accord with winter assizes, &c.
9. Consequential amendments of Local Government Act, 1888.
10. Consequential amendments as to coroners.
11. Reimbursement of sheriffs, &c.
12. Consequential amendments of Lands Clauses Consolidation Act, 1845.
13. Abolition of other rights to payment.
14. Exclusion of certain juries.
15. Expenses of councils.
16. Operation of foregoing sections.
17. Fees in county courts for trials with juries.

##### *Abolition of Special Juries except in Commercial Causes*

18. Abolition of special juries.
19. Saving for City of London special juries in commercial causes.
20. Discontinuance of terms "common jury" and "common juror."
21. Repeal of 61 & 62 Vict. c. 6.

##### *Supplemental Provisions*

22. Interpretation of Part I.
23. Extent of Part I.

##### PART II

##### SCOTLAND

24. Payments in respect of jury service in Scotland.
25. Person by whom the amount of a payment is to be ascertained and paid.
26. Fee payable by party applying for jury trial in civil cause.
27. Consequential amendments of Lands Clauses Consolidation (Scotland) Act, 1845.
28. Abolition of special juries and special jurors.
29. Consequential and minor amendments.
30. Commencement of Part II.
31. Discontinuance of terms "common jury" and "common juror."
32. Interpretation of Part II.
33. Extent of Part II.

## PART III

## NORTHERN IRELAND

## Section.

34. Extension of legislative power of the Parliament of Northern Ireland with respect to juries.

## PART IV

## SHORT TITLE, &amp;C.

35. Short title, citation and repeal.

## SCHEDULES:

First Schedule.—Minor and Consequential Amendments of Scottish Enactments.

Second Schedule.—English Enactments Repealed.

Third Schedule.—Scottish Enactments Repealed at End of September, 1949.

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An Act to provide for the making of payments in respect of jury service in Great Britain; to abolish special juries in Great Britain except in commercial causes tried in London; to abolish the privilege of landed persons in relation to jury trial in Scotland; to empower the Parliament of Northern Ireland to make laws providing for the payment of jurors in His Majesty's High Court of Justice in Northern Ireland and the abolition of special juries in that Court; and for purposes connected with the matters aforesaid.

[26th April 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART I

## ENGLAND

*Payments in respect of Jury Service*

Payments in respect of jury service.

1.—(1) Subject to the provisions of this Part of this Act, persons who serve as jurors shall be entitled to be paid, in accordance with prescribed scales and subject to any prescribed conditions,—

(a) travelling and subsistence allowances; and

(b) compensation for loss of earnings which they would otherwise have made or additional expense (other than expense on account of travelling or subsistence) to which they would not otherwise have been subject



being loss or expense necessarily suffered or incurred for the purpose of enabling them to serve as jurors:

PART I  
—cont.

Provided that the amount which may be paid to a person by virtue of paragraph (b) of this subsection in respect of his services as a juror on any one day shall not exceed—

- (i) where the period of time over which earnings are lost or additional expense is incurred is not more than four hours, the sum of ten shillings; or
- (ii) where the said period of time is more than four hours, the sum of twenty shillings.

(2) For the purposes of this Part of this Act, a person who, in obedience to a summons to serve on a jury, attends for service as a juror, shall be deemed to serve as a juror notwithstanding that he is not subsequently sworn.

(3) A payment to which a person is entitled under this section is in this Part of this Act referred to as a “payment in respect of jury service”.

(4) In this section the expression “prescribed” means prescribed by regulations made by the Secretary of State with the consent of the Treasury.

The power conferred by this subsection on the Secretary of State shall be exercisable by statutory instrument.

2. The amount due to a person by way of a payment in respect of jury service shall be ascertained by that one of the following persons who is appropriate to the case (in this Part of this Act referred to as “the appropriate officer”), that is to say,—

Person by whom the amount of a payment is to be ascertained.

- (a) in the case of service at the Royal Courts of Justice, such officer of the Supreme Court as the Lord Chancellor may nominate for the purposes of this paragraph;
- (b) in the case of service at a court of assize (other than the Central Criminal Court or a court held by virtue of a special commission), the clerk of assize;
- (c) in the case of service at the Central Criminal Court, the clerk of the court;
- (d) in the case of service at a court held by virtue of a special commission of oyer and terminer and a special commission of gaol delivery or either of them, the clerk of the commission;
- (e) in the case of service at a court held by virtue of a special commission for the trial of matrimonial causes, the registrar of the district wherein the court is held;
- (f) in the case of service at a court held by virtue of a special commission (other than a commission of oyer and terminer and a commission of gaol delivery or either of them or a commission for the trial of matrimonial causes) or of a general commission (other than a commission of assize, a commission of oyer

PART I  
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- and terminer and a commission of gaol delivery or any of them), such person as the Lord Chancellor may nominate for the purposes of this paragraph;
- (g) in the case of service at the Chancery Court of the County Palatine of Lancaster, the registrar of the district wherein the court sits;
  - (h) in the case of service at a court of quarter sessions, the clerk of the peace;
  - (i) in the case of service at a county court, the registrar of the court;
  - (j) in the case of service at the Mayor's and City of London Court, the registrar of the court;
  - (k) in the case of service at a court exercising local civil jurisdiction (other than any of the courts mentioned in the foregoing paragraphs), such officer of the court as the court may nominate for the purposes of this paragraph;
  - (l) in the case of service at a coroner's court, the coroner;
  - (m) in the case of any other service, the sheriff of the county, county of a city or county of a town from which the jury was summoned :

Provided that where, in a case falling within paragraph (m) of this subsection, the jury was summoned from a franchise in circumstances in which the bailiff thereof is charged with the duty of summoning jurors, that bailiff shall be the appropriate officer.

Mode of  
making  
payments.

3.—(1) A payment in respect of jury service at the Royal Courts of Justice shall be made by the accounting officer of the Supreme Court out of moneys provided by Parliament.

(2) When the amount due to a person by way of a payment in respect of such jury service as is mentioned in paragraph (b), (c), (d) or (h) of the last foregoing section has been ascertained, the appropriate officer shall make out in favour of that person an order upon the appropriate local treasurer (as hereinafter defined) for payment of that amount, and the appropriate local treasurer shall, upon sight of the order, pay that amount out of the appropriate local fund (as hereinafter defined) to that person or his duly authorised agent.

(3) A payment in respect of such jury service as is mentioned in paragraph (e) or (i) of the last foregoing section shall be made by the appropriate officer out of moneys provided by Parliament.

(4) A payment in respect of such jury service as is mentioned in paragraph (f) of the last foregoing section shall be made, in such manner as the Lord Chancellor may direct, out of moneys provided by Parliament.

(5) A payment in respect of such jury service as is mentioned in paragraph (g) of the last foregoing section shall be made by the appropriate officer out of the Fee Fund Account.

(6) A payment in respect of such jury service as is mentioned in paragraph (j) or (k) of the last foregoing section shall be made by the appropriate officer at the expense of the authority responsible for defraying the cost of maintaining the court, and it shall be the duty of that authority to provide the appropriate officer with such money as is requisite to enable him to make any such payment.

(7) A payment in respect of such jury service as is mentioned in paragraph (l) or (m) of the last foregoing section shall be made by the appropriate officer.

4. For the purposes of this Part of this Act, the appropriate local treasurer and the appropriate local fund shall, subject to the provisions of this Part of this Act, respectively be—

Appropriate local treasurers and funds.

- (a) in relation to a payment in respect of jury service at a court of assize held for a county or a division of a county, the treasurer of the administrative county by which the costs of the holding of that court are paid, and the county fund of that county;
- (b) in relation to a payment in respect of jury service at a court of assize held for a borough (whether or not a county of a city or county of a town), the treasurer of the borough and the general rate fund of the borough;
- (c) in relation to a payment in respect of jury service at the Central Criminal Court, the treasurer of the administrative county or the county borough wherein are situate the premises the address of which appears, in relation to the person to whom the payment is due, in the jurors book by reference to which he was summoned to serve, and the county fund of that county or the general rate fund of that borough, as the case may be;
- (d) in relation to a payment in respect of jury service at a court of quarter sessions, the treasurer of the administrative county or the borough by which the costs of the holding of the court are paid and the county fund of that county or the general rate fund of that borough, as the case may be.

5.—(1) So soon as may be after the conclusion of the business of a court of assize (other than the Central Criminal Court or a court held by virtue of a special commission) the clerk of assize shall send to the appropriate local treasurer a written notice specifying the amount determined by the said clerk to be the aggregate of such of the payments in respect of jury service at the court as are in his opinion attributable to the transaction thereof of business other than criminal business or, as the case may be, stating that no such payments are in his opinion so attributable.

Reimbursement of local authorities of payments attributable to civil business at assizes.

(2) Where a notice sent to the appropriate local treasurer under the foregoing subsection specifies such an amount as is therein mentioned, that amount shall, upon production of the

PART I  
—cont.

notice, be paid to the treasurer by the accounting officer of the Supreme Court out of moneys provided by Parliament and shall, when received by the treasurer, be paid by him into the appropriate local fund.

Special provisions as respects assizes and quarter sessions for certain counties.

6.—(1) In relation to payments in respect of jury service at a court of assize held for the county of York or a division thereof or a court of assize held for the county of Lincoln or a division thereof—

- (a) the appropriate local treasurer for the purpose of this Part of this Act shall, in the first-mentioned case, be the treasurer of the joint committee of the county councils of the three ridings of Yorkshire appointed in pursuance of section forty-six of the Local Government Act, 1888, for the transaction of the administrative business mentioned in that section, and, in the last-mentioned case, be the joint committee for the three divisions of Lincolnshire so appointed, and the foregoing provisions of this Act shall have effect with the omission of references to the appropriate local fund; and
- (b) sums expended by the treasurer of either of those joint committees by way of the making of such payments, less sums which he is entitled to be reimbursed under the last foregoing section, shall, for the purposes of paragraph (3) of the said section forty-six (which relates to the apportionment of costs and sums payable by a joint committee appointed as aforesaid), be deemed to be sums payable by the joint committee, and so much of subsection (2) of the last foregoing section as relates to the disposal of sums received thereunder by the appropriate local treasurer shall not apply.
- (2) In relation to payments in respect of jury service at a court of assize held for the county of Sussex or a division thereof,—
- (a) the appropriate local treasurer and the appropriate local fund for the purposes of this Part of this Act shall respectively be the treasurer of the administrative county in which the court is held and the county fund of that administrative county; and
- (b) sums expended by way of the making of such payments, less sums which the appropriate local treasurer is entitled to be reimbursed under the last foregoing section, shall be apportioned between the administrative counties of East and West Sussex in such proportion as may, in default of agreement between the the councils of those counties, be determined by an arbitrator appointed by the Secretary of State, and the proportion of any such sums apportioned to that one of those administrative counties whose treasurer is not the appropriate local treasurer shall be recoverable by the other as a simple contract debt.

(3) The last foregoing subsection shall apply in relation to payments in respect of jury service at a court of assize held for the Isle of Ely and the residue of the county of Cambridge or a division of that county or for the Soke of Peterborough and the residue of the county of Northampton or a division of that county as it applies in relation to payments in respect of jury service at a court of assize held for the county of Sussex or a division thereof, with the substitution, in paragraph (b), for the reference to the administrative counties of East and West Sussex, of a reference, in the first-mentioned case, to the administrative counties of Cambridge and the Isle of Ely, and, in the last-mentioned case, to the administrative counties of Northampton and the Soke of Peterborough.

(4) In relation to payments in respect of jury service at a court of assize held for the Isle of Wight and the residue of the county of Southampton or a division of that county or at a court of quarter sessions held for that county, the appropriate local treasurer and the appropriate local fund for the purposes of this Part of this Act shall respectively be the treasurer of the administrative county of Southampton and the county fund of that administrative county.

(5) In the case of a court of assize held for any of the counties mentioned in subsections (2) and (3) of this section or for a division of any of those counties by a court sitting in a county borough surrounded by or adjoining one of the administrative counties so mentioned, the borough shall be deemed for the purposes of the said subsection (2) to be included in that administrative county or, if it adjoins more than one such administrative county, in such one of them as the Lord Chancellor may direct.

(6) In this section the expression "the three divisions of Lincolnshire" means the parts of Holland, the parts of Kesteven and the parts of Lindsey.

7. The council of every administrative county and of every borough and each of the joint committees mentioned in paragraph (a) of subsection (1) of the last foregoing section shall cause their treasurer, or some person on his behalf, to attend at every court of assize and court of quarter sessions payments in respect of jury service whereat fall to be made by the treasurer of that county, borough or joint committee for the purpose of paying any orders made under subsection (2) of section three of this Act and, save in so far as the court may otherwise direct, to remain in attendance for that purpose during the sitting of the court.

Duty of councils, &c., to cause treasurer to be present at court.

8. Subsection (1) of section seventy-two of the Act of 1925 (which empowers His Majesty by Order in Council to regulate circuits), shall have effect as if paragraph (f) thereof included a reference to payments in respect of jury service, and an Order in

Power to adapt foregoing sections to accord with winter assizes, &c.

**PART I**  
—*cont.*

Council under that section may adapt the foregoing provisions of this Act to such extent as appears to His Majesty in Council to be necessary or expedient for the purposes of the Order.

Consequential  
amendments  
of Local  
Government  
Act, 1888.

**9.** Expenses incurred by way of the making of payments in respect of jury service at a court of assize held for a county or a division thereof, after deducting any amount which the appropriate local treasurer is entitled to be reimbursed under section five of this Act, shall be deemed for the purposes of the Local Government Act, 1888, to be part of the costs of assizes, and expenses incurred by way of the making of payments in respect of jury service at a court of quarter sessions (other than a court held for a borough) shall be deemed for those purposes to be part of the costs of quarter sessions, and references in the Local Government Board's Provisional Order Confirmation (No. 2) Act, 1889 (which contains financial provisions relating to assizes and quarter sessions and other matters for the purposes of which the administrative counties of Southampton and the Isle of Wight are to continue to be one county), to the costs of assizes and quarter sessions shall be construed accordingly.

Consequential  
amendments as  
to coroners.

**10.**—(1) Any power of a coroner, other than a power conferred by this Part of this Act, to make a payment to a person for his services as a juror at a coroner's court shall cease, and the power of a local authority under section twenty-five of the Coroners Act, 1887, to make a schedule relating to fees, allowances and disbursements which may lawfully be paid and made by a coroner shall cease so far as regards the inclusion in any such schedule of sums payable to persons for their services as jurors.

(2) Sections twenty-six and twenty-seven of the Coroners Act, 1887, as amended by the Coroners Act, 1926 (which relate to the payment and making by a coroner of fees, allowances and disbursements and the repayment of the coroner by the local authority), shall apply to payments in respect of jury service at a coroner's court made by the coroner as they apply to disbursements made by him under and in accordance with the provisions of the first-mentioned Act.

Reimburse-  
ment of  
sheriffs, &c.

**11.** Sums certified by a sheriff or the bailiff of a franchise to have been duly expended by him by way of the making of payments in respect of jury service, other than service on a jury summoned for the purposes of an inquiry under the Lands Clauses Consolidation Act, 1845, shall, upon production of the certificate, be repaid to him by the accounting officer of the Supreme Court out of moneys provided by Parliament.

Consequential  
amendments of  
Lands Clauses  
Consolidation  
Act, 1845.

**12.** Payments in respect of jury service for the purposes of an inquiry under the Lands Clauses Consolidation Act, 1845, shall—  
(a) for the purposes of section fifty-one of that Act (which determines the manner in which the costs of such an

inquiry by a jury are to be borne) be deemed to be costs of summoning, impanelling and returning the jury;

- (b) for the purposes of section fifty-two of that Act (which provides for the settlement of disputes with respect to the costs of such an inquiry) be deemed to be reasonable costs incurred in summoning, impanelling and returning the jury.

13. No person shall be entitled under any Act other than this Act or under any rule of law, custom or agreement to payment for his services as a juror. Abolition of other rights to payment.

14. The foregoing provisions of this Part of this Act shall not apply to, or in relation to, service on a jury summoned— Exclusion of certain juries.

- (a) for the purposes of an inquest held by the coroner of His Majesty's household;
- (b) for the purposes of a trial of the pyx under section twelve of the Coinage Act, 1870;
- (c) for attendance at the Great or Small Barmote Court for the Hundred of High Peak or the Soke and Wapentake of Wirksworth or a great or small barmote court for any of the manors or liberties mentioned in sections twelve to fifteen of the Derbyshire Mining Customs and Mineral Courts Act, 1852; or
- (d) for attendance at a hundred court which is not a court of record or at a court baron, court leet, law day, view of frankpledge or other like court.

15. Any increase attributable to the passing of this Act in the sums which, under Part I of the Local Government Act, 1948, are payable out of moneys provided by Parliament shall be defrayed out of moneys so provided. Expenses of councils.

16. The foregoing provisions of this Act shall come into operation on the first day of October, nineteen hundred and forty-nine, but shall not be taken to prevent the making, apart from this Part of this Act, on or after that day— Operation of foregoing sections.

- (a) of a payment to a person for service of his as a juror completed before that day; or
- (b) to a person whose service on a jury begins before but ends after that day, being a person who, if this Act had not passed, would have been entitled to payment, apart from this Part of this Act, of an amount in respect of each day of his service, of payment of that amount in respect of each day of his service before the said first day of October;

or to disentitle a person to claim a payment which may be made as aforesaid:

Provided that subsection (4) of section one and section eight of this Act shall come into operation on the passing thereof.

**PART I**  
**—cont.**  
**Fees in county**  
**courts for**  
**trials with**  
**juries.**

**17.** Orders may be made under section one hundred and sixty-seven of the County Courts Act, 1934, with respect to the payment of fees in respect of the trial with a jury in a county court of proceedings ordered after the end of the month of September, nineteen hundred and forty-nine, to be tried with a jury, and accordingly subsection (4) of section ninety-three of that Act (which provides that the amount to be paid to the registrar for payment of a jury shall be eight shillings) shall cease to have effect on the expiration of that month except in relation to proceedings ordered before the end of that month to be so tried.

*Abolition of Special Juries except in Commercial Causes*

**Abolition of**  
**special juries.**

**18.—(1)** Subject to the provisions of this and the next following section, no issue or question shall be tried or determined after the end of the month of September, nineteen hundred and forty-nine, by a special jury and no person shall be summoned to serve as a special juror for the trial or determination after the end of that month of an issue or question, but where, but for the passing of this Act, an issue or question would fall to be tried or determined after the end of that month by a special jury it shall be tried or determined by a jury other than a special jury:

Provided that—

- (a) this subsection shall not apply to the trial by a special jury of a question of disputed compensation under the Lands Clauses Consolidation Act, 1845; and
- (b) this subsection shall not apply to the trial or determination of an issue or question (other than as aforesaid) by a special jury sworn before the end of that month, and the trial or determination of that issue or question by that jury may be proceeded with in all respects as if this section had not been enacted.

(2) Sections fifty-four to fifty-six of the Lands Clauses Consolidation Act, 1845 (which relate to the trial by a special jury of questions of disputed compensation), shall cease to have effect on the expiration of the month of September, nineteen hundred and forty-nine, except in relation to cases in which a warrant requiring the nomination of a special jury has been issued under the said section fifty-four before the expiration of that month, and the proviso to subsection (1) of section five of the Juries Act, 1922 (which contains a saving for the manner of striking a special jury to try any such question as aforesaid), shall so cease to have effect except in relation to a jury summoned in pursuance of a warrant so issued.

(3) The exemption from service as a common juror in the Salford Hundred Court of Record conferred by section seventy-two of the Salford Hundred Court of Record Act, 1868, on persons liable to serve as special jurors in that court shall cease



on the expiration of the month of September, nineteen hundred and forty-nine.

PART I  
—cont.

19.—(1) Subsection (1) of the last foregoing section shall not apply to the trial by a City of London special jury of an issue in a cause entered in the commercial list for trial at the Royal Courts of Justice in the King’s Bench Division of the High Court, and orders and directions for the trial of any such issue by such a special jury may be made and given, and (subject to any rules made by virtue of the next following subsection) City of London special jurors may be summoned, impanelled and returned for the trial of any such issue, in all respects as if this Act had not passed.

Saving for City of London special juries in commercial causes.

(2) Rules of court may be made under section ninety-nine of the Act of 1925 with respect to the summoning of City of London special jurors for the trial after the end of the month of September, nineteen hundred and forty-nine, of any such issue as is mentioned in the foregoing subsection, and section sixteen of the Juries Act, 1870 (which relates to the summoning of special jurors in London and Middlesex), shall cease to have effect on the expiration of the month of July in that year.

(3) In this section the expression “City of London special jurors” means persons whose names are entered in the jurors book for the City of London and marked therein as being the names of persons qualified to serve as special jurors, and the expression “City of London special jury” shall be construed accordingly.

20. As from the expiration of the month of September, nineteen hundred and forty-nine, the expressions “common jury” and “common juror” shall cease to be used.

Discontinuance of terms “common jury” and “common juror”.

21. The Special Juries Act, 1898 (which enables rules of court to be made with respect to special juries), shall cease to have effect on the expiration of the month of September, nineteen hundred and forty-nine.

Repeal of 61 & 62 Vict. c. 6.

*Supplemental Provisions*

22.—(1) In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

Interpretation of Part I.

“the Act of 1925” means the Supreme Court of Judicature (Consolidation) Act, 1925;

“district”, in relation to a court held by virtue of a special commission for the trial of matrimonial causes, means a district defined in an Order in Council under section eighty-four of the Act of 1925 and, in relation to the Chancery Court of the County Palatine of Lancaster, means a district assigned under section thirty-three of the Court of Chancery of Lancaster Act, 1850;

**PART I**  
—cont.

“division”, in relation to a county, means (except in the case of an express reference to the three divisions of Lincolnshire) a division of the county constituted by an Order in Council under section seventy-two of the Act of 1925 or under the corresponding provisions of an enactment repealed by that Act;

“franchise” means a franchise within the meaning of the Sheriffs Act, 1887;

“matrimonial causes” has the same meaning as it has for the purposes of the Act of 1925.

(2) Any reference in this Part of this Act to a sheriff shall be construed as including a reference to the Secondary of the City of London and any reference in this Part of this Act to the bailiff of a franchise shall be construed as including a reference to the deputy bailiff thereof.

(3) Any reference in this Part of this Act to the Lands Clauses Consolidation Act, 1845, or a provision thereof shall be construed as including a reference to that Act or that provision thereof, as the case may be, as incorporated in any Act, whether public general or local.

Extent of  
Part I.

**23.** This Part of this Act shall not extend to Scotland or Northern Ireland.

**PART II**

**SCOTLAND**

Payments in  
respect of jury  
service in  
Scotland.

**24.**—(1) Subject to the provisions of this Part of this Act, persons who serve as jurors shall be entitled to be paid, in accordance with prescribed scales and subject to any prescribed conditions,—

(a) travelling and subsistence allowances; and

(b) compensation for loss of earnings which they would otherwise have made or additional expense (other than expense on account of travelling or subsistence) to which they would not otherwise have been subject, being loss or expense necessarily suffered or incurred for the purpose of enabling them to serve as jurors:

Provided that the amount which may be paid to a person by virtue of paragraph (b) of this subsection in respect of his services as a juror on any one day shall not exceed—

(i) where the period of time over which earnings are lost or additional expense is incurred is not more than four hours, the sum of ten shillings; or

(ii) where the said period of time is more than four hours, the sum of twenty shillings.

(2) For the purposes of this section, a person who, in obedience to a citation to serve on a jury, attends for service as a juror, shall be deemed to serve as a juror notwithstanding that he is not subsequently impanelled.

(3) A payment to which a person is entitled under this section is in this Part of this Act referred to as "a payment in respect of jury service".

PART II  
—cont.

25.—(1) The amount due to a person by way of a payment in respect of jury service shall be ascertained and paid—

Person by whom the amount of a payment is to be ascertained and paid.

(a) in the case of service at a sitting of the High Court of Justiciary at Edinburgh or in the Court of Session, by the King's and Lord Treasurer's Remembrancer or such other officer as may be prescribed ;

(b) in the case of service at a sitting of the High Court of Justiciary on circuit, or of the sheriff court, whether for a civil or a criminal trial, by the sheriff clerk of the county in which such sitting is held ;

(c) in the case of service at an inquiry under the Fatal Accidents Inquiry (Scotland) Act, 1895, or the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act, 1906, by the sheriff clerk of the county in which the inquiry is held ; and

(d) in the case of service on a jury summoned under the Lands Clauses Consolidation (Scotland) Act, 1845, by the sheriff clerk of the court to which the petition to summon the jury is presented.

(2) The sums required for the making of payments in pursuance to paragraphs (a) to (c) of the last foregoing subsection shall be paid out of moneys provided by Parliament.

26.—(1) Where an order is made—

(a) for the trial of any action by a jury in the Court of Session whether such action originated in that Court or was removed thereto under section thirty of the Sheriff Courts (Scotland) Act, 1907, or

Fee payable by party applying for jury trial in civil cause.

(b) for the trial of any action by a jury in the sheriff court, the person on whose application such order is made shall pay to the clerk of court such fee as may be fixed by Act of Sederunt with the consent of the Treasury, and in the event of his failure to do so within such time as may be fixed by Act of Sederunt the court may recall the order.

(2) A fee payable in pursuance of the last foregoing subsection shall form part of the expenses of the action and shall be returned to the person who paid it in the event of the trial not being proceeded with and no person being cited to attend for service as a juror thereat.

27. Payments in respect of service on a jury summoned under the Lands Clauses Consolidation (Scotland) Act, 1845, shall—

Consequential amendments of Lands Clauses Consolidation (Scotland) Act, 1845.

(a) for the purposes of section fifty of that Act (which determines the manner in which the expenses of an inquiry by a jury are to be borne) be deemed to be expenses of the inquiry;

PART II  
—cont.

(b) for the purposes of section fifty-one of that Act (which provides for the determination of the amount of such expenses) be deemed to be reasonable expenses incurred in summoning, impanelling and returning the jury.

Abolition of  
special juries  
and special  
jurors.

**28.**—(1) No issue or question shall be tried or determined by a special jury and no person shall be cited or summoned to serve as a special juror for the trial or determination of any issue or question, and any enactment requiring the preparation of a roll of special jurors or of a special jury book or the inclusion in a jury of special jurors shall cease to have effect.

(2) The privilege to which a landed person is entitled of being tried by a jury comprising a majority of landed persons is hereby abolished.

Consequential  
and minor  
amendments.

**29.** The amendments specified in the third column of the First Schedule to this Act, being amendments of a minor or consequential nature, shall be made in the enactments specified in the first and second columns of that Schedule.

Commence-  
ment of  
Part II.

**30.** The foregoing provisions of this Part of this Act shall come into operation on the first day of October, nineteen hundred and forty-nine:

Provided that nothing in this Part of this Act shall be taken to prevent—

- (i) payment to a person for service as a juror completed before that day; or
- (ii) the making, to a person whose service as a juror begins before but ends after that day, of any payment in respect of each day of his service before the said day to which he would have been entitled if this Act had not passed; or
- (iii) the making of a claim to any such payment as aforesaid; or
- (iv) the trial after the aforesaid day of any issue or question by a special jury in pursuance of a petition presented to the sheriff before the said day under section fifty-three of the Lands Clauses Consolidation (Scotland) Act, 1845; or
- (v) the trial after the aforesaid day of any issue appointed before that day to be tried by a special jury.

Discontinuance  
of terms  
“common jury”  
and “common  
juror”.

**31.** As from the expiration of the month of September, nineteen hundred and forty-nine, the expressions “common jury” and “common juror” shall cease to be used.

Interpretation  
of Part II.

**32.**—(1) In this Part of this Act the expression “prescribed” means prescribed by regulations made by the Secretary of State with the consent of the Treasury.

The power conferred by this subsection on the Secretary of State shall be exercisable by statutory instrument.

(2) Any reference in this Part of this Act to the Lands Clauses Consolidation (Scotland) Act, 1845, or to any provision thereof shall be construed as including a reference to that Act or to that provision as the case may be, as incorporated in any Act whether public general or local.

PART II  
—cont.

33. This Part of this Act shall extend to Scotland only.

Extent of  
Part II.

### PART III

#### NORTHERN IRELAND

34. The reservation by section forty-seven of the Government of Ireland Act, 1920, of matters relating to the Supreme Court of Judicature of Northern Ireland shall not preclude the Parliament of Northern Ireland from making a law providing for the making of payments to persons in respect of their services as jurors in His Majesty's High Court of Justice in Northern Ireland or the abolition, either generally or in such cases as may be specified by that law, of special juries in that Court.

Extension of  
legislative  
power of the  
Parliament  
of Northern  
Ireland with  
respect to  
juries.

### PART IV

#### SHORT TITLE, &C.

35.—(1) This Act may be cited as the Juries Act, 1949.

Short title,  
citation and  
repeal.

(2) The Juries Acts, 1825 to 1870, the Juries Act, 1922, and Part I of this Act may be cited together as the Juries Acts, 1825 to 1949.

(3) The enactments mentioned in the first and second columns of the Second Schedule to this Act shall be repealed to the extent specified in the third column of that Schedule—

- (a) as respects the enactment mentioned in Part I of that Schedule, on the passing of this Act;
- (b) as respects the enactment mentioned in Part II of that Schedule, on the expiration of the month of July, nineteen hundred and forty-nine; and
- (c) as respects the enactments mentioned in Part III of that Schedule, on the expiration of the month of September, nineteen hundred and forty-nine;

and the enactments mentioned in the first and second columns of the Third Schedule to this Act shall be repealed on the expiration of the month of September, nineteen hundred and forty-nine, to the extent specified in the third column of that Schedule:

Provided that the repeal of sections fifty-four to fifty-six of the Lands Clauses Consolidation Act, 1845, shall not extend to Northern Ireland.

## SCHEDULES

## FIRST SCHEDULE

## MINOR AND CONSEQUENTIAL AMENDMENTS OF SCOTTISH ENACTMENTS

| Session and Chapter   | Short Title                                       | Nature of Amendment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-----------------------|---------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 6 Geo. 4. c. 22       | The Jurors (Scotland) Act, 1825.                  | In section five, for the words " as well in the general as in the special jury book as aforesaid " there shall be substituted the words " in the general jury book " ; in section eight, for the words " and special jury books " there shall be substituted the words " jury book " ; in section nine for the word " books " there shall be substituted the word " book " ; in section seventeen for the words from " and the names " to " the other box " there shall be substituted the words " and to be put into a box or glass and mixed and the clerk shall draw out the said pieces of paper or parchment one by one from the box or glass " . |
| 31 & 32 Vict. c. 100. | The Court of Session Act, 1868.                   | In section forty-four, for the words from " and the names " to " the other box " there shall be substituted the words " and to be put into a box or glass and mixed and the clerk shall draw out the said pieces of paper or parchment one by one from the box or glass " .                                                                                                                                                                                                                                                                                                                                                                            |
| 50 & 51 Vict. c. 35.  | The Criminal Procedure (Scotland) Act, 1887.      | In section thirty-nine for the words " lists of special and common jurors respectively " there shall be substituted the word " list " .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 58 & 59 Vict. c. 36.  | The Fatal Accidents Inquiry (Scotland) Act, 1895. | In section four, in subsection (4) for the words " ten common and five special " there shall be substituted the word " fifteen " ; and in subsection (5) for the words " five common and two special " there shall be substituted the word " seven " .                                                                                                                                                                                                                                                                                                                                                                                                 |
| 7Edw. 7. c. 51        | The Sheriff Courts (Scotland) Act, 1907.          | In the First Schedule, for rule 133 there shall be substituted the following rule :—" 133. The jury " shall be chosen from a panel of " fifteen jurors to be cited for the " diet " ; in rule 135 for the words " one special and one common " juror " there shall be substituted the words " two jurors " .                                                                                                                                                                                                                                                                                                                                           |

## SECOND SCHEDULE

Section 35

## ENGLISH ENACTMENTS REPEALED

## PART I

## ENACTMENT REPEALED ON THE PASSING OF THIS ACT

| Session and Chapter       | Short Title          | Extent of Repeal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|---------------------------|----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 12 & 13 Geo. 5.<br>c. 11. | The Juries Act, 1922 | <p>In section one, in subsection (2), the words " and the names of such of the persons so qualified and liable as are qualified to serve as special jurors ", in subsection (3) the words " or qualified to serve as special jurors ", in subsection (4), the words " or as a special juror ", in subsection (5), the words " or as a special juror, as the case may be ", in subsection (6), the words " or as a special juror " in both places where those words occur, and in subsection (11), the words " or as a special juror ".</p> <p>In section two, in subsection (1), the words " or special juror " in both places where those words occur, and, in subsection (2), the words " or special jurors " and, in the first place where they occur, the words " as such ".</p> <p>In section six, in subsection (1), in paragraphs (a) and (b), the words " or as special jurors " and the words " or qualified ".</p> |

## PART II

## ENACTMENT REPEALED AT END OF JULY, 1949

| Session and Chapter     | Short Title          | Extent of Repeal |
|-------------------------|----------------------|------------------|
| 33 & 34 Vict.<br>c. 77. | The Juries Act, 1870 | Section sixteen. |

## PART III

2ND SCH.  
—cont.

## ENACTMENTS REPEALED AT END OF SEPTEMBER, 1949

| Session and Chapter    | Short Title                                    | Extent of Repeal                                                                                                                                                                                                                                                                                                           |
|------------------------|------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 6 Geo. 4. c. 50        | The Juries Act, 1825                           | In section twenty-five, the words from " and the summons " to the words " is to attend ".<br>Sections thirty, thirty-three and thirty-five.<br>In section forty, the proviso.<br>In section forty-three, the words " or shall summon any special juror less than three days before the day on which he is to attend ".     |
| 8 & 9 Vict. c. 18.     | The Lands Clauses Consolidation Act, 1845.     | Sections fifty-four to fifty-six, except in relation to cases in which a warrant requiring the nomination of a special jury has been issued under section fifty-four before the end of the month of September, nineteen hundred and forty-nine.<br>Section one hundred and eight.                                          |
| 15 & 16 Vict. c. 76.   | The Common Law Procedure Act, 1852.            |                                                                                                                                                                                                                                                                                                                            |
| 17 & 18 Vict. c. 125.  | The Common Law Procedure Act, 1854.            | In section fifty-nine, the words " special or ".                                                                                                                                                                                                                                                                           |
| 31 & 32 Vict. c. cxxx. | The Salford Hundred Court of Record Act, 1868. | Sections seventy-two and seventy-three.<br>In section seventy-six, the words from " provided that where a Special Jury " to the words " can be found ".                                                                                                                                                                    |
| 33 & 34 Vict. c. 77.   | The Juries Act, 1870                           | In section six, the words " for any county in England or Wales, or " the words " in every such county in England and Wales, and " and the word " respectively ".<br>Section eighteen.                                                                                                                                      |
| 61 & 62 Vict. c. 6.    | The Special Juries Act, 1898.                  | The whole Act.                                                                                                                                                                                                                                                                                                             |
| 12 & 13 Geo. 5. c. 11. | The Juries Act, 1922                           | In section five, in subsection (1), the words " Subject as hereinafter provided " and the proviso, except in relation to a jury summoned in pursuance of a warrant issued under section fifty-four of the Lands Clauses Consolidation Act 1845, before the end of the month of September, nineteen hundred and forty-nine. |
| 24 & 25 Geo. 5. c. 53. | The County Courts Act, 1934.                   | In section ninety-three, subsection (4), except in relation to proceedings ordered before the end of the month of September, nineteen hundred and forty-nine, to be tried with a jury.                                                                                                                                     |



## THIRD SCHEDULE

Section 35

## SCOTTISH ENACTMENTS REPEALED AT END OF SEPTEMBER, 1949

| Session and Chapter   | Short Title                                           | Extent of Repeal                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----------------------|-------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 55 Geo. 3. c. 42.     | The Jury Trials (Scotland) Act, 1815.                 | In section twenty-two the words " or " who shall be summoned as a " special juror or special jurors as after mentioned " ; sections twenty-four to twenty-seven ; in section twenty-nine, the words " or summoned as special jurors " ; section thirty.                                                                                                                                                                                                                        |
| 6 Geo. 4. c. 22       | The Jurors (Scotland) Act, 1825.                      | Section four ; in section six the words " both general and special " ; in section seven the provisos ; in section nine, the words from " one third " to the end of the section ; in section ten, the words " and also " in the special jury book in the case " of special jurors " ; section twelve ; in section sixteen the first proviso ; in section seventeen the words from " containing the description of jurors challenged " respectively " to the end of the section. |
| 7 Geo. 4. c. 8        | The Juries (Scotland) Act, 1826.                      | Sections one to three ; in section four the word " either " , the words " or in the said special jury book " , and the words " or the said special jury book as the case may be. "                                                                                                                                                                                                                                                                                             |
| 8 & 9 Vict. c. 19.    | The Lands Clauses Consolidation (Scotland) Act, 1845. | In section forty-three, the words " whether common or special " ; sections fifty-three to fifty-five except in relation to cases in which a petition has been presented to the sheriff under section fifty-three before the end of the month of September, nineteen hundred and forty-nine.                                                                                                                                                                                    |
| 13 & 14 Vict. c. 36.  | The Court of Session Act, 1850.                       | In section forty-two the words from " and it shall be lawful " to the end of the section.                                                                                                                                                                                                                                                                                                                                                                                      |
| 31 & 32 Vict. c. 100. | The Court of Session Act, 1868.                       | In section forty-four, the words " containing the description of " jurors challenged respectively " ; in section forty-five the words from " but so that " to the end of the section ; section forty-nine.                                                                                                                                                                                                                                                                     |
| 50 & 51 Vict. c. 35.  | The Criminal Procedure (Scotland) Act, 1887.          | In section thirty-eight the words " and consisting of special and " common jurors in the proportion " of one special to two common " jurors " .                                                                                                                                                                                                                                                                                                                                |

3RD SCH.  
—cont.

| Session and Chapter       | Short Title                                           | Extent of Repeal                                               |
|---------------------------|-------------------------------------------------------|----------------------------------------------------------------|
| 58 & 59 Vict.<br>c. 36.   | The Fatal Accidents Inquiry (Scotland) Act, 1895.     | In section four, subsection (9).                               |
| 7 Edw. 7. c. 51           | The Sheriff Courts (Scotland) Act, 1907.              | Section thirty-three.                                          |
| 10 & 11 Geo. 5.<br>c. 53. | The Jurors (Enrolment of Women) (Scotland) Act, 1920. | In section one, in subsection (1) the words "and the special". |

Table of Statutes referred to in this Act

| Short Title                                                                     | Session and Chapter       |
|---------------------------------------------------------------------------------|---------------------------|
| Lands Clauses Consolidation Act, 1845 ... ..                                    | 8 & 9 Vict. c. 18.        |
| Lands Clauses Consolidation (Scotland) Act, 1845 ...                            | 8 & 9 Vict. c. 19.        |
| Court of Chancery of Lancaster Act, 1850 ... ..                                 | 13 & 14 Vict. c. 43.      |
| Derbyshire Mining Customs and Mineral Courts Act, 1852 ... ..                   | 15 & 16 Vict. c. clxiii.  |
| Salford Hundred Court of Record Act, 1868 ... ..                                | 31 & 32 Vict. c. cxxx.    |
| Coinage Act, 1870 ... ..                                                        | 33 & 34 Vict. c. 10.      |
| Juries Act, 1870... ..                                                          | 33 & 34 Vict. c. 77.      |
| Sheriffs Act, 1887 ... ..                                                       | 50 & 51 Vict. c. 55.      |
| Coroners Act, 1887 ... ..                                                       | 50 & 51 Vict. c. 71.      |
| Local Government Act, 1888 ... ..                                               | 51 & 52 Vict. c. 41.      |
| Local Government Board's Provisional Order Confirmation (No. 2) Act, 1889... .. | 52 & 53 Vict. c. clxxvii. |
| Fatal Accidents Inquiry (Scotland) Act, 1895 ... ..                             | 58 & 59 Vict. c. 36.      |
| Special Juries Act, 1898 ... ..                                                 | 61 & 62 Vict. c. 6.       |
| Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act, 1906 ... ..           | 6 Edw. 7. c. 35.          |
| Sheriff Courts (Scotland) Act, 1907 ... ..                                      | 7 Edw. 7. c. 51.          |
| Government of Ireland Act, 1920 ... ..                                          | 10 & 11 Geo. 5. c. 67.    |
| Juries Act, 1922 ... ..                                                         | 12 & 13 Geo. 5. c. 11.    |
| Supreme Court of Judicature (Consolidation) Act, 1925 ... ..                    | 15 & 16 Geo. 5. c. 49.    |
| Coroners Act, 1926 ... ..                                                       | 16 & 17 Geo. 5. c. 59.    |
| County Courts Act, 1934 ... ..                                                  | 24 & 25 Geo. 5. c. 53.    |
| Local Government Act, 1948 ... ..                                               | 11 & 12 Geo. 6. c. 26.    |

## CHAPTER 28

*Army and Air Force (Annual) Act, 1949*

## ARRANGEMENT OF SECTIONS

Section.

1. Short title.
2. Army Act and Air Force Act to be in force for specified times.
3. Date for coming into operation of amendments of Army and Air Force Acts.

## AMENDMENTS OF ARMY AND AIR FORCE ACTS

4. Power to keep persons sentenced to detention under Army Act in air force custody, and corresponding provision for Air Force Act.
5. Application of rules under s. 132 to all persons in military or air force custody.
6. Provisions as to persons unlawfully at large.

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An Act to provide, during twelve months, for the discipline and regulation of the Army and the Air Force. [26th April 1949.]

**W**HEREAS the raising or keeping of a standing army within the United Kingdom in time of peace, unless it be with the consent of Parliament, is against law:

And whereas it is adjudged necessary by His Majesty and this present Parliament that a body of land forces should be continued for the safety of the United Kingdom and the defence of the possessions of His Majesty's Crown, and that the whole number of such forces should consist of five hundred and fifty thousand:

And whereas it is adjudged necessary that a body of air forces should be continued for the purposes aforesaid, and that the whole number of such forces should consist of two hundred and fifty-five thousand:

And whereas it is also judged necessary for the safety of the United Kingdom and the defence of the possessions of this realm that a body of Royal Marine forces should be employed in His Majesty's fleet and naval service under the direction of the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral aforesaid:

And whereas the said marine forces may frequently be quartered or be on shore, or be sent to do duty or be on board transport ships or vessels, merchant ships or vessels, or other ships or

vessels, or they may be under other circumstances in which they will not be subject to the laws relating to the government of His Majesty's forces by sea:

And whereas no man can be forejudged of life or limb, or subjected in time of peace to any kind of punishment within this realm, by martial law, or in any other manner than by the judgment of his peers and according to the known and established laws of this realm; yet, nevertheless, it being requisite, for the retaining all the before-mentioned forces, and other persons subject to military law or to the Air Force Act, in their duty, that an exact discipline be observed and that persons belonging to the said forces who mutiny, or stir up sedition, or desert His Majesty's service, or are guilty of crimes and offences to the prejudice of good order and military or air force discipline, be brought to a more exemplary and speedy punishment than the usual forms of the law will allow:

And whereas the Army Act and the Air Force Act will expire in the year one thousand nine hundred and forty-nine on the following days:—

- (a) In Great Britain and Northern Ireland, the Channel Islands, and the Isle of Man, on the thirtieth day of April; and
- (b) Elsewhere, whether within or without His Majesty's dominions, on the thirty-first day of July:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

**1.** This Act may be cited as the Army and Air Force (Annual) Act, 1949.

Army Act and Air Force Act to be in force for specified times.

**2.**—(1) The Army Act and the Air Force Act shall be and remain in force during the periods hereinafter mentioned, and no longer, unless otherwise provided by Parliament, that is to say:—

- (a) within Great Britain and Northern Ireland, the Channel Islands, and the Isle of Man, from the thirtieth day of April, nineteen hundred and forty-nine, to the thirtieth day of April, nineteen hundred and fifty, both inclusive; and
- (b) elsewhere, whether within or without His Majesty's dominions, from the thirty-first day of July, nineteen hundred and forty-nine, to the thirty-first day of July, nineteen hundred and fifty, both inclusive.

(2) The Army Act and the Air Force Act, while in force, shall apply to persons subject to military law or to the Air Force Act, as the case may be, whether within or without His Majesty's dominions.

(3) A person subject to military law or to the Air Force Act shall not be exempted from the provisions of the Army Act or the Air Force Act by reason only that the number of the forces for the time being in the service of His Majesty, exclusive of the marine forces, is either greater or less than the numbers hereinbefore mentioned.

3.—(1) Amendments of the Army Act or of the Air Force Act contained in this or any other Act continuing the first-mentioned Acts shall, subject to any express provision to the contrary, come into operation on the day on which, apart from the Act containing the amendments, the Army Act and the Air Force Act would expire in Great Britain. Date for coming into operation of amendments of Army and Air Force Acts.

(2) Subsection (1) of section fifteen of the Army and Air Force (Annual) Act, 1932 (which provides for amendments coming into operation in any place as from the date from which the Army Act and the Air Force Act are continued by the amending Act), is hereby repealed. 22 & 23 Geo. 5. c. 22.

#### AMENDMENTS OF ARMY AND AIR FORCE ACTS

4. In subsection (2) of section sixty-three of the Army Act (which provides that a person sentenced to detention under that Act shall undergo the term of his detention either in a detention barrack or in military custody) after the words "or in military custody" there shall be inserted the words "or in air force custody"; and in subsection (2) of section sixty-three of the Air Force Act (which makes corresponding provision as respects that Act) after the words "or in air force custody" there shall be inserted the words "or in military custody". Power to keep persons sentenced to detention under Army Act in air force custody, and corresponding provision for Air Force Act.

5.—(1) At the end of section sixty-three of the Army Act (which provides for the service of sentences of imprisonment and detention in prisons, detention barracks or other military custody) there shall be added the following subsection:—

"(3) Subsections (2), (2A) and (3) of section one hundred and thirty-two of this Act shall apply to persons undergoing imprisonment or detention in other military custody as they apply to persons undergoing imprisonment or detention in military prisons or detention barracks; and references in those subsections to a prison or to detention barracks shall include references to any place where a person is or has been in military custody by virtue of a sentence of imprisonment or detention."

(2) At the end of section sixty-three of the Air Force Act (which makes corresponding provision as respects sentences under that Act) there shall be added a subsection in other respects similar to the subsection hereinbefore set out, but modified by the substitution of the words "air force" for the word "military" in each place where it occurs.

Provisions as to persons unlawfully at large.

6. After section sixty-seven of the Army Act, and after section sixty-seven of the Air Force Act, there shall be inserted the following:—

*"Persons unlawfully at large"*

67A.—(1) Any person who, having been sentenced by a court-martial to imprisonment, is unlawfully at large may (without prejudice to any other power of arrest) be arrested by any constable without warrant and taken to any place in which he may be required in accordance with law to be detained.

(2) Where any person sentenced as aforesaid to imprisonment, or sentenced as aforesaid or by his commanding officer to detention, has become unlawfully at large at any time during the period for which he is liable to be detained in pursuance of the sentence, then, unless the authority hereinafter specified otherwise directs, no account shall be taken, in calculating the period for which he is liable to be so detained, of any time elapsing after he became at large and before either he is taken into naval, military or air force custody or he is received into custody (whether in pursuance of the same sentence or of a sentence of any other court) in a prison or other institution to which the Prison Acts, 1865 to 1898 or the Prisons (Scotland) Acts, 1860 to 1926 apply.

(3) The authority referred to in the last foregoing subsection is—

- (a) in relation to a person sentenced by court-martial, the authority which under subsection (2) of section fifty-seven of this Act has power to remit the sentence;
- (b) in relation to a person sentenced by his commanding officer, that officer."



## CHAPTER 29

An Act to confer upon the consular officers of foreign States with which consular conventions are concluded by His Majesty certain powers relating to the administration of the estates and property of deceased persons; to restrict the powers of constables and other persons to enter the consular offices of such States; and to amend sections one hundred and seventy-six and five hundred and twenty-one of the Merchant Shipping Act, 1894. [26th April 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) Where any person who is a national of a State to which **Powers of** this section applies is named as executor in the will of a deceased **consular** person disposing of property in England, or is otherwise a person **officers in** to whom a grant of representation to the estate in England of a **relation to** deceased person may be made, then if the court is satisfied, on **property in** the application of a consular officer of the said State, that the **England of** said national is not resident in England, and if no application **deceased** for a grant of such representation is made by a person duly **persons.** authorised by power of attorney to act for him in that behalf, the court shall make to that officer any such grant of representation to the estate of the deceased as would be made to him if he were so authorised as aforesaid:

Provided that the court may, if it thinks fit, postpone the making of a grant by virtue of this section during such period as the court considers appropriate having regard to the circumstances of the case.

(2) Where any person who is a national of a State to which this section applies—

(a) is entitled to payment or delivery of any money or property in respect of any interest in the estate of a deceased person, or vesting in possession on the death of any person, or is entitled to payment of any money becoming due on the death of any person; or

(b) is a person to whom any money or property comprised in the estate of a deceased person may be paid or delivered in pursuance of any enactment, rule or regulation, whether passed or made before or after the

commencement of this Act, authorising the payment or delivery of such money or property without representation to the estate of the deceased being granted,

then if the said national is not resident in England, a consular officer of that State shall have the like right and power to receive and give a valid discharge for any such money or property in England as if he were duly authorised by power of attorney to act for him in that behalf:

Provided that no person shall be authorised or required by this subsection to pay or deliver any money or property to a consular officer if it is within his knowledge that any other person in England has been expressly authorised to receive that money or property on behalf of the said national.

(3) A grant of administration made by virtue of this section may be made to the consular officer by his official title, and to his successors in office; and where a grant is so made, the office of administrator, and all the estate, rights, duties and liabilities of the administrator (including liabilities under the administration bond) shall be vested in and imposed on the person for the time being holding the office, and no fresh grant shall be required by reason only of the death or vacation of office of the person to whom the grant was made or in whom it is vested as aforesaid:

Provided that nothing in this subsection shall affect any limitation contained in the grant, or any power of the court to revoke the grant.

15 & 16 Geo. 5.  
c. 49. (4) Notwithstanding anything in subsection (1) of section one hundred and sixty of the Supreme Court of Judicature (Consolidation) Act, 1925 (which provides that in the case of a minority or a life interest administration must be granted either to a trust corporation or to not less than two individuals), administration of an estate may in any case be granted by virtue of this section to a consular officer alone; and subsection (2) of the said section one hundred and sixty (which provides for the appointment of additional personal representatives in the case of a minority or a life interest) shall not apply in any case where the existing personal representative is a consular officer appointed by virtue of this section.

(5) Without prejudice to the provisions of subsection (7) of section one hundred and sixty-seven of the Supreme Court of Judicature (Consolidation) Act, 1925 (which enables probate rules and orders to dispense with sureties to administration bonds in certain cases), sureties shall not be required to an administration bond given by a consular officer upon the grant of administration by virtue of this section.



2.—(1) Where any person who is a national of a State to which this section applies is named as executor in the will of a deceased person disposing of property in Scotland, or is otherwise a person who may be appointed or confirmed as executor on the estate in Scotland of a deceased person, a consular officer of the said State, if satisfied that the said national is not resident in Scotland, and that he is not represented by a person duly authorised by power of attorney to act for him in that behalf, may make application to the court for the said national to be appointed or confirmed as executor on the estate of the deceased as if the said officer were so authorised as aforesaid.

Powers of consular officers in relation to property in Scotland of deceased persons.

(2) Where the court has granted an application for appointment or confirmation as executor on the estate of a deceased person made by a consular officer by virtue of this section that officer or his successors in office shall be entitled to receive and administer the said estate and to do all things necessary in that behalf as if duly authorised so to act by power of attorney granted by the executor.

(3) Where any person who is a national of a State to which this section applies—

(a) is entitled to payment or delivery of any money or property in respect of any interest in the estate of a deceased person or is entitled to payment or delivery of any money or property becoming due on the death of any person; or

(b) is a person to whom any money or property comprised in the estate of a deceased person may be paid or delivered in pursuance of any enactment, rule or regulation, whether passed or made before or after the commencement of this Act, authorising the payment or delivery of such money or property without production of confirmation;

then if the said national is not resident in Scotland a consular officer of that State shall have the like right and power to give a valid discharge for any such money or property in Scotland, to take all such steps as may be necessary for completing the title of the said national to such property and to administer or dispose of that property as if he were duly authorised by power of attorney to act for him in that behalf:

Provided that no person shall be authorised or required by this subsection to pay or deliver any money or property to a consular officer if it is within his knowledge that any other person in Scotland has been expressly authorised to receive that money or property on behalf of the said national.

3. Notwithstanding any rule of law conferring immunity or privilege in respect of the official acts and documents of consular officers, a consular officer shall not be entitled to any immunity

Supplementary provisions as to sections 1 and 2.

or privilege in respect of any act done by virtue of powers conferred on him by or under section one or section two of this Act, or in respect of any document for the time being in his possession relating thereto.

Restriction  
of powers  
of entry in  
relation to  
consular  
offices.

4.—(1) Subject to the provisions of this section, a consular office of a State to which this section applies shall not be entered by a constable or other person acting in the execution of any warrant or other legal process or in the exercise of powers conferred by or under any enactment (whether passed before or after the commencement of this Act), or otherwise, except with the consent of the consular officer in charge of that office or, if that consent is withheld or cannot be obtained, with the consent of a Secretary of State:

Provided that the foregoing provisions of this subsection shall not apply in relation to any entry effected—

10 & 11 Geo. 6.  
c. 41.

- (a) in pursuance of subsection (1) of section thirty of the Fire Services Act, 1947 (which confers power to enter premises for the purpose of extinguishing fire) or any other enactment making provision corresponding with the provisions of that subsection;
- (b) by a constable having reasonable cause to believe that a crime involving violence has been or is being or is about to be committed in the consular office;
- (c) by any person entitled to enter by virtue of any easement, contract or other private right.

(2) This section shall not apply to any consular office which for the time being is in the charge of a consular officer who is a citizen of the United Kingdom and Colonies or is not a national of the State by which that office is maintained.

(3) For the purposes of this section, the expression “consular office” means any building or part of a building which is exclusively occupied for the purposes of the official business of a consular officer.

Amendments  
of Merchant  
Shipping  
Act, 1894.  
57 & 58 Vict.  
c. 60.

5.—(1) Where it appears to the Minister of Transport that any person to whom any money or other property of a deceased seaman may be paid or delivered under paragraph (b) of subsection (1) of section one hundred and seventy-six of the Merchant Shipping Act, 1894 (which relates to the disposal of property not exceeding one hundred pounds in value) is resident in a foreign State, he may pay or deliver the money or property to a consular officer of that State on behalf of that person; and the provisions of that section shall have effect accordingly.

(2) The powers of a consul general or other consular officer under subsection (2) of section five hundred and twenty-one of the Merchant Shipping Act, 1894 (which enables a consular

officer in certain circumstances to act as the agent of the owner for the purposes of the custody and disposal of articles belonging to or forming part of a foreign ship wrecked on or near the coasts of the United Kingdom) shall extend to the custody and disposal of the wrecked ship itself as well as to the custody and disposal of such articles as aforesaid.

6.—(1) His Majesty may by Order in Council direct that sections one and two or section four of this Act shall apply to any foreign State specified in the Order, being a State with which a consular convention providing for matters for which provision is made by those sections has been concluded by His Majesty. Application of sections 1, 2 and 4.

(2) Any Order in Council made under this section may be revoked by a subsequent Order.

(3) Any Order in Council made under this section shall be laid before Parliament after being made.

7.—(1) This Act shall, subject to the provisions of this section, apply to Northern Ireland as it applies to England. Application to Northern Ireland.

(2) In the application of this Act to Northern Ireland—

(a) the expression “enactment” shall include an enactment of the Parliament of Northern Ireland;

(b) subsection (3) of section one shall not have effect, and for subsection (4) of that section there shall be substituted the following subsection:—

“(4) Notwithstanding anything in section eighty-six of the Probates and Letters of Administration Act (Ireland) 1857, sureties shall not be required to an administration bond given by a consular officer upon the grant of administration by virtue of this section.”; 20 & 21 Vict. c. 79.

(c) in subsection (1) of section four the references to a constable shall be construed as including references to a constable of the Royal Ulster Constabulary or a special constable.

8. Section four of the Domicile Act, 1861, is hereby repealed: Repeal of Domicile Act, 1861, s. 4.

Provided that any Order in Council in force under that section immediately before the commencement of this Act shall continue in force, notwithstanding anything in this section, until revoked by His Majesty by Order in Council. 24 & 25 Vict. c. 121.

9. This Act may be cited as the Consular Conventions Act, 1949. Short title.



**CHAPTER 30.***Agricultural Wages (Scotland) Act, 1949.*

## ARRANGEMENT OF SECTIONS.

*The Scottish Agricultural Wages Board and Agricultural Wages Committee.*

## Section.

1. The Scottish Agricultural Wages Board.
2. Agricultural wages committees for districts.

*Wages and Holidays.*

3. Power of Scottish Agricultural Wages Board to fix rates of wages, and holidays.
4. Enforcement of wages and holidays orders.
5. Permits to infirm and incapacitated persons.
6. Provisions as to learners.
7. Reckoning of benefits and advantages as payment of wages.
8. Power of agricultural wages committee to award additional wages for piece work in certain cases.
9. Provisions as to applications, &c., to agricultural wages committees.
10. Criminal liability of agents and special defence open to employer.
11. Avoidance of agreements in contravention of this Act and saving for other agreements, &c.

*Supplementary.*

12. Officers.
13. Annual reports.
14. Expenses.
15. Evidence of resolutions and orders of the Board and agricultural wages committees.
16. Power to give effect to, and modify, Act as respects holidays and holiday remuneration.
17. Interpretation.
18. Repeal and savings.
19. Short title and extent.

## SCHEDULES :—

First Schedule.—Constitution and proceedings of the Scottish Agricultural Wages Board.

Second Schedule.—Constitution, and proceedings of Scottish agricultural wages committees.

Third Schedule.—Orders of the Scottish Agricultural Wages Board.

Fourth Schedule.—Enactments Repealed.

An Act to consolidate the Agricultural Wages (Regulation) (Scotland) Acts, 1937 to 1947, and so much of the Holidays with Pay Act, 1938, as enables a wage regulating authority to make provision for holidays and holiday remuneration for workers in Agriculture in Scotland. [26th April 1949.]

**BE** it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows:—

*The Scottish Agricultural Wages Board and Agricultural Wages Committee.*

1.—(1) There shall be a Board, to be called the Scottish Agricultural Wages Board (in this Act referred to as "the Board") which shall have, in relation to each of the districts for which agricultural wages committees are established under the next following section, such functions with respect to the fixing of minimum rates of wages for workers employed in agriculture and of directing that such workers shall be entitled to be allowed holidays, and such other functions, as are conferred on the Board by the subsequent provisions of this Act.

The Scottish  
Agricultural  
Wages Board.

(2) In the exercise, in relation to a district, of their functions under this Act with respect to fixing, cancelling and varying rates of wages, reckoning benefits and advantages as payment of wages and the payment of premiums in respect of apprentices or learners, the Board shall, without prejudice to any other provision of this Act, have regard to representations made to them by the agricultural wages committee established under the next following section for the district.

(3) The provisions of the First Schedule to this Act shall have effect with respect to the constitution and proceedings of the Board.

2.—(1) Subject to the provisions of this Act, the Secretary of State shall, as soon as may be by order made by statutory instrument, divide Scotland into districts and shall establish an agricultural wages committee for each district:

Agricultural  
wages  
committees  
for districts.

Provided that, if in the case of each of the committees for two or more districts, there are passed resolutions in favour of varying the boundaries and numbers of these districts, the Secretary of State may, if he thinks it expedient, by order made by statutory instrument vary the boundaries and number of the districts into which Scotland is divided by this subsection and may make such provision as is necessary in consequence of any such variation, with regard to the establishment of committees for the districts affected by the variation.

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(2) The functions of agricultural wages committees under this Act shall, subject to the provisions of this and any order made thereunder, be exercised in accordance with any direction in that behalf given by the Board.

(3) A resolution for the purposes of the proviso to subsection (1) of this section that is passed at a meeting of an agricultural wages committee unanimously by such of the members thereof representing employers and such of the members thereof representing workers in agriculture as are present and voting shall be deemed, for the purposes of the said proviso, to be a resolution of those members.

(4) The provisions of the Second Schedule to this Act shall have effect with respect to the constitution and proceedings of agricultural wages committees.

#### *Wages and Holidays.*

Power of  
Scottish  
Agricultural  
Wages Board  
to fix  
rates of  
wages, and  
holidays.

3.—(1) Subject to and in accordance with the provisions of this section, the Board shall have power, for each district for which an agricultural wages committee is established under this Act,—

- (a) to fix minimum rates of wages for workers employed in agriculture ; and
- (b) to direct that any such workers shall be entitled to be allowed by their employers holidays of such duration as may be specified in the direction.

(2) The powers of the Board with respect to the fixing of minimum rates of wages as aforesaid shall be powers—

- (a) to fix minimum rates for time work ;
- (b) to fix minimum rates for piece work ;
- (c) to fix minimum rates for time work, to apply in the case of workers employed in piece work, for the purpose of securing to such workers a minimum rate of remuneration on a time work basis ;
- (d) to fix separate minimum rates by way of pay in respect of holidays ;

and the exercise by the Board of their powers under paragraph (a) of this subsection shall be obligatory :

Provided that the minimum time rate for piece work shall not in any case be higher than the minimum rate which, if the work were time work, would be applicable thereto by virtue of paragraph (a) of this subsection.

(3) A direction under paragraph (b) of subsection (1) of this section that a worker shall be entitled to be allowed a holiday shall not be given unless both minimum rates of wages in respect of the period of the holiday and minimum rates of wages otherwise than in respect of the holiday have been or are being fixed

under this section for that worker, shall provide for the duration of the holidays being related to the duration of the period for which the worker has been employed or engaged to be employed by the employer who is to allow the holiday and, subject as aforesaid, may make provision as to the times at which or the periods within which, and the circumstances in which, the holiday shall be allowed ; and the power to fix separate minimum rates of wages by way of pay in respect of holidays shall include power to make provision with respect to the times at which, and the conditions subject to which, those wages shall accrue and shall become payable, and for securing that any such wages which have accrued to a worker during his employment by any employer shall, in the event of his ceasing to be employed by that employer before he becomes entitled to be allowed a holiday by him, nevertheless become payable by the employer to the worker.

(4) Any such minimum rates may be fixed so as to vary according as the employment is for a day, week, month or other period, or according to the number of working hours, or the conditions of the employment, or so as to provide for a differential rate in the case of employment defined by the Board as being overtime employment, and, without prejudice to the generality of the preceding words, a minimum time rate for piece work may be fixed so as to provide for a differential rate for work done in such circumstances that, if it were time work, it would be treated as overtime for the purposes of the minimum rate applicable thereto by virtue of paragraph (a) of subsection (1) of this section.

In the exercise of their powers under this subsection, the Board shall, so far as is reasonably practicable, secure a weekly half-holiday for workers.

(5) The Board may, if they think it expedient, cancel or vary a minimum rate fixed or a direction as to holidays given under this section.

(6) The powers conferred on the Board by this section shall be exercised by order made in accordance with the provisions of the Third Schedule to this Act.

(7) Nothing in this section shall be construed as preventing the Board fixing or varying a minimum rate of wages so as to secure that workers receive remuneration calculated by reference to periods during the currency of their employment.

4.—(1) Subject to the provisions of this Act, if an employer fails—

(a) to pay to a worker to whom an order under the last preceding section applies wages at a rate not less than the minimum rate fixed by the order, or

Enforcement  
of wages and  
holidays  
orders.

- (b) to pay to any such worker, in respect of a holiday, wages at the times and subject to the conditions specified in the order, or
- (c) to allow to any such worker the holidays fixed by the order ;

he shall be liable on summary conviction in respect of each offence to a fine not exceeding twenty pounds and, in the case of an offence consisting of a failure to pay wages in accordance with the order, to a fine not exceeding one pound for each day on which the offence is continued after conviction ; and in any proceedings against an employer under this subsection in respect of a failure to pay wages at a rate not less than the minimum rate, the court shall, whether there is a conviction or not, order the employer to pay in addition to the fine, if any, such sum to the worker as may be found by the court to represent the difference between the amount which ought, at the minimum rate applicable, to have been paid to the worker by way of wages during the period of six months immediately preceding the date on which the complaint was served, and the amount actually so paid to him.

(2) Where proceedings are brought under the preceding subsection in respect of an offence consisting of a failure to pay wages to a worker at a rate not less than the minimum rate applicable, then, if notice of intention so to do has been served with the complaint—

(a) evidence may, on the employer's having been convicted of the offence, be given of any failure on the part of the employer to pay wages to that worker at not less than the minimum rate applicable to him at any time during the eighteen months immediately preceding the period of six months mentioned in the preceding subsection and

(b) on proof of the failure, the court may order the employer to pay to the worker such sum as is found by the court to represent the difference between the amount which ought, at the minimum rate applicable, to have been paid to the worker by way of wages during the said eighteen months and the amount actually so paid to him

(3) In any proceedings against a person under this section it shall lie with him to prove that he has paid wages at not less than the minimum rate or has allowed the holidays fixed by the order, as the case may be.

(4) The powers given by this section for the recovery of sums due from an employer to a worker shall not be in derogation of any right of the worker to recover such sums by any other proceedings.



5.—(1) If, on an application in that behalf, an agricultural wages committee are satisfied that a worker employed or desiring to be employed in their district on time work to which a minimum rate fixed under this Act is applicable, or on piece work to which a minimum time rate so fixed is applicable, is so affected by any physical injury or mental deficiency, or any infirmity due to age or to any other cause, that he is incapable of earning that minimum rate, the committee shall grant to him a permit exempting, as from the date of the application or from a later date specified in the permit, his employment from the provisions of the last preceding section relating to payment of wages at not less than the minimum rate, subject to such conditions as may be specified in the permit, including, if the committee think fit, a condition as to the wages to be paid to the worker, and, while the permit has effect, an employer shall not be liable to any legal proceedings under the last preceding section for failing to pay to the worker wages at a rate less than the minimum rate if those conditions are complied with.

Permits to infirm and incapacitated persons.

(2) If an application for a permit under the preceding subsection is not disposed of within twenty-one days after the day on which it is received, then the employer of the worker to whom the application relates shall not be liable to any legal proceedings under the last preceding section for failing to pay to the worker wages at a rate not less than the minimum rate during the interval between the expiration of the said period and the date on which the application is ultimately disposed of.

(3) Where an agricultural wages committee have granted a permit under subsection (1) of this section and at any time thereafter it appears to the committee, whether on an application under this subsection or otherwise, that the worker to whom the permit relates is no longer so affected by any such incapacity as is mentioned in the said subsection (1) as to be incapable of earning the minimum rate in question, the committee shall revoke the permit.

(4) Where an agricultural wages committee have granted such a permit as aforesaid and it appears to the committee, whether on an application under this subsection or otherwise, that by reason of any change in minimum rates of wages or in the circumstances of the worker to whom the permit relates it is expedient to vary any condition specified in the permit, the committee may direct that the condition shall be varied in such manner as may be specified in the direction.

(5) Before revoking any permit or varying any condition under the preceding provisions of this section an agricultural wages committee shall serve on the worker to whom the permit relates, and, in a case where the identity of his employer is known to the committee, on his employer, notice of their proposal so to do,

and afford to the worker and the employer (where such a notice as aforesaid is required to be served on him) an opportunity of making representations to the committee, and no such revocation or variation as aforesaid shall take effect until notice of the revocation or variation has been served by the agricultural wages committee on the worker to whom the permit relates and, in any case where the identity of his employer is known to the committee, on his employer.

A notice under this subsection shall be duly served on a person if sent to him by post in a registered letter.

(6) Where a permit granted to a worker under subsection (1) of this section contains a condition for the payment of wages to the worker at a rate not less than the rate therein specified, the amount of wages that may be recovered from an employer of the worker in pursuance of this Act shall, as respects any period during which the permit had effect, be calculated on the basis of the rate so specified instead of on the basis of the minimum rate.

Provisions  
as to learners.

6.—(1) Where a minimum rate of wages has been fixed under this Act for a special class of workers defined by reference to the fact that they are in receipt of instruction in agriculture, and the order fixing the rate provides that this section shall have effect in relation thereto, the rate shall not apply in relation to a worker unless there is in force a certificate given by the agricultural wages committee for the district in which the worker is employed that they approve the terms of his employment.

A certificate under this subsection may provide that it shall be deemed to have been in force from such date not earlier than the making to the agricultural wages committee of the application for the certificate as may be specified in the certificate.

(2) An agricultural wages committee in granting an application for a certificate under the last foregoing subsection may impose such conditions as appear to them requisite for securing that the worker to whom the application relates shall receive adequate instruction, and that the terms of his employment shall be in other respects satisfactory, and if (whether on an application under this subsection or otherwise) it appears to the committee that a condition imposed under this subsection is not being complied with, or that the terms of the worker's employment are no longer satisfactory, they may revoke the certificate.

(3) An agricultural wages committee may (whether on an application under this subsection or otherwise) vary a condition imposed under the last preceding subsection.

(4) Before revoking a certificate or varying a condition under the foregoing provisions of this section an agricultural wages committee shall serve on the worker to whom the certificate relates and on his employer notice of their proposal so to do, and afford to the worker and employer an opportunity of making representations to the committee, and no such revocation or variation as aforesaid shall take effect until notice of the revocation or variation has been served by the agricultural wages committee on the worker to whom the certificate relates and on his employer.

A notice under this subsection shall be duly served on a person if sent to him by post in a registered letter.

(5) It shall not be lawful for the employer of a worker, being an apprentice or learner, who is employed in agriculture in a district for which an agricultural wages committee is established under this Act to receive directly or indirectly from the worker, or on his behalf or on his account, a payment by way of premium unless the payment is duly made in pursuance of an agreement approved for the purposes of this subsection by the agricultural wages committee, and the amount of a payment received in contravention of this subsection shall be recoverable by the person by whom the payment was made.

(6) If an employer acts in contravention of the last preceding subsection, he shall be liable on summary conviction in respect of each offence to a fine not exceeding twenty pounds, and in any proceedings against an employer under this subsection the court shall, whether there is a conviction or not, order the employer to repay any sum which the court finds to have been received by way of premium in contravention of the last preceding subsection.

(7) Nothing in the last preceding subsection shall be taken to exclude the bringing otherwise than in accordance with that subsection of proceedings for the recovery of an amount due under subsection (5) of this section.

(8) The Board may by order made in accordance with the provisions of the Third Schedule to this Act specify matters with respect to which an agricultural wages committee must be satisfied before granting a certificate under subsection (1) of this section or approving an agreement for the purposes of subsection (5) thereof.

7.—(1) The Board shall have power, for each district for which an agricultural wages committee is established under this Act, by order made in accordance with the provisions of the Third Schedule to this Act—

Reckoning of benefits and advantages as payment of wages.

(a) to define the benefits or advantages (not being benefits or advantages prohibited by law) which for the purposes of a minimum rate of wages fixed under this

Act may be reckoned as payment of wages in lieu of payment in cash ;

- (b) to determine the value at which, for the purposes aforesaid, such benefits or advantages may be so reckoned ;
- (c) to limit or prohibit the reckoning for the purposes aforesaid of benefits or advantages as payment of wages in lieu of payment in cash.

(2) Subject to the provisions of any order under the preceding subsection, the court shall, in any proceedings under this Act, reckon as a payment of wages such amount as in the opinion of the court represents the value of any benefits or advantages (not being benefits or advantages prohibited by law) received by a worker under the terms of his employment.

(3) If an agricultural wages committee are satisfied, on an application in that behalf made by a worker employed in agriculture in their district or by his employer, that the value determined by an order or direction under this section for a house or part of a house occupied as a separate dwelling by the worker does not correspond with the true value thereof, the committee may, subject to any limits imposed by the Board by order made in accordance with the provisions of the Third Schedule to this Act, direct that the value of the house or part of a house is to be reckoned for the purposes of a minimum rate of wages fixed under this Act at such different amount as may be specified in the direction.

Power of agricultural wages committee to award additional wages for piece work in certain cases.

8.—(1) A worker employed in agriculture in a district on piece work for which neither a minimum piece rate nor a minimum time rate applicable in the case of workers employed on piece work has been fixed, or any person authorised by such a worker, may complain to the agricultural wages committee for that district that the piece rate of wages paid to the worker for that work is such a rate as would yield in the circumstances of the case to an ordinary worker a less amount of wages than the minimum rate for time work applicable in the case of that worker, and the committee may, on any such complaint, after giving the employer an opportunity of making such representations as he thinks desirable, direct that the employer shall pay to the worker such additional sum by way of wages for any piece work done by him at that piece rate at any time within fourteen days before the date of the complaint, or at any time after the date of the complaint and before the decision of the committee thereon, as in their opinion represents the difference between the amount which would have been paid if the work had been done by an ordinary worker at the minimum rate for time work and the amount actually received by the worker by whom or on whose behalf the complaint is made.

(2) A sum directed to be paid under the preceding subsection may be recovered by or on behalf of the worker from the employer as a civil debt.

9.—(1) The procedure to be followed on or in connection with applications and complaints under any of the four last preceding sections to agricultural wages committees and sub-committees thereof shall be such (if any) as may be prescribed.

Provisions as to applications, &c., to agricultural wages committees.

(2) The Secretary of State may, out of moneys provided by Parliament, pay to persons attending as parties or witnesses before agricultural wages committees and sub-committees thereof allowances by way of compensation for expenses incurred and time lost by such persons in so attending, at such rates as he may with the approval of the Treasury, determine, and all such payments made under this subsection shall be defrayed as part of the expenses of the Secretary of State in carrying this Act into effect.

10.—(1) Where an offence for which an employer is under section four or subsection (6) of section six of this Act liable to a fine has in fact been committed by some agent of the employer or other person, that agent or other person shall be liable to be proceeded against for the offence in the same manner as if he were the employer and either together with, or before or after the conviction of, the employer, and shall be liable on conviction to the same punishment as that to which the employer is liable.

Criminal liability of agents and special defence open to employer.

(2) Where an employer who is charged with an offence under section four or subsection (6) of section six of this Act proves to the satisfaction of the court that he has used due diligence to secure compliance with the relevant provisions of this Act, and that the offence was in fact committed by his agent or some other person, without his knowledge, consent or connivance, he shall, in the event of the conviction of that agent or other person for the offence, be exempt from any conviction in respect of the offence.

11.—(1) Any such agreement as the following shall be void, that is to say—

Avoidance of agreements in contravention of this Act and saving for other agreements, &c.

(a) an agreement for the payment of wages in contravention of this Act, or for abstaining from exercising a right of enforcing the payment of wages in accordance with this Act ;

(b) an agreement as to holidays that is inconsistent with a direction of the Board in that behalf, or for abstaining from exercising the right to holidays conferred by any such direction.

(2) Nothing in this Act shall prejudice the operation of an agreement or custom for the payment of wages at a rate higher than the minimum rate fixed under this Act or an agreement or custom as to holidays that is not inconsistent with a direction of the Board in that behalf.

*Supplementary.***Officers.**

12.—(1) The Secretary of State may, subject to the consent of the Treasury as to number, appoint such officers as he thinks necessary for the purpose of investigating complaints and otherwise securing the proper observance of this Act.

(2) Every officer appointed under this section shall be furnished by the Secretary of State with a certificate of his employment, and when acting under or exercising any power conferred upon him by this Act shall, if so required, produce the certificate to any person or persons affected.

(3) An officer so appointed shall have power—

- (a) after giving reasonable notice, to require the production of and to inspect and take copies of wages sheets or other records of wages paid to workers employed in agriculture ;
- (b) to enter at all reasonable times any premises or place for the purpose of such inspection or for the enforcement of this Act, but in the case of a dwelling-house not without giving reasonable notice ; and
- (c) to require any such worker, or the employer of any such worker, or any agent of the employer, to give any information which it is in his power to give with respect to the employment of the worker or the wages paid to him.

(4) Where it appears to the Secretary of State—

- (a) that a sum is due from an employer to a worker on account of the payment of wages to him at less than the minimum rate applicable or by reason of a direction given under subsection (1) of section eight of this Act by an agricultural wages committee for the payment of an additional sum by way of wages for piece work ; or
- (b) that a sum is due from an employer on account of the receipt of a premium in contravention of subsection (5) of section six of this Act ;

the Secretary of State may institute, on behalf of or in the name of the worker, civil proceedings before any competent court of jurisdiction for the recovery of the sum in question, and in any such civil proceedings instituted by the Secretary of State the court shall, if the Secretary of State is not a party to the proceedings, have the same power to make an order for the payment of expenses by the Secretary of State as if he were a party to the proceedings.

(5) Nothing in the last preceding subsection shall be taken to exclude the bringing otherwise than in accordance with that subsection proceedings for the recovery of any such sum as is therein mentioned.

(6) If any person—

- (a) hinders or molests an officer acting in the exercise of his powers under subsection (3) of this section ; or
- (b) refuses to produce any document or give any information which an officer so acting lawfully requires him to produce or give ; or
- (c) produces or causes to be produced or knowingly allows to be produced to an officer so acting any wages sheet, record or other document which is false in a material particular, knowing the document to be false ; or
- (d) furnishes to an officer so acting any information knowing it to be false,

he shall be liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

13. The Secretary of State shall include in the annual report made in pursuance of subsection (2) of section four of the Small Landholders (Scotland) Act, 1911, a report of his proceedings under this Act and of the proceedings of the Board and of agricultural wages committees, and for that purpose the Board and each committee shall, before such date in every year as the Secretary of State may fix, send to the Secretary of State a report of their proceedings under this Act during the preceding year.

Annual reports.  
1 & 2 Geo. 5.  
c. 49.

14. Such expenses of the Secretary of State in carrying this Act into effect as the Treasury may determine, and any expenses authorised by the Secretary of State, with the consent of the Treasury, to be incurred by the Board or an agricultural wages committee or sub-committee thereof shall be defrayed out of moneys provided by Parliament.

Expenses.

15. In any legal proceedings the production of a document purporting to be a copy of a resolution or order passed or made by the Board or an agricultural wages committee and to be certified by the chairman or secretary of the Board or committee, as the case may be, to be a true copy shall be sufficient evidence of the order or resolution and, in the case of an order, that any notices required to be given by this Act in relation thereto have been duly given, and no proof shall be required of the handwriting or official position of the person certifying the truth of the copy.

Evidence of resolutions and orders of the Board and agricultural wages committees.

16.—(1) The Secretary of State may make regulations for giving effect to the purposes of, and modifying, this Act so far as it relates to holidays and minimum rates of wages by way of pay in respect of holidays, and for excluding, in relation to those matters or either of them, the operation of all or any of the provisions of sections four and ten to thirteen of this Act and paragraph (5) of the Third Schedule thereto.

Power to give effect to, and modify, Act as respects holidays and holiday remuneration.

(2) The power conferred by this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Interpretation.** 17. In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say,—

“agriculture” includes dairy-farming, the production of any consumable produce which is grown for sale or for consumption or other use for the purposes of a trade or business or of any other undertaking (whether carried on for profit or not), and the use of land as grazing, meadow or pasture land or orchard or woodland or for market gardens or nursery grounds ;

“consumable produce” means produce grown for consumption or for other use after severance from the land on which it is grown ;

“employment” means employment under a contract of service or apprenticeship, and the expressions “employed” and “employer” shall be construed accordingly ;

“prescribed” means prescribed by regulations made by the Secretary of State by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament ;

“worker” includes a boy, woman and girl.

**Repeal and savings.**

18.—(1) The enactments mentioned in the first and second columns of the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(2) Nothing in this Act shall affect any order, regulation or complaint made, permit granted, resolution passed, direction, certificate or approval given, application made or granted, notice served or given, date fixed or any other thing done, under an enactment repealed by this Act, but any such order, regulation, complaint, permit, resolution, direction, certificate, approval, application, notice, date or thing shall, if in force at the passing of this Act, continue in force, and so far as it could have been made, granted, passed, given, served, fixed or done under the corresponding provisions of this Act, it shall have effect as if it had been made, granted, passed, given, served, fixed or done under that corresponding provision and, in the case of an approval, had been given for the purposes of that provision.

(3) Any document referring to an enactment repealed by this Act shall be construed as referring to the corresponding provision of this Act.



(4) Any person holding office or acting or serving under or by virtue of an enactment repealed by this Act shall continue to hold his office or to act or serve as if he had been appointed or authorised under or by virtue of the corresponding provision of this Act.

(5) Where an offence, being an offence for the continuance of which a penalty was provided, has been committed under an enactment repealed by this Act, proceedings may be taken under this Act in respect of the continuance of the offence in the same manner as if the offence had been committed under the corresponding provision of this Act.

(6) Where an enactment repealed and re-enacted by this Act provides for the doing of some act within, or not earlier than the expiration of, a specified period from the giving of a notice, and the commencement of this Act falls within the period applicable to the giving of a particular notice, the repeal and re-enactment shall be deemed to have taken effect in relation to that notice immediately before the giving thereof.

(7) The mention of particular matters in this section shall not be taken to affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals. 52 & 53 Vict.  
c. 63.

19. This Act may be cited as the Agricultural Wages (Scotland) Act, 1949, and shall extend to Scotland only. Short title  
and extent.

## SCHEDULES.

### FIRST SCHEDULE.

Section 1.

#### CONSTITUTION AND PROCEEDINGS OF THE SCOTTISH AGRICULTURAL WAGES BOARD.

1. The Board shall consist of—

- (a) six persons representing employers and six persons (of whom one at least shall be a woman) representing workers in agriculture to be nominated in the prescribed manner or elected in the prescribed manner according as may be prescribed; and  
(b) five persons to be appointed by the Secretary of State.

2. The Secretary of State shall designate as chairman of the Board one of the members thereof appointed by him.

3. At every meeting of the Board the chairman, if present, shall preside and, if he is absent, such of the other members appointed by the Secretary of State as the members of the Board then present choose shall preside.

4. The Secretary of State may appoint a secretary for the Board.

1ST SCH.  
—cont.

5. The Board may, in accordance with regulations made by the Secretary of State by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament, appoint one or more committees consisting of members representing employers and members representing workers in agriculture in equal proportions, and of one or more of the appointed members, and may refer to any such committee for report and recommendations any matter which they think it expedient so to refer, and may also, if they think fit, delegate to any such committee any of their powers and duties under this Act other than a power or duty to fix, cancel or vary minimum rates of wages or to direct that workers shall be entitled to be allowed holidays.

6. The proceedings of the Board or of a committee thereof shall not be invalidated by a vacancy therein or by a defect in the nomination, election or appointment of the chairman or other member of the Board or of a member of the committee.

7. The Secretary of State may, by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament, make regulations with respect to the proceedings and meetings of the Board and of any committee thereof, including the appointment of the chairman of the Board and the term of office of the chairman and other members of the Board and the members of committees, the method of voting and the number of members necessary to form a quorum, and any such regulations as to committees may be made so as to apply generally to the procedure of all committees or specially to the procedure of any particular committee ; but subject to the provisions of this Schedule and to any regulations so made, the Board and any committee thereof may, respectively, regulate their proceedings in such manner as they think fit.

8. The Secretary of State may, out of moneys provided by Parliament, pay to the members of the Board such allowances by way of compensation for expenses incurred and time lost by them in the performance of their duties as he may, with the consent of the Treasury, determine.

Section 2.

## SECOND SCHEDULE.

### CONSTITUTION AND PROCEEDINGS OF SCOTTISH AGRICULTURAL WAGES COMMITTEES.

1. An agricultural wages committee shall consist of not more than eight and not less than five persons representing employers and an equal number of persons representing workers in agriculture in the district (in this Schedule referred to as representative members), of two impartial persons appointed by the Secretary of State and of a chairman,

2. The representative members of the committee shall be nominated in the prescribed manner or elected in the prescribed manner, according as may be prescribed.

2ND SCH.  
—cont.

3.—(1) The chairman of an agricultural wages committee shall be appointed annually by the representative members of the committee.

Provided that if the representative members of the committee at any time fail to appoint a chairman within such period as may be prescribed, the appointment may be made by the Secretary of State.

(2) The representative members of a committee may nominate one or more persons for the office of vice-chairman, and the chairman may from time to time appoint one of those persons to act in his place as vice-chairman in his absence.

(3) A representative member of a committee shall not be qualified to be appointed chairman or vice-chairman of the committee of which he is a member.

4. At every meeting of an agricultural wages committee the chairman, if present, shall preside. If the chairman is absent, the vice-chairman, if present, shall preside. If both the chairman and vice-chairman are absent, such member as the members then present choose shall preside.

5. The Secretary of State may appoint a secretary for an agricultural wages committee.

6.—(1) At a meeting of an agricultural wages committee the chairman or a vice-chairman presiding at the meeting in his absence shall be entitled to vote, and in case of an equality of votes shall have a second or casting vote, but before exercising his right to vote the chairman or vice-chairman, if so authorised by a resolution of the members of the committee representing employers and the members thereof representing workers, may obtain the advice of the Board or a committee thereof as to the exercise of such right, and may adjourn the meeting in order to enable him to do so.

(2) A resolution for the purposes of the preceding subparagraph that is passed at a meeting of an agricultural wages committee unanimously by such of the members thereof representing employers and such of the members thereof representing workers in agriculture as are present and voting shall be deemed, for those purposes, to be a resolution of those members.

7.—(1) An agricultural wages committee may, in accordance with regulations made by the Secretary of State by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament, appoint one or more sub-committees consisting of persons representing employers and persons representing workers in agriculture in the district in equal proportions, and of a chairman, if the committee think fit, and the committee may refer to any such sub-committee for report and recommendations any matter which they think it expedient so to refer, and may also, if they think fit, delegate to any such sub-committee any of their powers and duties under this Act.

(2) The members of a sub-committee may, but need not, be members of the committee by which the sub-committee is appointed.

8. The proceedings of an agricultural wages committee or of a sub-committee thereof shall not be invalidated by a vacancy therein or by a defect in the appointment, nomination or election of the chairman, vice-chairman or other member of the committee or sub-committee.

2ND SCH.  
—cont.

9. The Secretary of State may make regulations with respect to the proceedings and meetings of agricultural wages committees and sub-committees thereof, including the appointment of chairmen and the term of office of chairmen and other members, the method of voting and the number of members necessary to form a quorum, and any such regulations may be made so as to apply generally to the procedure of all committees or sub-committees or specially to the procedure of any particular committee or sub-committee ; but, subject to the provisions of this Schedule and to any regulations so made, an agricultural wages committee and a sub-committee thereof may respectively regulate their proceedings in such manner as they think fit.

10. The Secretary of State may, out of moneys provided by Parliament, pay to the members of an agricultural wages committee and the members of a sub-committee thereof such allowances by way of compensation for expenses incurred and time lost by them in the performance of their duties as he may, with the consent of the Treasury, determine.

### THIRD SCHEDULE.

#### ORDERS OF THE SCOTTISH AGRICULTURAL WAGES BOARD.

Sections 3, 6, 7,  
16.

1. Where the Board propose to make an order under any provision of this Act, the Board shall—

- (a) give, in such manner as appears to the Board requisite for informing persons concerned, public notice of the proposed order and of the manner in which and the time (not being less than fourteen days from the date of the notice) within which objections to the proposals may be lodged ;
- (b) serve a like notice by post on the agricultural wages committee for the district to which the order relates ;

and shall consider any objections to the proposals which may be lodged in accordance with the notice.

2. After considering any such objections the Board may make an order in accordance with their original proposals or with those proposals as modified in such manner as appears to the Board expedient having regard to any objections lodged :

Provided that where it appears to the Board that, having regard to the nature of any modifications which they propose to make in their original proposals, opportunity should be given for the consideration thereof by persons concerned, the Board shall again give and serve notice under the foregoing paragraph, and this paragraph shall apply accordingly.

3. Notwithstanding anything in the foregoing paragraphs of this Schedule, where the Board are satisfied that on the ground of the limited application of a proposed order it is unnecessary to comply with the provisions of those paragraphs and certify accordingly, the Board may, instead of complying with those provisions, give notice of the proposed order in such manner as appears to the Board expedient in the circumstances, and may make the order at any time after the expiration of seven days from the giving of the notice.

4. As soon as may be after the Board have made an order under any provision of this Act they shall give public notice of the making of the order and of the contents thereof in such manner as appears to the Board requisite for informing persons concerned, and serve a like notice by post on the agricultural wages committee for the district to which the order relates.

3RD SCH.  
—cont.

5. An order of the Board under any provision of this Act may apply either universally to all workers employed in agriculture in the district to which the order relates or to any special class of workers (as defined in the order) so employed, or to any special area in that district or to any such special class in such a special area, subject in each case to any exceptions specified in the order; and an order of the Board fixing or varying a minimum rate of wages so as to secure that workers employed in agriculture receive remuneration calculated by reference to periods during the currency of their employment may make alternative provisions applying according to different circumstances arising during the currency of a worker's employment or in connection with the termination thereof.

6. Without prejudice to the provisions of this Act as to the cancellation and variation of minimum rates of wages and directions as to holidays, an order of the Board made under any provision of this Act may be varied or revoked by a subsequent order made in the like manner and subject to the like conditions.

#### FOURTH SCHEDULE.

##### ENACTMENTS REPEALED.

Section 18.

| Session and Chapter.           | Short Title.                                              | Extent of Repeal.                                                                           |
|--------------------------------|-----------------------------------------------------------|---------------------------------------------------------------------------------------------|
| 1 Edw. 8 &<br>1 Geo. 6. c. 53. | The Agricultural Wages (Regulation) (Scotland) Act, 1937. | The whole Act.                                                                              |
| 1 & 2 Geo. 6.<br>c. 70.        | The Holidays with Pay Act, 1938.                          | Sections one, two, three and five so far as they relate to workers employed in agriculture. |
| 10 & 11 Geo. 6.<br>c. 15.      | The Agricultural Wages (Regulation) Act, 1947.            | The whole Act.                                                                              |



**CHAPTER 31***Water (Scotland) Act, 1949*

## ARRANGEMENT OF SECTIONS

## PART I

## WATER RATES

## Section.

1. Levy of rates in respect of expenditure on water supply.
2. Provisions as to liability for domestic water rate.
3. Levy of domestic water rate on agricultural subjects.
4. Levy of domestic water rate on business and commercial premises.
5. Levy of domestic water rate on certain public utility undertakings, mines, parks, etc.
6. Levy of domestic water rate on shootings and fishings.
7. Temporary adjustment of water rates as between owners and occupiers.
8. Contributions by county council in aid of domestic water rate.
9. Dissolution of special water supply districts.
10. Expenses of joint water boards.
11. Expenses of local authority supplying water in district of another authority.
12. Provisions supplementary to ss. 10 and 11.
13. Temporary provisions as to defrayal of expenses where requisite information, etc., not available.
14. Adoption in counties of the House Letting and Rating (Scotland) Act, 1911.
15. Ss. 72 and 73 of 10 & 11 Vict. c. 17, as incorporated in local Acts, to cease to have effect.
16. Provisions as to valuation roll.
17. Transport and electricity hereditaments.
18. Provisions as to moneys borrowed on security of rates.
19. Domestic water rate not payable, or payable at reduced rate, in certain cases.
20. Provisions as to levying of, and exemptions from, rates.

## PART II

## EXCHEQUER GRANTS FOR WATER SUPPLIES

21. Exchequer contributions towards expenses of local authorities for rural water supplies and sewerage.

## PART III

PROVISIONS AS TO THE SUPPLY OF WATER AND AMENDMENTS OF  
THE WATER (SCOTLAND) ACT, 1946

22. Provisions as to orders under s. 16 of the principal Act.
23. Compulsory acquisition of land for construction of waterworks.
24. Power to survey and search for water on land proposed to be purchased.
25. Charges for water supplied by meter.
26. Provisions as to supply of water to agricultural subjects.
27. Charge not to be made for provision, etc., of small meters.
28. Termination of right to supply of water on special terms.
29. Limitation of liability of local water authority to supply water on special terms.
30. Amendment of s. 21 of the principal Act.
31. Amendment of s. 24 of the principal Act.

## Section.

32. Provisions as to authorities combined under s. 14, s. 15 or s. 16 of the principal Act.
33. Limits of supply of certain burghs.
34. Amendment of definition of "communication pipe," &c.
35. Miscellaneous provisions.
36. Minor and consequential amendments.

PART IV  
GENERAL

37. Expenses.
38. Provisions as to local enactments.
39. Interpretation, construction and repeals.
40. Citation and extent.

## SCHEDULES:

First Schedule.—Orders under section 16, section 21 or section 42 of the principal Act authorising compulsory acquisition of land.

Second Schedule.—Enactments repealed.

An Act to amend the law with respect to rating and charging for water supplies in Scotland; to amend Part V of the Local Government Act, 1948, with respect to the ascertainment of the standard amounts thereunder in Scotland; to increase the financial assistance that may be given to local authorities in Scotland under the Rural Water Supplies and Sewerage Act, 1944; to amend the Water (Scotland) Act, 1946; and for purposes connected with the matters aforesaid.

[11th May 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART I

## WATER RATES

1.—(1) Subject to the provisions of this Part of this Act, as from the appointed day the expenditure incurred by a local authority in the exercise of any of their functions under any enactment in relation to water supply in their district shall, in so far as not met otherwise, be defrayed as to such portion thereof, not exceeding one-third and not less than one-fifth, as the authority may determine, out of the county rate or the burgh rate, as the case may be, and as to the remainder out of a rate to be levied as hereafter in this Act provided.

Levy of rates in respect of expenditure on water supply.

(2) The portion of the county rate or of the burgh rate levied under the foregoing subsection shall be payable by owners and

PART I  
—cont.

occupiers in equal proportions and is hereafter in this Act referred to as “ the public water rate ”.

(3) For the purpose of defraying the remainder of the expenditure mentioned in subsection (1) of this section, the local authority shall, subject to the provisions of this Part of this Act, levy annually within their district a rate (hereafter in this Act referred to as “ the domestic water rate ”) which, notwithstanding anything in any other enactment, shall be levied as a separate rate and shall be payable by occupiers only.

Provisions as  
to liability for  
domestic  
water rate.

2.—(1) Subject to the provisions of this Part of this Act, the domestic water rate shall be levied by the local authority in respect of all lands and heritages within their district according to the gross annual value of such lands and heritages.

(2) The domestic water rate shall not be leviable in respect of any premises, being lands and heritages situated within the district of a local authority, unless—

- (a) in the case of a dwelling house, a sufficient supply of wholesome water provided by a local water authority for domestic purposes is provided in pipes within the house or within the premises in which the house is comprised ;
- (b) in the case of premises being agricultural lands and heritages, a sufficient supply of wholesome water provided by a local water authority for domestic purposes is provided in pipes within some dwelling house comprised in the premises ; and
- (c) in the case of any other premises, a supply of water provided by a local water authority is used for any purpose for or in connection with which the premises are used or by or for persons employed or otherwise engaged on or about the premises in connection with such purpose.

(3) Where premises are for the first time provided with a supply of water otherwise than on the first day of a rating year, the occupier of the premises shall be liable to pay in respect of that year such part only of the domestic water rate which would be leviable if a supply had been provided throughout that year as is proportionate to the part of that year which had not elapsed when the supply was provided.

(4) This section shall not apply to lands and heritages being a holding within the meaning of the Small Landholders (Scotland) Acts, 1886 to 1931.

Levy of  
domestic  
water rate on  
agricultural  
subjects.

3. Where the domestic water rate is leviable in respect of any premises being agricultural lands and heritages, the domestic water rate shall, subject to the provisions of subsection (5) of



section sixteen of this Act, be levied according to the gross annual value (ascertained as hereafter in this Act provided) of any dwelling house or dwelling houses comprised in the premises and provided with a supply of water by a local water authority.

**PART I**  
—cont.

4.—(1) Where the domestic water rate is leviable in respect of lands and heritages being premises to which this section applies, it shall be levied according to one-half of the gross annual value thereof:

Levy of domestic water rate on business and commercial premises.

Provided that if the local authority so resolve not later than the fifteenth day of July in any year with respect to any particular premises such as aforesaid this subsection shall have effect in that year in relation to those premises with the substitution for one-half of such other fraction, not exceeding one-half and not less than one-quarter, as may be specified in the resolution.

(2) Where a supply of water is provided to any premises to which this section applies and which are entered in the valuation roll at a gross annual value exceeding such amount as the local authority may from time to time determine, the occupier thereof shall have the option of taking the supply by meter, and if he exercises that option the domestic water rate shall be leviable in respect of the premises according to a gross annual value of such amount as the local authority may have determined as aforesaid.

(3) Where the domestic water rate is leviable in respect of lands and heritages being premises to which this section applies and which are occupied partly as a dwelling house, the domestic water rate shall, subject to the provisions of subsection (5) of section sixteen of this Act, be levied on the part occupied as a dwelling house according to the gross annual value (ascertained as hereafter in this Act provided) of that part, and on the remainder of the premises in accordance with the provisions of this section.

(4) This section applies to lands and heritages being premises occupied wholly or partly as a shop, offices, a warehouse, factory, cinematograph theatre, theatre, town hall, dance hall or concert hall, and such other premises not being premises occupied wholly as a dwelling house or such premises as are mentioned in the last foregoing section or in either of the two next succeeding sections of this Act as the local authority may from time to time resolve.

5. Where the domestic water rate is leviable in respect of premises being lands and heritages occupied as waterworks, gas works or sewage works, or as a mine or a quarry, or as a public park or recreation ground, it shall be levied according to one-quarter of the gross annual value thereof.

Levy of domestic water rate on certain public utility undertakings, mines, parks, etc.

PART I  
—cont.

Levy of domestic water rate on shootings and fishings.

6. Where the domestic water rate is leviable in respect of premises being lands and heritages occupied as shootings or as fishings it shall be levied according to one-eighth of the gross annual value thereof.

Temporary adjustment of water rates as between owners and occupiers.

7. Where by reason of the provisions of section one of this Act the total amount which would, apart from the provisions of this section, fall to be defrayed by a local authority out of rates levied by them on owners in the year commencing on the appointed day in respect of expenditure incurred in the provision of a supply of water is less than the total amount which fell to be so defrayed in the year immediately preceding that day, then, in the year commencing on that day and in each of the four succeeding years, the total amount to be levied by that authority on owners liable in payment of the county rate or the burgh rate, as the case may be, shall be increased, and the total amount to be levied on occupiers liable in payment of the domestic water rate shall be decreased, by an amount equal to the difference between the amounts aforesaid, and the county rate or the burgh rate and the domestic water rate shall, in each of those five years, be adjusted and levied accordingly.

Contributions by county council in aid of domestic water rate.

8.—(1) If in any year it appears to a local authority being the council of a county that by reason of the cost of works undertaken or to be undertaken in connection with the provision or improvement of a supply of water in their district or by reason of the foregoing provisions of this Part of this Act requiring a major portion of the rate-borne expenditure of the authority in providing a supply of water to be defrayed out of a domestic water rate payable by occupiers only, the financial burden imposed or to be imposed on occupiers in their district is greater than they can reasonably be expected to bear unaided, the authority may with the approval of the Secretary of State in that year defray such part of the cost of providing or improving the supply of water in their district in such manner as appears to them equitable, and where part of such cost is defrayed out of rates it shall be defrayed out of the county rate.

(2) Subsection (2) of section two hundred and thirty-seven of the Local Government (Scotland) Act, 1947 (which subsection relates to the information required to be contained in demand notes for payment of rates) shall have effect as if expenditure under this section were a branch of expenditure prescribed by the Secretary of State for the purposes of paragraph (f) of that subsection.

Dissolution of special water supply districts.

9.—(1) On the appointed day all special water supply districts shall be dissolved.

(2) The Secretary of State shall by regulations provide for the payment by the council of the county within which any such special district was situated, subject to such exceptions or conditions as may be specified in the regulations, of compensation to persons who were, or who, but for any war service in which they have been engaged, would have been, officers or servants employed for the purposes of the special district who suffer loss of employment or loss or diminution of emoluments which is attributable to the dissolution of the special district; and the regulations shall include provision as to the manner in which and the persons to whom any claim for compensation under this subsection is to be made and for the determination of all questions arising under the regulations.

In this subsection the expression "war service" means service in any of His Majesty's Forces, and such other employment as may be prescribed by regulations of the Secretary of State.

(3) During such period (not exceeding ten years) commencing on the appointed day as the county council may think proper, the domestic water rate shall be payable within the areas which formed the special districts dissolved under this section or any of them at such different amounts per pound from the amount per pound at which the domestic water rate would otherwise be payable, as the county council may from year to year determine to be equitable; and after the expiry of such period the domestic water rate shall be payable at a uniform amount per pound throughout the landward area of the county.

(4) The provisions of the last foregoing subsection shall, if the county council so determine, apply in relation to any part of the landward area which is constituted by a local enactment as a water supply area and in which immediately before the appointed day a domestic water rate was payable by owners and occupiers in equal proportions, in like manner as they apply in relation to areas which formed the special districts dissolved under this section.

(5) Notwithstanding the dissolution under this section of the special water supply districts, section forty-five of the Local Government (Scotland) Act, 1894 (which provides for distinguishing in the valuation roll lands and heritages in special water supply districts and for the separate valuation of portions of undertakings within such districts) shall, during such period as may be necessary for the purposes of subsection (3) of this section, continue to have effect in relation to areas which formed the special districts so dissolved.

(6) Where immediately before the appointed day a local water authority are entitled under any enactment or agreement to take a supply of water from any stream or other source for the purpose

and afford to the worker and the employer (where such a notice as aforesaid is required to be served on him) an opportunity of making representations to the committee, and no such revocation or variation as aforesaid shall take effect until notice of the revocation or variation has been served by the agricultural wages committee on the worker to whom the permit relates and, in any case where the identity of his employer is known to the committee, on his employer.

A notice under this subsection shall be duly served on a person if sent to him by post in a registered letter.

(6) Where a permit granted to a worker under subsection (1) of this section contains a condition for the payment of wages to the worker at a rate not less than the rate therein specified, the amount of wages that may be recovered from an employer of the worker in pursuance of this Act shall, as respects any period during which the permit had effect, be calculated on the basis of the rate so specified instead of on the basis of the minimum rate.

Provisions  
as to learners.

6.—(1) Where a minimum rate of wages has been fixed under this Act for a special class of workers defined by reference to the fact that they are in receipt of instruction in agriculture, and the order fixing the rate provides that this section shall have effect in relation thereto, the rate shall not apply in relation to a worker unless there is in force a certificate given by the agricultural wages committee for the district in which the worker is employed that they approve the terms of his employment.

A certificate under this subsection may provide that it shall be deemed to have been in force from such date not earlier than the making to the agricultural wages committee of the application for the certificate as may be specified in the certificate.

(2) An agricultural wages committee in granting an application for a certificate under the last foregoing subsection may impose such conditions as appear to them requisite for securing that the worker to whom the application relates shall receive adequate instruction, and that the terms of his employment shall be in other respects satisfactory, and if (whether on an application under this subsection or otherwise) it appears to the committee that a condition imposed under this subsection is not being complied with, or that the terms of the worker's employment are no longer satisfactory, they may revoke the certificate.

(3) An agricultural wages committee may (whether on an application under this subsection or otherwise) vary a condition imposed under the last preceding subsection.

(4) Before revoking a certificate or varying a condition under the foregoing provisions of this section an agricultural wages committee shall serve on the worker to whom the certificate relates and on his employer notice of their proposal so to do, and afford to the worker and employer an opportunity of making representations to the committee, and no such revocation or variation as aforesaid shall take effect until notice of the revocation or variation has been served by the agricultural wages committee on the worker to whom the certificate relates and on his employer.

A notice under this subsection shall be duly served on a person if sent to him by post in a registered letter.

(5) It shall not be lawful for the employer of a worker, being an apprentice or learner, who is employed in agriculture in a district for which an agricultural wages committee is established under this Act to receive directly or indirectly from the worker, or on his behalf or on his account, a payment by way of premium unless the payment is duly made in pursuance of an agreement approved for the purposes of this subsection by the agricultural wages committee, and the amount of a payment received in contravention of this subsection shall be recoverable by the person by whom the payment was made.

(6) If an employer acts in contravention of the last preceding subsection, he shall be liable on summary conviction in respect of each offence to a fine not exceeding twenty pounds, and in any proceedings against an employer under this subsection the court shall, whether there is a conviction or not, order the employer to repay any sum which the court finds to have been received by way of premium in contravention of the last preceding subsection.

(7) Nothing in the last preceding subsection shall be taken to exclude the bringing otherwise than in accordance with that subsection of proceedings for the recovery of an amount due under subsection (5) of this section.

(8) The Board may by order made in accordance with the provisions of the Third Schedule to this Act specify matters with respect to which an agricultural wages committee must be satisfied before granting a certificate under subsection (1) of this section or approving an agreement for the purposes of subsection (5) thereof.

7.—(1) The Board shall have power, for each district for which an agricultural wages committee is established under this Act, by order made in accordance with the provisions of the Third Schedule to this Act—

Reckoning of benefits and advantages as payment of wages.

(a) to define the benefits or advantages (not being benefits or advantages prohibited by law) which for the purposes of a minimum rate of wages fixed under this

Act may be reckoned as payment of wages in lieu of payment in cash ;

- (b) to determine the value at which, for the purposes aforesaid, such benefits or advantages may be so reckoned ;
- (c) to limit or prohibit the reckoning for the purposes aforesaid of benefits or advantages as payment of wages in lieu of payment in cash.

(2) Subject to the provisions of any order under the preceding subsection, the court shall, in any proceedings under this Act, reckon as a payment of wages such amount as in the opinion of the court represents the value of any benefits or advantages (not being benefits or advantages prohibited by law) received by a worker under the terms of his employment.

(3) If an agricultural wages committee are satisfied, on an application in that behalf made by a worker employed in agriculture in their district or by his employer, that the value determined by an order or direction under this section for a house or part of a house occupied as a separate dwelling by the worker does not correspond with the true value thereof, the committee may, subject to any limits imposed by the Board by order made in accordance with the provisions of the Third Schedule to this Act, direct that the value of the house or part of a house is to be reckoned for the purposes of a minimum rate of wages fixed under this Act at such different amount as may be specified in the direction.

Power of agricultural wages committee to award additional wages for piece work in certain cases.

8.—(1) A worker employed in agriculture in a district on piece work for which neither a minimum piece rate nor a minimum time rate applicable in the case of workers employed on piece work has been fixed, or any person authorised by such a worker, may complain to the agricultural wages committee for that district that the piece rate of wages paid to the worker for that work is such a rate as would yield in the circumstances of the case to an ordinary worker a less amount of wages than the minimum rate for time work applicable in the case of that worker, and the committee may, on any such complaint, after giving the employer an opportunity of making such representations as he thinks desirable, direct that the employer shall pay to the worker such additional sum by way of wages for any piece work done by him at that piece rate at any time within fourteen days before the date of the complaint, or at any time after the date of the complaint and before the decision of the committee thereon, as in their opinion represents the difference between the amount which would have been paid if the work had been done by an ordinary worker at the minimum rate for time work and the amount actually received by the worker by whom or on whose behalf the complaint is made.

(2) A sum directed to be paid under the preceding subsection may be recovered by or on behalf of the worker from the employer as a civil debt.

9.—(1) The procedure to be followed on or in connection with applications and complaints under any of the four last preceding sections to agricultural wages committees and sub-committees thereof shall be such (if any) as may be prescribed.

Provisions as to applications, &c., to agricultural wages committees.

(2) The Secretary of State may, out of moneys provided by Parliament, pay to persons attending as parties or witnesses before agricultural wages committees and sub-committees thereof allowances by way of compensation for expenses incurred and time lost by such persons in so attending, at such rates as he may with the approval of the Treasury, determine, and all such payments made under this subsection shall be defrayed as part of the expenses of the Secretary of State in carrying this Act into effect.

10.—(1) Where an offence for which an employer is under section four or subsection (6) of section six of this Act liable to a fine has in fact been committed by some agent of the employer or other person, that agent or other person shall be liable to be proceeded against for the offence in the same manner as if he were the employer and either together with, or before or after the conviction of, the employer, and shall be liable on conviction to the same punishment as that to which the employer is liable.

Criminal liability of agents and special defence open to employer.

(2) Where an employer who is charged with an offence under section four or subsection (6) of section six of this Act proves to the satisfaction of the court that he has used due diligence to secure compliance with the relevant provisions of this Act, and that the offence was in fact committed by his agent or some other person, without his knowledge, consent or connivance, he shall, in the event of the conviction of that agent or other person for the offence, be exempt from any conviction in respect of the offence.

11.—(1) Any such agreement as the following shall be void, that is to say—

- (a) an agreement for the payment of wages in contravention of this Act, or for abstaining from exercising a right of enforcing the payment of wages in accordance with this Act ;
- (b) an agreement as to holidays that is inconsistent with a direction of the Board in that behalf, or for abstaining from exercising the right to holidays conferred by any such direction.

Avoidance of agreements in contravention of this Act and saving for other agreements, &c.

(2) Nothing in this Act shall prejudice the operation of an agreement or custom for the payment of wages at a rate higher than the minimum rate fixed under this Act or an agreement or custom as to holidays that is not inconsistent with a direction of the Board in that behalf.

*Supplementary.***Officers.**

12.—(1) The Secretary of State may, subject to the consent of the Treasury as to number, appoint such officers as he thinks necessary for the purpose of investigating complaints and otherwise securing the proper observance of this Act.

(2) Every officer appointed under this section shall be furnished by the Secretary of State with a certificate of his employment, and when acting under or exercising any power conferred upon him by this Act shall, if so required, produce the certificate to any person or persons affected.

(3) An officer so appointed shall have power—

- (a) after giving reasonable notice, to require the production of and to inspect and take copies of wages sheets or other records of wages paid to workers employed in agriculture ;
- (b) to enter at all reasonable times any premises or place for the purpose of such inspection or for the enforcement of this Act, but in the case of a dwelling-house not without giving reasonable notice ; and
- (c) to require any such worker, or the employer of any such worker, or any agent of the employer, to give any information which it is in his power to give with respect to the employment of the worker or the wages paid to him.

(4) Where it appears to the Secretary of State—

- (a) that a sum is due from an employer to a worker on account of the payment of wages to him at less than the minimum rate applicable or by reason of a direction given under subsection (1) of section eight of this Act by an agricultural wages committee for the payment of an additional sum by way of wages for piece work ; or
- (b) that a sum is due from an employer on account of the receipt of a premium in contravention of subsection (5) of section six of this Act ;

the Secretary of State may institute, on behalf of or in the name of the worker, civil proceedings before any competent court of jurisdiction for the recovery of the sum in question, and in any such civil proceedings instituted by the Secretary of State the court shall, if the Secretary of State is not a party to the proceedings, have the same power to make an order for the payment of expenses by the Secretary of State as if he were a party to the proceedings.

(5) Nothing in the last preceding subsection shall be taken to exclude the bringing otherwise than in accordance with that subsection proceedings for the recovery of any such sum as is therein mentioned.



## (6) If any person—

- (a) hinders or molests an officer acting in the exercise of his powers under subsection (3) of this section ; or
- (b) refuses to produce any document or give any information which an officer so acting lawfully requires him to produce or give ; or
- (c) produces or causes to be produced or knowingly allows to be produced to an officer so acting any wages sheet, record or other document which is false in a material particular, knowing the document to be false ; or
- (d) furnishes to an officer so acting any information knowing it to be false,

he shall be liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

13. The Secretary of State shall include in the annual report made in pursuance of subsection (2) of section four of the Small Landholders (Scotland) Act, 1911, a report of his proceedings under this Act and of the proceedings of the Board and of agricultural wages committees, and for that purpose the Board and each committee shall, before such date in every year as the Secretary of State may fix, send to the Secretary of State a report of their proceedings under this Act during the preceding year.

Annual reports.  
1 & 2 Geo. 5.  
c. 49.

14. Such expenses of the Secretary of State in carrying this Act into effect as the Treasury may determine, and any expenses authorised by the Secretary of State, with the consent of the Treasury, to be incurred by the Board or an agricultural wages committee or sub-committee thereof shall be defrayed out of moneys provided by Parliament.

Expenses.

15. In any legal proceedings the production of a document purporting to be a copy of a resolution or order passed or made by the Board or an agricultural wages committee and to be certified by the chairman or secretary of the Board or committee, as the case may be, to be a true copy shall be sufficient evidence of the order or resolution and, in the case of an order, that any notices required to be given by this Act in relation thereto have been duly given, and no proof shall be required of the handwriting or official position of the person certifying the truth of the copy.

Evidence of resolutions and orders of the Board and agricultural wages committees.

16.—(1) The Secretary of State may make regulations for giving effect to the purposes of, and modifying, this Act so far as it relates to holidays and minimum rates of wages by way of pay in respect of holidays, and for excluding, in relation to those matters or either of them, the operation of all or any of the provisions of sections four and ten to thirteen of this Act and paragraph (5) of the Third Schedule thereto.

Power to give effect to, and modify, Act as respects holidays and holiday remuneration.

(2) The power conferred by this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Interpretation.** 17. In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say,—

“ agriculture ” includes dairy-farming, the production of any consumable produce which is grown for sale or for consumption or other use for the purposes of a trade or business or of any other undertaking (whether carried on for profit or not), and the use of land as grazing, meadow or pasture land or orchard or woodland or for market gardens or nursery grounds ;

“ consumable produce ” means produce grown for consumption or for other use after severance from the land on which it is grown ;

“ employment ” means employment under a contract of service or apprenticeship, and the expressions “ employed ” and “ employer ” shall be construed accordingly ;

“ prescribed ” means prescribed by regulations made by the Secretary of State by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament ;

“ worker ” includes a boy, woman and girl.

**Repeal and savings.**

18.—(1) The enactments mentioned in the first and second columns of the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(2) Nothing in this Act shall affect any order, regulation or complaint made, permit granted, resolution passed, direction, certificate or approval given, application made or granted, notice served or given, date fixed or any other thing done, under an enactment repealed by this Act, but any such order, regulation, complaint, permit, resolution, direction, certificate, approval, application, notice, date or thing shall, if in force at the passing of this Act, continue in force, and so far as it could have been made, granted, passed, given, served, fixed or done under the corresponding provisions of this Act, it shall have effect as if it had been made, granted, passed, given, served, fixed or done under that corresponding provision and, in the case of an approval, had been given for the purposes of that provision.

(3) Any document referring to an enactment repealed by this Act shall be construed as referring to the corresponding provision of this Act.

(4) Any person holding office or acting or serving under or by virtue of an enactment repealed by this Act shall continue to hold his office or to act or serve as if he had been appointed or authorised under or by virtue of the corresponding provision of this Act.

(5) Where an offence, being an offence for the continuance of which a penalty was provided, has been committed under an enactment repealed by this Act, proceedings may be taken under this Act in respect of the continuance of the offence in the same manner as if the offence had been committed under the corresponding provision of this Act.

(6) Where an enactment repealed and re-enacted by this Act provides for the doing of some act within, or not earlier than the expiration of, a specified period from the giving of a notice, and the commencement of this Act falls within the period applicable to the giving of a particular notice, the repeal and re-enactment shall be deemed to have taken effect in relation to that notice immediately before the giving thereof.

(7) The mention of particular matters in this section shall not be taken to affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals. 52 & 53 Vict.  
c. 63.

**19. This Act may be cited as the Agricultural Wages (Scotland) Act, 1949, and shall extend to Scotland only.** Short title  
and extent.

## SCHEDULES.

### FIRST SCHEDULE.

Section 1.

#### CONSTITUTION AND PROCEEDINGS OF THE SCOTTISH AGRICULTURAL WAGES BOARD.

1. The Board shall consist of—

- (a) six persons representing employers and six persons (of whom one at least shall be a woman) representing workers in agriculture to be nominated in the prescribed manner or elected in the prescribed manner according as may be prescribed; and
- (b) five persons to be appointed by the Secretary of State.

2. The Secretary of State shall designate as chairman of the Board one of the members thereof appointed by him.

3. At every meeting of the Board the chairman, if present, shall preside and, if he is absent, such of the other members appointed by the Secretary of State as the members of the Board then present choose shall preside.

4. The Secretary of State may appoint a secretary for the Board.

1ST SCH.  
—cont.

5. The Board may, in accordance with regulations made by the Secretary of State by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament, appoint one or more committees consisting of members representing employers and members representing workers in agriculture in equal proportions, and of one or more of the appointed members, and may refer to any such committee for report and recommendations any matter which they think it expedient so to refer, and may also, if they think fit, delegate to any such committee any of their powers and duties under this Act other than a power or duty to fix, cancel or vary minimum rates of wages or to direct that workers shall be entitled to be allowed holidays.

6. The proceedings of the Board or of a committee thereof shall not be invalidated by a vacancy therein or by a defect in the nomination, election or appointment of the chairman or other member of the Board or of a member of the committee.

7. The Secretary of State may, by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament, make regulations with respect to the proceedings and meetings of the Board and of any committee thereof, including the appointment of the chairman of the Board and the term of office of the chairman and other members of the Board and the members of committees, the method of voting and the number of members necessary to form a quorum, and any such regulations as to committees may be made so as to apply generally to the procedure of all committees or specially to the procedure of any particular committee ; but subject to the provisions of this Schedule and to any regulations so made, the Board and any committee thereof may, respectively, regulate their proceedings in such manner as they think fit.

8. The Secretary of State may, out of moneys provided by Parliament, pay to the members of the Board such allowances by way of compensation for expenses incurred and time lost by them in the performance of their duties as he may, with the consent of the Treasury, determine.

Section 2.

## SECOND SCHEDULE.

### CONSTITUTION AND PROCEEDINGS OF SCOTTISH AGRICULTURAL WAGES COMMITTEES.

1. An agricultural wages committee shall consist of not more than eight and not less than five persons representing employers and an equal number of persons representing workers in agriculture in the district (in this Schedule referred to as representative members), of two impartial persons appointed by the Secretary of State and of a chairman,

2. The representative members of the committee shall be nominated in the prescribed manner or elected in the prescribed manner, according as may be prescribed.

3.—(1) The chairman of an agricultural wages committee shall be appointed annually by the representative members of the committee.

Provided that if the representative members of the committee at any time fail to appoint a chairman within such period as may be prescribed, the appointment may be made by the Secretary of State.

(2) The representative members of a committee may nominate one or more persons for the office of vice-chairman, and the chairman may from time to time appoint one of those persons to act in his place as vice-chairman in his absence.

(3) A representative member of a committee shall not be qualified to be appointed chairman or vice-chairman of the committee of which he is a member.

4. At every meeting of an agricultural wages committee the chairman, if present, shall preside. If the chairman is absent, the vice-chairman, if present, shall preside. If both the chairman and vice-chairman are absent, such member as the members then present choose shall preside.

5. The Secretary of State may appoint a secretary for an agricultural wages committee.

6.—(1) At a meeting of an agricultural wages committee the chairman or a vice-chairman presiding at the meeting in his absence shall be entitled to vote, and in case of an equality of votes shall have a second or casting vote, but before exercising his right to vote the chairman or vice-chairman, if so authorised by a resolution of the members of the committee representing employers and the members thereof representing workers, may obtain the advice of the Board or a committee thereof as to the exercise of such right, and may adjourn the meeting in order to enable him to do so.

(2) A resolution for the purposes of the preceding subparagraph that is passed at a meeting of an agricultural wages committee unanimously by such of the members thereof representing employers and such of the members thereof representing workers in agriculture as are present and voting shall be deemed, for those purposes, to be a resolution of those members.

7.—(1) An agricultural wages committee may, in accordance with regulations made by the Secretary of State by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament, appoint one or more sub-committees consisting of persons representing employers and persons representing workers in agriculture in the district in equal proportions, and of a chairman, if the committee think fit, and the committee may refer to any such sub-committee for report and recommendations any matter which they think it expedient so to refer, and may also, if they think fit, delegate to any such sub-committee any of their powers and duties under this Act.

(2) The members of a sub-committee may, but need not, be members of the committee by which the sub-committee is appointed.

8. The proceedings of an agricultural wages committee or of a sub-committee thereof shall not be invalidated by a vacancy therein or by a defect in the appointment, nomination or election of the chairman, vice-chairman or other member of the committee or sub-committee.

2ND SCH.  
—cont.

9. The Secretary of State may make regulations with respect to the proceedings and meetings of agricultural wages committees and sub-committees thereof, including the appointment of chairmen and the term of office of chairmen and other members, the method of voting and the number of members necessary to form a quorum, and any such regulations may be made so as to apply generally to the procedure of all committees or sub-committees or specially to the procedure of any particular committee or sub-committee ; but, subject to the provisions of this Schedule and to any regulations so made, an agricultural wages committee and a sub-committee thereof may respectively regulate their proceedings in such manner as they think fit.

10. The Secretary of State may, out of moneys provided by Parliament, pay to the members of an agricultural wages committee and the members of a sub-committee thereof such allowances by way of compensation for expenses incurred and time lost by them in the performance of their duties as he may, with the consent of the Treasury, determine.

### THIRD SCHEDULE.

#### ORDERS OF THE SCOTTISH AGRICULTURAL WAGES BOARD.

Sections 3, 6, 7,  
16.

1. Where the Board propose to make an order under any provision of this Act, the Board shall—

- (a) give, in such manner as appears to the Board requisite for informing persons concerned, public notice of the proposed order and of the manner in which and the time (not being less than fourteen days from the date of the notice) within which objections to the proposals may be lodged ;
- (b) serve a like notice by post on the agricultural wages committee for the district to which the order relates ;

and shall consider any objections to the proposals which may be lodged in accordance with the notice.

2. After considering any such objections the Board may make an order in accordance with their original proposals or with those proposals as modified in such manner as appears to the Board expedient having regard to any objections lodged :

Provided that where it appears to the Board that, having regard to the nature of any modifications which they propose to make in their original proposals, opportunity should be given for the consideration thereof by persons concerned, the Board shall again give and serve notice under the foregoing paragraph, and this paragraph shall apply accordingly.

3. Notwithstanding anything in the foregoing paragraphs of this Schedule, where the Board are satisfied that on the ground of the limited application of a proposed order it is unnecessary to comply with the provisions of those paragraphs and certify accordingly, the Board may, instead of complying with those provisions, give notice of the proposed order in such manner as appears to the Board expedient in the circumstances, and may make the order at any time after the expiration of seven days from the giving of the notice.

4. As soon as may be after the Board have made an order under any provision of this Act they shall give public notice of the making of the order and of the contents thereof in such manner as appears to the Board requisite for informing persons concerned, and serve a like notice by post on the agricultural wages committee for the district to which the order relates.

3RD SCH.  
—cont.

5. An order of the Board under any provision of this Act may apply either universally to all workers employed in agriculture in the district to which the order relates or to any special class of workers (as defined in the order) so employed, or to any special area in that district or to any such special class in such a special area, subject in each case to any exceptions specified in the order; and an order of the Board fixing or varying a minimum rate of wages so as to secure that workers employed in agriculture receive remuneration calculated by reference to periods during the currency of their employment may make alternative provisions applying according to different circumstances arising during the currency of a worker's employment or in connection with the termination thereof.

6. Without prejudice to the provisions of this Act as to the cancellation and variation of minimum rates of wages and directions as to holidays, an order of the Board made under any provision of this Act may be varied or revoked by a subsequent order made in the like manner and subject to the like conditions.

#### FOURTH SCHEDULE.

##### ENACTMENTS REPEALED.

Section 18.

| Session and Chapter.           | Short Title.                                              | Extent of Repeal.                                                                           |
|--------------------------------|-----------------------------------------------------------|---------------------------------------------------------------------------------------------|
| 1 Edw. 8 &<br>1 Geo. 6. c. 53. | The Agricultural Wages (Regulation) (Scotland) Act, 1937. | The whole Act.                                                                              |
| 1 & 2 Geo. 6.<br>c. 70.        | The Holidays with Pay Act, 1938.                          | Sections one, two, three and five so far as they relate to workers employed in agriculture. |
| 10 & 11 Geo. 6.<br>c. 15.      | The Agricultural Wages (Regulation) Act, 1947.            | The whole Act.                                                                              |



**CHAPTER 31***Water (Scotland) Act, 1949***ARRANGEMENT OF SECTIONS****PART I****WATER RATES****Section.**

1. Levy of rates in respect of expenditure on water supply.
2. Provisions as to liability for domestic water rate.
3. Levy of domestic water rate on agricultural subjects.
4. Levy of domestic water rate on business and commercial premises.
5. Levy of domestic water rate on certain public utility undertakings, mines, parks, etc.
6. Levy of domestic water rate on shootings and fishings.
7. Temporary adjustment of water rates as between owners and occupiers.
8. Contributions by county council in aid of domestic water rate.
9. Dissolution of special water supply districts.
10. Expenses of joint water boards.
11. Expenses of local authority supplying water in district of another authority.
12. Provisions supplementary to ss. 10 and 11.
13. Temporary provisions as to defrayal of expenses where requisite information, etc., not available.
14. Adoption in counties of the House Letting and Rating (Scotland) Act, 1911.
15. Ss. 72 and 73 of 10 & 11 Vict. c. 17, as incorporated in local Acts, to cease to have effect.
16. Provisions as to valuation roll.
17. Transport and electricity hereditaments.
18. Provisions as to moneys borrowed on security of rates.
19. Domestic water rate not payable, or payable at reduced rate, in certain cases.
20. Provisions as to levying of, and exemptions from, rates.

**PART II****EXCHEQUER GRANTS FOR WATER SUPPLIES**

21. Exchequer contributions towards expenses of local authorities for rural water supplies and sewerage.

**PART III****PROVISIONS AS TO THE SUPPLY OF WATER AND AMENDMENTS OF  
THE WATER (SCOTLAND) ACT, 1946**

22. Provisions as to orders under s. 16 of the principal Act.
23. Compulsory acquisition of land for construction of waterworks.
24. Power to survey and search for water on land proposed to be purchased.
25. Charges for water supplied by meter.
26. Provisions as to supply of water to agricultural subjects.
27. Charge not to be made for provision, etc., of small meters.
28. Termination of right to supply of water on special terms.
29. Limitation of liability of local water authority to supply water on special terms.
30. Amendment of s. 21 of the principal Act.
31. Amendment of s. 24 of the principal Act.



## Section.

32. Provisions as to authorities combined under s. 14, s. 15 or s. 16 of the principal Act.
33. Limits of supply of certain burghs.
34. Amendment of definition of "communication pipe," &c.
35. Miscellaneous provisions.
36. Minor and consequential amendments.

## PART IV

## GENERAL

37. Expenses.
38. Provisions as to local enactments.
39. Interpretation, construction and repeals.
40. Citation and extent.

## SCHEDULES :

First Schedule.—Orders under section 16, section 21 or section 42 of the principal Act authorising compulsory acquisition of land.

Second Schedule.—Enactments repealed.

An Act to amend the law with respect to rating and charging for water supplies in Scotland ; to amend Part V of the Local Government Act, 1948, with respect to the ascertainment of the standard amounts thereunder in Scotland; to increase the financial assistance that may be given to local authorities in Scotland under the Rural Water Supplies and Sewerage Act, 1944; to amend the Water (Scotland) Act, 1946; and for purposes connected with the matters aforesaid.

[11th May 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

## PART I

## WATER RATES

1.—(1) Subject to the provisions of this Part of this Act, as from the appointed day the expenditure incurred by a local authority in the exercise of any of their functions under any enactment in relation to water supply in their district shall, in so far as not met otherwise, be defrayed as to such portion thereof, not exceeding one-third and not less than one-fifth, as the authority may determine, out of the county rate or the burgh rate, as the case may be, and as to the remainder out of a rate to be levied as hereafter in this Act provided.

Levy of rates in respect of expenditure on water supply.

(2) The portion of the county rate or of the burgh rate levied under the foregoing subsection shall be payable by owners and

**PART I**  
**—cont.**

occupiers in equal proportions and is hereafter in this Act referred to as “the public water rate”.

(3) For the purpose of defraying the remainder of the expenditure mentioned in subsection (1) of this section, the local authority shall, subject to the provisions of this Part of this Act, levy annually within their district a rate (hereafter in this Act referred to as “the domestic water rate”) which, notwithstanding anything in any other enactment, shall be levied as a separate rate and shall be payable by occupiers only.

**Provisions as  
to liability for  
domestic  
water rate.**

**2.**—(1) Subject to the provisions of this Part of this Act, the domestic water rate shall be levied by the local authority in respect of all lands and heritages within their district according to the gross annual value of such lands and heritages.

(2) The domestic water rate shall not be leviable in respect of any premises, being lands and heritages situated within the district of a local authority, unless—

- (a) in the case of a dwelling house, a sufficient supply of wholesome water provided by a local water authority for domestic purposes is provided in pipes within the house or within the premises in which the house is comprised ;
- (b) in the case of premises being agricultural lands and heritages, a sufficient supply of wholesome water provided by a local water authority for domestic purposes is provided in pipes within some dwelling house comprised in the premises ; and
- (c) in the case of any other premises, a supply of water provided by a local water authority is used for any purpose for or in connection with which the premises are used or by or for persons employed or otherwise engaged on or about the premises in connection with such purpose.

(3) Where premises are for the first time provided with a supply of water otherwise than on the first day of a rating year, the occupier of the premises shall be liable to pay in respect of that year such part only of the domestic water rate which would be leviable if a supply had been provided throughout that year as is proportionate to the part of that year which had not elapsed when the supply was provided.

(4) This section shall not apply to lands and heritages being a holding within the meaning of the Small Landholders (Scotland) Acts, 1886 to 1931.

**Levy of  
domestic  
water rate on  
agricultural  
subjects.**

**3.** Where the domestic water rate is leviable in respect of any premises being agricultural lands and heritages, the domestic water rate shall, subject to the provisions of subsection (5) of

section sixteen of this Act, be levied according to the gross annual value (ascertained as hereafter in this Act provided) of any dwelling house or dwelling houses comprised in the premises and provided with a supply of water by a local water authority.

PART I  
—cont.

4.—(1) Where the domestic water rate is leviable in respect of lands and heritages being premises to which this section applies, it shall be levied according to one-half of the gross annual value thereof: Levy of domestic water rate on business and commercial premises.

Provided that if the local authority so resolve not later than the fifteenth day of July in any year with respect to any particular premises such as aforesaid this subsection shall have effect in that year in relation to those premises with the substitution for one-half of such other fraction, not exceeding one-half and not less than one-quarter, as may be specified in the resolution.

(2) Where a supply of water is provided to any premises to which this section applies and which are entered in the valuation roll at a gross annual value exceeding such amount as the local authority may from time to time determine, the occupier thereof shall have the option of taking the supply by meter, and if he exercises that option the domestic water rate shall be leviable in respect of the premises according to a gross annual value of such amount as the local authority may have determined as aforesaid.

(3) Where the domestic water rate is leviable in respect of lands and heritages being premises to which this section applies and which are occupied partly as a dwelling house, the domestic water rate shall, subject to the provisions of subsection (5) of section sixteen of this Act, be levied on the part occupied as a dwelling house according to the gross annual value (ascertained as hereafter in this Act provided) of that part, and on the remainder of the premises in accordance with the provisions of this section.

(4) This section applies to lands and heritages being premises occupied wholly or partly as a shop, offices, a warehouse, factory, cinematograph theatre, theatre, town hall, dance hall or concert hall, and such other premises not being premises occupied wholly as a dwelling house or such premises as are mentioned in the last foregoing section or in either of the two next succeeding sections of this Act as the local authority may from time to time resolve.

5. Where the domestic water rate is leviable in respect of premises being lands and heritages occupied as waterworks, gas works or sewage works, or as a mine or a quarry, or as a public park or recreation ground, it shall be levied according to one-quarter of the gross annual value thereof. Levy of domestic water rate on certain public utility undertakings, mines, parks, etc.

PART I  
—cont.

Levy of domestic water rate on shootings and fishings.

6. Where the domestic water rate is leviable in respect of premises being lands and heritages occupied as shootings or as fishings it shall be levied according to one-eighth of the gross annual value thereof.

Temporary adjustment of water rates as between owners and occupiers.

7. Where by reason of the provisions of section one of this Act the total amount which would, apart from the provisions of this section, fall to be defrayed by a local authority out of rates levied by them on owners in the year commencing on the appointed day in respect of expenditure incurred in the provision of a supply of water is less than the total amount which fell to be so defrayed in the year immediately preceding that day, then, in the year commencing on that day and in each of the four succeeding years, the total amount to be levied by that authority on owners liable in payment of the county rate or the burgh rate, as the case may be, shall be increased, and the total amount to be levied on occupiers liable in payment of the domestic water rate shall be decreased, by an amount equal to the difference between the amounts aforesaid, and the county rate or the burgh rate and the domestic water rate shall, in each of those five years, be adjusted and levied accordingly.

Contributions by county council in aid of domestic water rate.

8.—(1) If in any year it appears to a local authority being the council of a county that by reason of the cost of works undertaken or to be undertaken in connection with the provision or improvement of a supply of water in their district or by reason of the foregoing provisions of this Part of this Act requiring a major portion of the rate-borne expenditure of the authority in providing a supply of water to be defrayed out of a domestic water rate payable by occupiers only, the financial burden imposed or to be imposed on occupiers in their district is greater than they can reasonably be expected to bear unaided, the authority may with the approval of the Secretary of State in that year defray such part of the cost of providing or improving the supply of water in their district in such manner as appears to them equitable, and where part of such cost is defrayed out of rates it shall be defrayed out of the county rate.

(2) Subsection (2) of section two hundred and thirty-seven of the Local Government (Scotland) Act, 1947 (which subsection relates to the information required to be contained in demand notes for payment of rates) shall have effect as if expenditure under this section were a branch of expenditure prescribed by the Secretary of State for the purposes of paragraph (f) of that subsection.

Dissolution of special water supply districts.

9.—(1) On the appointed day all special water supply districts shall be dissolved.

(2) The Secretary of State shall by regulations provide for the payment by the council of the county within which any such special district was situated, subject to such exceptions or conditions as may be specified in the regulations, of compensation to persons who were, or who, but for any war service in which they have been engaged, would have been, officers or servants employed for the purposes of the special district who suffer loss of employment or loss or diminution of emoluments which is attributable to the dissolution of the special district; and the regulations shall include provision as to the manner in which and the persons to whom any claim for compensation under this subsection is to be made and for the determination of all questions arising under the regulations.

In this subsection the expression "war service" means service in any of His Majesty's Forces, and such other employment as may be prescribed by regulations of the Secretary of State.

(3) During such period (not exceeding ten years) commencing on the appointed day as the county council may think proper, the domestic water rate shall be payable within the areas which formed the special districts dissolved under this section or any of them at such different amounts per pound from the amount per pound at which the domestic water rate would otherwise be payable, as the county council may from year to year determine to be equitable; and after the expiry of such period the domestic water rate shall be payable at a uniform amount per pound throughout the landward area of the county.

(4) The provisions of the last foregoing subsection shall, if the county council so determine, apply in relation to any part of the landward area which is constituted by a local enactment as a water supply area and in which immediately before the appointed day a domestic water rate was payable by owners and occupiers in equal proportions, in like manner as they apply in relation to areas which formed the special districts dissolved under this section.

(5) Notwithstanding the dissolution under this section of the special water supply districts, section forty-five of the Local Government (Scotland) Act, 1894 (which provides for distinguishing in the valuation roll lands and heritages in special water supply districts and for the separate valuation of portions of undertakings within such districts) shall, during such period as may be necessary for the purposes of subsection (3) of this section, continue to have effect in relation to areas which formed the special districts so dissolved.

(6) Where immediately before the appointed day a local water authority are entitled under any enactment or agreement to take a supply of water from any stream or other source for the purpose

**PART I**  
**—cont.**

specified in the enactment or agreement being a purpose relating to the functions of the authority with respect to water supply, then, notwithstanding anything contained in the said enactment or agreement or in this Act, the authority shall be entitled to take that supply for any purpose relating to their functions with respect to water supply, so, however, that they shall not be entitled to take in any year thereafter an amount of water greater than the amount they were entitled to take in the year immediately preceding the appointed day.

(7) As from the appointed day the provisions of Part VII of the Local Government (Scotland) Act, 1947, so far as relating to the formation of special districts for the purposes of providing or maintaining a water supply and to the operation and dissolution of such districts, shall cease to have effect.

Expenses of  
joint water  
boards.

**10.—(1)** As from the appointed day any power conferred by or under any enactment on a joint water board to levy a water rate shall cease to be exercisable.

(2) For the purpose of defraying their expenses in so far as they fall to be defrayed out of rates a joint water board shall issue to each of the local authorities in whose district or in part of whose district the board are supplying water a requisition for the payment by that authority to the board of the sum specified in the requisition, being the authority's proportion, allocated as hereinafter provided, of the expenses of the board.

(3) The proportion of the expenses of a joint water board to be allocated for the purpose of a requisition under the last foregoing subsection to a local authority shall be such proportion thereof as is equal to the amount which would be produced in the authority's district or that part thereof which is within the limits of supply of the board if a public water rate and a domestic water rate were levied by the board in accordance with the provisions of this Part of this Act throughout their whole limits of supply for the purpose of defraying the said expenses:

Provided that where in the enactment or agreement under which the board is constituted provision is made for the payment during a specified period by the authorities concerned of specified proportions of the expenses of the board, the proportions of the said expenses to be allocated to those authorities shall during the specified period be the respective proportions specified in the enactment or agreement.

Expenses  
of local  
authority  
supplying  
water in  
district of  
another  
authority.

**11.—(1)** As from the appointed day any power conferred by or under any enactment on a local authority (in this and the two next succeeding sections referred to as a "supplying authority") who are supplying or are authorised to supply water in the district or in any part of the district of another local authority to levy a water rate in the district or part of the district

of that other authority in respect of their expenditure in supplying water therein, or to recover otherwise than in accordance with the provisions of this Part of this Act from that other authority their expenses in so supplying water, shall cease to be exercisable.

(2) The expenses of a supplying authority, in so far as they fall to be defrayed out of rates, in supplying water in the district or part of the district of another local authority and in their own district shall be defrayed—

- (a) as to such part of the said expenses as is equal to the amount which would be produced in the district or part of the district of that other authority if a public water rate and a domestic water rate were levied by the supplying authority in accordance with the provisions of this Part of this Act throughout their whole limits of supply for the purpose of defraying the said expenses, by that other authority ; and
- (b) as to the remainder of the said expenses, by the supplying authority ;

and the supplying authority shall issue to that other authority a requisition for the payment by that other authority of the part of the said expenses allocated to them as aforesaid.

(3) If in any particular case the authorities concerned are satisfied that the allocation in manner provided by the last foregoing subsection of the expenses of a supplying authority among the local authorities concerned would impose on any of those authorities (including the supplying authority) a financial burden greater than they should reasonably be expected to bear, they may enter into an agreement for the purpose of regulating the manner in which the expenses of the supplying authority in that case are to be defrayed, and if the Secretary of State, being satisfied as aforesaid, makes an order approving the agreement, the terms of the agreement shall during such period as may be specified in the agreement come in place of the provisions of the last foregoing subsection.

(4) If the Secretary of State is satisfied, on the application of any of the authorities concerned, that the allocation in any year in manner provided by subsection (2) or subsection (3) of this section of the expenses of a supplying authority among the local authorities concerned would impose on any of those authorities (including the supplying authority) a financial burden greater than they should reasonably be expected to bear, he may make an order directing that the sum to be defrayed in that year by that authority under this section shall be reduced by such amount as may be specified in the order and that the sum or sums to be defrayed by one or more of the other authorities concerned shall be adjusted accordingly.

PART I  
—cont.

(5) The provisions of Part II of the First Schedule to the principal Act shall apply to the making of an order under the last foregoing subsection.

(6) Any reference in any enactment to a sum payable in pursuance of a requisition under this section shall include a reference to a sum payable in pursuance of a requisition which has been increased or decreased by an order made under this section.

Provisions  
supplementary  
to ss. 10  
and 11.

12.—(1) For the purposes of the rates assumed to be levied in order to allocate expenses under subsection (3) of section ten or subsection (2) of section eleven of this Act, it shall be assumed that the joint water board or the supplying authority, as the case may be, have determined that one-quarter of their expenditure, in so far as it falls to be defrayed out of rates, is to be defrayed out of the public water rate.

(2) The provisions of section two hundred and sixteen of the Local Government (Scotland) Act, 1947, shall, subject to any necessary modifications, apply to the issue of requisitions by a local authority under section eleven of this Act as they apply to the issue of requisitions by a joint committee or joint board.

(3) The sum payable in pursuance of a requisition under section ten or section eleven of this Act shall, in so far as it falls to be defrayed out of rates, be defrayed by the local authority in like manner as if it were expenditure incurred by themselves in the exercise of functions in relation to water supply in their district.

(4) For the purpose of enabling a joint water board or a supplying authority to determine what sum should properly be specified by them in any requisition under section ten or section eleven of this Act, the clerk of the local authority responsible for the making up of the valuation roll relating to the district of the authority to whom the requisition falls to be issued shall on request and free of charge furnish to the clerk of the board or the supplying authority a copy of that roll.

(5) For the purpose of enabling a local authority to whom a requisition has been issued under section ten or section eleven of this Act to levy such rates as may be necessary to pay the amount due under the requisition, the requisitioning board or authority shall furnish the local authority with such information as to the premises in their district supplied with water, as to the terms on which such supply has been provided, and as to other matters as the local authority may reasonably require for that purpose.

(6) Where in pursuance of an enactment or an agreement a joint water board or a supplying authority are supplying water to premises outside their limits of supply, those premises shall



for the purposes of subsection (3) of section ten or of subsection (2) of section eleven of this Act be deemed to be within those limits.

PART I  
—cont.

(7) The provisions of subsection (2) of section nine of this Act (which subsection provides for the making of regulations with respect to the payment of compensation for loss of office or diminution of emoluments in the case of officers or servants employed for the purposes of special water supply districts) shall apply in relation to officers or servants of a joint water board or of a supplying authority who suffer loss of employment or diminution of emoluments by reasons of the provisions of subsection (1) of section ten of this Act or of subsection (1) of section eleven thereof as they apply in relation to the officers or servants mentioned in the said subsection (2) with the substitution, however, for references to the council of the county within which the special district was situated of references to the joint water board or the supplying authority as the case may be by whom the officers or servants concerned were employed.

13.—(1) If the Secretary of State, on a representation made to him by one of the authorities concerned, is satisfied that it will be impracticable for a supplying authority, notwithstanding the exercise by them of all due diligence, to obtain the information required to enable them in the year beginning on the appointed day to allocate within the required time their expenses in supplying water in the district or part of the district of another local authority and in their own district in manner provided by subsection (2) of section eleven of this Act and to furnish such information as under subsection (5) of section twelve of this Act they may be required to furnish, he may, subject to the provisions of this section, make an order modifying the provisions of this Part of this Act in relation to the defrayal of the expenses of that supplying authority.

Temporary provisions as to defrayal of expenses where requisite information etc., not available.

(2) An order made under this section shall provide that the expenses of the supplying authority in supplying water in the district or part of the district of another local authority and in their own district shall in the year beginning on the appointed day be defrayed—

- (a) as to such part of the said expenses as is equal to the total product of the water rate levied by the supplying authority in the district of that other authority in the year beginning on the sixteenth day of May, nineteen hundred and forty-eight, by that other authority; and
- (b) as to the remainder of the said expenses, by the supplying authority.

(3) An order made under this section shall provide for the issue by the supplying authority to any other authority to whom

**PART I**  
—*cont.*

part of the said expenses are under the order allocated as aforesaid, of a requisition for the payment by that other authority of that part of the said expenses, and any requisition so issued shall have the like force and effect as a requisition issued under subsection (2) of section eleven of this Act:

Provided that notwithstanding anything in the foregoing provisions of this Part of this Act any domestic water rate levied by a local authority to whom a requisition is issued in pursuance of an order made under this section shall in so far as it falls to be levied in respect of premises within the limits of supply of the supplying authority be levied only in respect of premises in respect of which a water rate was levied by the supplying authority in the year beginning on the sixteenth day of May, nineteen hundred and forty-eight.

(4) Where a supply of water for domestic purposes was provided in the year beginning on the sixteenth day of May, nineteen hundred and forty-eight, by a supplying authority to premises in the district of another local authority and no payment otherwise than by way of a charge calculated by reference to the amount of water consumed or payable under an agreement or otherwise was recovered in that year by the supplying authority in respect of that supply, an order made under this section in relation to the defrayal of the expenses of that supplying authority shall provide that, notwithstanding anything in this Part of this Act or in the principal Act, the supplying authority shall, for the purpose of defraying that part of their said expenses falling to be defrayed by them, be entitled to recover in the year beginning on the appointed day a charge calculated or payable as aforesaid in respect of that supply.

(5) An order made under this section may contain such incidental, consequential and supplementary provisions as the Secretary of State may consider necessary or expedient for the purposes of the order.

Adoption in counties of the House Letting and Rating (Scotland) Act, 1911.

14. Notwithstanding the provisions of section nine of this Act (which provides for the abolition of special water supply districts) it shall be lawful for the council of a county to adopt the House Letting and Rating (Scotland) Act, 1911, in the whole or in any part of the landward area of the county as if the whole landward area or such part thereof were a special district, and the said Act of 1911 shall have effect accordingly.

Ss. 72 and 73 of 10 & 11 Vict. c. 17, as incorporated in local Acts, to cease to have effect.

15. As from the appointed day sections seventy-two and seventy-three of the Waterworks Clauses Act, 1847, (which provide for the payment of water rates by the owners of houses of an annual value not exceeding ten pounds, and for the recovery by the owner from the occupier of such payments in certain cases) shall, so far as they are incorporated in any local enactment, cease to have effect.

**16.—(1)** For the purposes of section three of this Act (which requires the domestic water rate in respect of certain agricultural lands and heritages to be levied according to the gross annual value of any dwelling houses comprised therein and provided with a supply of water) the gross annual value of such lands and heritages shall be apportioned by the assessor between such dwelling houses and the remainder of such lands and heritages, and the gross annual value of each such dwelling house shall be shown separately in the valuation roll.

**PART I**  
—cont.

Provisions as  
to valuation  
roll.

**(2)** In apportioning the gross annual value of such lands and heritages under the foregoing subsection the gross annual value of any such dwelling house shall be taken to be the amount at which, one year with another, the dwelling house might in its actual state be reasonably expected to let from year to year if it could not be occupied otherwise than as the dwelling house of a person who is engaged primarily in carrying on or directing agricultural operations on the lands and heritages comprising the dwelling house or who is employed as an agricultural worker thereon.

**(3)** For the purposes of subsection (3) of section four of this Act (which relates to the levy of the domestic water rate on premises to which that section applies and which are occupied in part as a dwelling house) the gross annual value of the premises shall be apportioned by the assessor between the part thereof occupied as a dwelling house and the remainder of the premises, and the gross annual value of such part and of such remainder shall be shown separately in the valuation roll.

**(4)** In apportioning the gross annual value of such premises as aforesaid under the last foregoing subsection, the gross annual value of the part of the premises occupied as a dwelling house shall be taken to be the amount at which, one year with another, that part might in its actual state be reasonably expected to let from year to year as a separate dwelling house.

**(5)** If in any year the apportionment mentioned in subsection (1) or subsection (3) of this section has not been completed on or before the fifteenth day of August as respects any premises to which subsection (1) of section three or, as the case may be, subsection (3) of section four of this Act relates, the domestic water rate, in so far as it is leviable in respect of those premises, shall be levied in that year according to the value according to which any water rate payable in respect of those premises was levied immediately before the appointed day or, in a case where no water rate was so levied, according to the rateable value (as defined in the Local Government (Scotland) Act, 1947) of those premises.

**PART I**  
**—cont.**

(6) The provisions of the Lands Valuation (Scotland) Act, 1854 (including, without prejudice to the foregoing generality, the provisions with respect to notices to persons whose property is valued and with respect to appeals) shall apply with regard to any particular required by any provision of this section to be shown in the valuation roll in like manner as those provisions apply with regard to the particulars required by any other enactment to be so shown.

(7) For the purpose of enabling the assessor to effect any apportionment required to be effected by him under this section, the local water authority shall furnish him with such information as to the premises in their district supplied with water and as to such other matters as he may reasonably require for that purpose.

**Transport  
and electricity  
hereditaments.**

**17.—(1)** For the avoidance of doubt it is hereby declared that nothing in the foregoing provisions of this Part of this Act affects the exemption from liability to be rated or to be included in any valuation roll or in any rate conferred by Part V of the Local Government Act, 1948, on premises being a railway or canal hereditament or a hereditament occupied by the British Electricity Authority, an Area Electricity Board or the North of Scotland Hydro-Electric Board.

(2) Where a water rate was in the year 1947-48 levied in respect of premises being a railway or canal hereditament or a hereditament occupied by the British Electricity Authority, an Area Electricity Board or the North of Scotland Hydro-Electric Board, on the fifteenth day of May, nineteen hundred and forty-eight, and no charge calculated by reference to the amount of water consumed was made, no charge by way of meter or otherwise shall be made in the year 1948-49 or in any subsequent year during which the premises are occupied as such a hereditament as aforesaid in respect of a supply of water (whether for domestic purposes or otherwise) to those premises by a local water authority.

(3) Where no payment by way of water rate was made in the year 1947-48 in respect of any such premises as aforesaid, or where in that year a charge calculated in accordance with the amount of water consumed was made in respect of a supply of water to such premises (whether a water rate was levied in addition to such charge or not), the local water authority shall be entitled to make in the year 1948-49 or in any subsequent year in respect of any supply of water to those premises a charge calculated by reference to the amount of water consumed thereon.

(4) In estimating the amounts to be certified as the standard amounts in Scotland for the purposes of Part V of the Local Government Act, 1948, the Secretary of State shall not take into

account any amount paid by way of water rate in respect of any such premises as aforesaid if, in addition to payment by way of rate, a payment was also made in respect of a supply of water to the premises by way of a charge calculated according to the amount of water consumed; and Part V of that Act shall be deemed always to have had effect accordingly.

PART I  
—cont.

(5) In this section the expression "railway or canal hereditament" has the meaning assigned to it by the Local Government Act, 1948, for the purposes of Part V of that Act; and the expression "1947-48" and any corresponding expression in which two years are similarly mentioned have the meanings assigned to them by Part VIII of that Act.

18. Any moneys borrowed by a local water authority other than a local authority shall in so far as they were immediately before the appointed day secured on the rates leviable by the authority be deemed as from the appointed day to be secured to the like extent on the sums payable to the authority under requisitions issued by them under this Part of this Act.

Provisions as to moneys borrowed on security of rates.

19.—(1) Notwithstanding anything in the foregoing provisions of this Part of this Act, no domestic water rate shall be payable in respect of any premises to which a local water authority were immediately before the appointed day by virtue of any enactment or agreement under an obligation to provide a supply of water free of charge, and no charge or other payment shall be required by the authority to be made in respect of that supply.

Domestic water rate not payable or payable at reduced rate, in certain cases.

(2) Where by virtue of any local enactment in force immediately before the appointed day the domestic water rate was leviable in any area specified in the local enactment at an amount per pound determined by the local enactment (whether as an amount per pound specified therein or as an amount per pound being a proportion so specified of the amount per pound at which the domestic water rate would otherwise be payable, or otherwise), the domestic water rate shall during such period as is specified in the local enactment be payable in that area at the amount per pound so specified:

Provided that if in any year during the said period the domestic water rate levied generally in respect of lands and heritages within the district of the local authority is lower than the rate falling to be levied for that year in accordance with the foregoing provisions of this subsection, the rate to be levied in such area as aforesaid shall not exceed the amount of the rate levied generally within the district of the authority.

(3) Notwithstanding anything in the foregoing provisions of this Part of this Act, no domestic water rate shall be payable in respect of the provision of a supply of water to any premises

PART I  
—cont.

to which a local water authority were, by virtue of any enactment or agreement in force immediately before the appointed day, under an obligation to provide such a supply on terms more favourable to the person having the vested interest in the obligation than those which, apart from the obligation, would have been applicable under the enactments in force immediately before the appointed day relating to the supply of water by the authority in the area in which the premises are situated, and the supply shall continue to be provided on the following, and no other, terms, that is to say—

- (a) where immediately before the appointed day there was leviable under such an enactment a rate other than a public water rate, on such terms as may be agreed between the authority and the person having the vested interest in the obligation;
- (b) in any other case on the terms on which immediately before the appointed day it was provided under the enactment or agreement.

(4) In determining for the purposes of the foregoing provisions of this section whether a supply of water provided under any enactment or agreement in force immediately before the appointed day was provided free of charge or was such a supply as is mentioned in the last foregoing subsection, or in determining the sum which by virtue of that subsection is to be paid in respect of such a supply, no account shall be taken of any public water rate levied under any such enactment in respect of the premises so supplied or of any undertaking (other than an undertaking to pay a rate or a charge) entered into by the person having the vested interest in the obligation in consideration of which the supply was provided.

(5) Any question arising under this section whether a local water authority are required to provide a supply of water free of charge, or whether a supply is such a supply as is mentioned in subsection (3) of this section, or as to the terms on which a supply was provided immediately before the appointed day, or on which by virtue of this section a supply is to continue to be provided or otherwise, shall, in default of agreement, be referred to the Secretary of State, and the Secretary of State may determine it himself or, if he thinks fit, may refer it for determination by arbitration.

(6) In this section the expression “public water rate” means in relation to any supply any rate called the public water rate in the local enactment by virtue of which the supply is provided on special terms.

Provisions as to levying of, and exemptions from, rates. 20.—(1) The provisions of Part XI of the Local Government (Scotland) Act, 1947 (which relate to the levy and collection of rates and to requisitions) shall, in their application to the public

water rate and the domestic water rate levied under this Part of this Act, have effect subject to such adaptations and modifications as may be prescribed ; and any reference in the said Act of 1947 (other than a reference in Part XI thereof) to a requisition shall include a reference to a requisition issued under section ten or section eleven of this Act.

PART I  
—cont.

(2) The amount of the annual value of any lands and heritages according to which the domestic water rate is leviable in accordance with the foregoing provisions of this Part of this Act shall, if it contains a fractional part of a pound, be subject for the purpose of the levy of that rate to the following adjustments, that is to say—

- (a) in the case of lands and heritages in the district of a county council in which there is in force a local enactment with respect to the adjustment of annual values containing a fractional part of a pound for the purpose of the levy of rates, it shall be subject to adjustment in accordance with the provisions of that local enactment ;
- (b) in the case of lands and heritages in the district of a county council in which no such local enactment as aforesaid is in force, it shall, if it includes a fraction of five shillings, be increased or reduced as the case may be to the nearest complete five shillings, or if the fraction is two shillings and six pence the fraction shall be disregarded ;
- (c) in the case of lands and heritages in the district of any other local authority, it shall be subject to any adjustment required to be made in accordance with the provisions of section forty-five of the Burgh Police (Scotland) Act, 1903, or of any corresponding provision of a local Act in force in that district.

(3) Nothing in this Part of this Act shall affect the total exemption from any rates conferred in respect of any lands and heritages by or under any enactment in force at the passing of this Act.

## PART II

### EXCHEQUER GRANTS FOR WATER SUPPLIES

21.—(1) The aggregate of the contributions which may be made by the Secretary of State under section one, as read with section seven, of the Rural Water Supplies and Sewerage Act, 1944 (which provides for the making of government contributions towards the expenses of local authorities for rural water supplies and sewerage) shall be increased to twenty million

Exchequer contributions towards expenses of local authorities for rural water supplies and sewerage.

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**PART II**  
—*cont.*

pounds, and accordingly subsection (5) of the said section one shall have effect with the substitution for the words “ six million three hundred and seventy-five thousand pounds ” of the words “ twenty million pounds ”.

(2) There shall be paid out of moneys provided by Parliament any increase attributable to the passing of this section in the contributions authorised by subsection (5) of the said section one to be defrayed out of moneys so provided.

**PART III****PROVISIONS AS TO THE SUPPLY OF WATER AND AMENDMENTS OF  
THE WATER (SCOTLAND) ACT, 1946**

Provisions  
as to orders  
under s. 16  
of the  
principal Act.

**22.**—(1) Subject to the provisions of this section, an order under section sixteen of the principal Act providing for the combination of local water authorities may in addition to providing for any of the matters specified in that section, also provide—

- (a) for requiring any local water authority to give to the joint committee or joint board constituted by the order (hereinafter referred to as “ the combined body ”) or for the combined body to give to any local water authority a supply of water in bulk either within or outside the limits of supply of the authority or the combined body by whom the supply is to be given, and for requiring the combined body or the authority, as the case may be, to take such a supply;
- (b) for authorising the compulsory acquisition by the combined body of such rights to take water from any stream or other source as may be specified in the order;
- (c) for authorising the combined body to exercise any of the powers which the Secretary of State may, by an order under section forty-two of the principal Act, authorise a local water authority providing or authorised to provide a supply of water under a local enactment to exercise ;
- (d) for transferring to the combined body, whether by agreement or compulsorily, the undertaking or part of the undertaking of any other person supplying water, whether under an enactment or otherwise.

(2) An order under section sixteen of the principal Act which makes provision for any purpose authorised by this section may contain such incidental, consequential and supplementary provisions as the Secretary of State thinks necessary or expedient for that purpose, including provisions for the amendment or repeal of any local enactment and for the transfer of property and liabilities :



Provided that no such order shall, except as provided by the next following section of this Act, empower the combined body to acquire compulsorily any land or shall vary compulsorily the amount of compensation water required by any enactment to be discharged into any watercourse or the periods during which and the manner in which such compensation water is required to be discharged.

PART III  
—cont.

(3) Subsections (3) to (5) of section twenty-one of the principal Act (which provide for securing the provision of compensation water and for restricting the taking of water in relation to the acquisition of water rights under that section) shall have effect as if references therein to the acquisition of rights to take water under that section included references to the acquisition of the like rights in pursuance of an order made under section sixteen of that Act.

(4) Subsection (5) of section sixteen of the principal Act (which precludes the constitution under that section of any joint committee or joint board which could be constituted under section fourteen or fifteen of that Act) shall cease to have effect.

23.—(1) Subject to the provisions of this section, an order under section sixteen or under section forty-two of the principal Act authorising a local water authority to construct, alter, renew or maintain waterworks, or an order under section sixteen or under section twenty-one of the principal Act authorising a local water authority to acquire rights to take water from any stream or other source, may authorise that authority to acquire compulsorily any land required for the construction or alteration of those works, or for the construction of such works as may be necessary for the purpose of exercising the powers to take water conferred by the order, as the case may be, being land which a local water authority could be authorised to acquire under section twenty of the principal Act.

Compulsory  
acquisition of  
land for  
construction  
of waterworks.

(2) The provisions of the First Schedule to this Act shall have effect in relation to an order under the said section sixteen, the said section twenty-one or the said section forty-two which authorises any such acquisition of land as aforesaid.

24.—(1) The Secretary of State may, on application made to him by any local water authority who propose to acquire any land for the purposes of their water undertaking or proposed water undertaking, authorise them to survey that land in accordance with the provisions of this section :

Power to  
survey and  
search for  
water on land  
proposed to  
be purchased.

Provided that notice of any such application shall be given by the authority to the owner and the occupier of the land, and the Secretary of State shall, before giving his authority under this subsection, consider any representations made to him by any such owner or occupier within fourteen days after the receipt of the notice.

PART III  
—cont.

(2) Where an authority are authorised as aforesaid to survey any land under this section, any officer of the authority authorised for the purpose shall, on producing if so required some duly authenticated document showing his authority, have a right at all reasonable hours to enter on and survey the land; and subsections (3) to (7) of section seventy-two of the principal Act (which makes provision with respect to the exercise of certain powers of entry conferred by that Act) shall apply to any right of entry conferred by this section.

(3) Admission to any land shall not be demanded as of right in the exercise of such right as aforesaid unless twenty-four hours notice of the intended entry has been given to the occupier:

Provided that where notice is given in accordance with this subsection on the first occasion on which the right of entry is exercised, no further notice shall be required before entering on the land on a subsequent occasion in connection with the completion of the survey.

(4) The power to survey land conferred by this section shall include power to carry out experimental borings or other works for the purpose of ascertaining the nature of the subsoil or the presence of underground water therein, or the quality or quantity of such water, and to reinstate the land after carrying out any such works:

Provided that a person shall not carry out any works authorised by this subsection on land which is occupied unless at least seven days notice of his intention so to do has been given to the occupier of the land; and if the occupier of the land objects to the proposed works on the ground that the carrying out thereof would be seriously detrimental to the carrying on of any undertaking, trade or business carried on by him on that land, the works shall not be carried out except with the authority of the Secretary of State.

(5) The provisions of section twelve of the principal Act (which relates to compensation for damage resulting from the exercise of powers under that Act) shall apply in relation to damage resulting from the exercise of any power conferred by this section as they apply in relation to damage resulting from the exercise of any power under that Act.

(6) If any damage or injury is caused by the escape of water from any land on which works have been carried out in pursuance of this section (not being damage in respect of which compensation is payable under the last foregoing subsection) nothing in this section shall be construed as exonerating the authority on whose behalf the works were carried out from any liability in respect of that damage to which they would be subject if the works had been carried out otherwise than in the exercise of statutory powers.

25.—(1) Every local water authority shall prepare and maintain a schedule of the terms and conditions on which they are prepared in general to give a supply of water by meter or otherwise, and that schedule shall be published in such manner as in the opinion of the authority will secure adequate publicity for it.

PART III  
—cont.

Charges for  
water supplied  
by meter.

(2) Nothing in the foregoing subsection shall be construed as prejudicing the rights or duties under section eleven of the principal Act of a local water authority or of any person supplied or proposed to be supplied by them under that section.

(3) Every local water authority shall keep a register in which they shall enter particulars of every agreement entered into by them after the commencement of this Act for the giving of a supply of water for purposes other than domestic purposes to any person on terms and conditions other than the terms and conditions for the time being set forth in the schedule maintained by them under subsection (1) of this section.

(4) The register kept under the last foregoing subsection shall be kept at the office of the authority and shall be open at all reasonable hours to the inspection of all ratepayers within the district of the authority without payment of any fee.

26.—(1) Where a supply of water for purposes other than domestic purposes is provided for premises being agricultural lands and heritages, the local water authority shall require the supply to be taken either by meter or on other specified terms as they may from time to time in their discretion determine.

Provisions as  
to supply of  
water to  
agricultural  
subjects.

(2) Where a local water authority supply water by meter for purposes other than domestic purposes to any premises being agricultural lands and heritages and also supply water for domestic purposes to any dwelling house comprised in such premises, the authority shall, if it is reasonably practicable so to do, provide the whole supply of water to such premises and dwelling house through a single meter.

(3) The duty imposed by subsection (1) of this section upon a local water authority shall, in relation to premises being agricultural lands and heritages on the appointed day, be exercised by them as soon as may be after the appointed day and in any case not later than the fifteenth day of May, nineteen hundred and fifty-four.

27.—(1) Notwithstanding anything in section fifty-two or section sixty-seven of the principal Act, where water is supplied by meter by a local water authority, the authority shall not be entitled to impose any charge in respect of the provision, installation, repair or maintenance of the meter or of the taking of readings of the meter in any case where the meter is on a pipe not exceeding three-quarters of an inch in diameter.

Charge not  
to be made  
for provision,  
etc., of  
small meters.

PART III  
—cont.

(2) The provisions of this section shall have effect notwithstanding anything in the terms and conditions on which the supply of water was agreed to be given, or in any byelaws relating to such supply of water.

(3) Nothing in this section shall be construed as affecting the right conferred by subsection (4) of section fifty-two of the principal Act on a local water authority of recovering the cost of repairing any damage wilfully or negligently done to any water fitting belonging to the authority.

Termination  
of right to  
supply of  
water on  
special terms.

**28.—**(1) Where by virtue of any enactment (including any enactment in this Act) or of any agreement a local water authority are under an obligation to which this section applies, the authority and the person having the vested interest in the obligation may, with the approval of the Secretary of State, enter into an agreement to terminate the obligation on such terms and conditions as to compensation or otherwise as they may agree; and any such agreement shall be enforceable against any person deriving title from the person who entered into the agreement.

(2) The Secretary of State may, on the application of the local water authority and after affording to the person having the vested interest in the obligation an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, by order provide for the termination compulsorily of an obligation to which this section applies on payment of compensation, the amount of which shall, in default of agreement, be determined in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement, and the order may contain such incidental, consequential and supplementary provisions, including provisions for the amendment and repeal of any local enactment, as the Secretary of State thinks necessary or expedient.

(3) The amount of the compensation to be paid under the last preceding subsection shall be assessed by reference to the value of the rights secured under the obligation as at the date of the making of the order, and in assessing that value regard shall be had to the amount of the rate or charge or of the rate and charge, as the case may be, which may reasonably be expected to become payable as a result of the termination of the obligation.

(4) This section applies to any obligation on the part of any local water authority providing to any person other than a local authority or a local water authority a supply of water (whether for domestic purposes or for purposes other than domestic purposes) to provide that supply free of charge or on terms more

favourable to the person having the vested interest in the obligation than those which apart from the obligation would be applicable.

PART III  
—cont.

(5) The local water authority shall record in the appropriate Register of Sasines any agreement entered into or order made under the foregoing provisions of this section terminating an obligation to which this section applies if the obligation was itself recorded in the Register of Sasines.

(6) Where an application under subsection (2) of this section relates to an obligation under which the local water authority making the application are required to provide a supply of water to premises in the district of another local water authority or of a local authority, the order may, with the concurrence of the authorities concerned, contain provisions for the payment by that other local water authority or by that local authority of such part of the compensation payable by virtue of the order as the order may prescribe.

(7) An obligation to furnish a supply of water or to grant a wayleave for pipes or to give any other benefit or advantage to a local water authority entered into in consideration of an obligation to which this section applies shall not be deemed to be terminated by reason only of the termination under this section of the last mentioned obligation.

(8) No local water authority shall after the appointed day by agreement or otherwise incur any obligation of the kind to which this section applies.

29.—(1) Notwithstanding anything in any such obligation as is mentioned in subsection (4) of the last preceding section a local water authority shall not be liable under the obligation to provide to any premises in any year a quantity of water greater than the quantity supplied thereto in the year immediately preceding the twenty-seventh day of October, nineteen hundred and forty-eight, or to provide to any premises not provided by them with a supply of water on that day a supply otherwise than on the terms on which the supply would, apart from the obligation, be provided under the principal Act and this Act.

Limitation of  
liability of  
local water  
authority to  
supply water on  
special terms.

(2) Any question arising under the foregoing subsection shall in case of dispute be determined by arbitration.

30. Section twenty-one of the principal Act (which relates to the acquisition of water rights) shall have effect subject to the following amendments, that is to say—

Amendment  
of s. 21 of the  
principal Act.

- (a) in subsection (1) the words from “and the enactments” to the end of the subsection shall be omitted;
- (b) in subsection (2) the words from “and such order” to the end of the subsection shall be omitted, and at

PART III  
—cont.

the end of the subsection there shall be added the words “and the order may contain such incidental, consequential and supplementary provisions as the Secretary of State thinks necessary or expedient for the purposes of the order, and where such provisions include a provision requiring the payment of compensation, the amount of such compensation shall, in case of dispute, be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement”;

- (c) in subsection (3) in paragraph (a) the words from “or (as the case may be)” to “a stated rate”, and in paragraph (b) the words from “or (as the case may be)” to “be maintained”, shall be omitted; and
- (d) in subsection (5) the words “or the maximum quantity of water to be abstracted or the minimum rate of flow to be maintained” shall be omitted.

Amendment  
of s. 24 of the  
principal Act.

**31.** Where under subsection (1) of section twenty-four of the principal Act (which relates to the power of local authorities to carry out works) the Secretary of State gives consent to the construction by a local authority of works, the consent may be given either unconditionally or subject to such conditions or restrictions as may appear to the Secretary of State to be expedient for the purpose of or in connection with the carrying out of those works.

Provisions as  
to authorities  
combined  
under s. 14,  
s. 15 or s. 16 of  
the principal  
Act.

**32.** Where an order has been made under section fourteen or section fifteen of the principal Act combining two or more local authorities, or under section sixteen thereof combining two or more local water authorities, for any of the purposes of that Act, the combined body shall be deemed for those purposes to be a local water authority and to have such limits of supply as may be specified by the order, and shall have the functions conferred by that Act or by this Act on a local water authority for those purposes.

Limits of  
supply of  
certain burghs.

**33.** Any premises outside a burgh, being premises to which the town council of the burgh are supplying water and to which they were on the sixteenth day of May, nineteen hundred and forty-six, supplying water in exercise of the powers conferred on them by section two hundred and sixty-four of the Burgh Police (Scotland) Act, 1892, shall for the purposes of any enactment relating to the supply of water be deemed to be within the limits of supply of that town council.

Amendment of  
definition of  
“communication  
pipe”, &c.

**34.—(1)** Where any main is laid alongside and within sixty feet of the middle of a street, then, for the purposes of the definition of “communication pipe” contained in subsection (1) of section eighty-four of the principal Act, the land in which the

main is laid, and any land between the main and the street, shall be deemed to form part of the street, and references in that definition to the part of the street in which the main is laid, and to the boundary of the street in which the main is laid, shall be construed accordingly:

PART III  
—cont.

Provided that where the premises supplied with water lie between any such main as aforesaid and the street, only that land in which the main is laid together with any land between the main and those premises shall be deemed to form part of the street.

(2) Where any main is laid as mentioned in the foregoing subsection, the power of the local water authority to lay service pipes, stopcocks and other fittings under paragraph 7 of the Third Schedule to the principal Act shall include power, with the consent of every owner and occupier of the land, and subject to payment of compensation for any damage done by the authority, to lay such pipes, stopcocks and fittings in, on or over any land which is deemed to form part of a street for the purposes specified in the foregoing subsection.

(3) Any consent required for the purposes of the last foregoing subsection shall not be unreasonably withheld, and any question whether such consent is, or is not, unreasonably withheld shall be referred to and determined by the Secretary of State; and any dispute as to the amount of compensation to be paid under the last foregoing subsection shall be determined by arbitration in the manner provided by section eighty-three of the principal Act.

(4) For the avoidance of doubt, it is hereby declared that the provisions of subsection (3) of section twenty-eight of the principal Act (which subsection relates to the vesting in the local water authority of communication pipes) apply to any pipe laid before the commencement of this Act which, by virtue of this section, is deemed to be a communication pipe.

35.—(1) The power conferred on the Secretary of State by section eighty-eight of the principal Act to repeal or amend, on the application of any local water authority, any local enactment relating to the supply of water by that authority shall include power to consolidate any such local enactments as aforesaid, with or without amendments.

(2) The Interpretation Act, 1889, shall apply to the interpretation of any order made under the principal Act or this Act after the commencement of this Act as it applies to the interpretation of an Act of Parliament, and for the purposes of section thirty-eight of the said Act of 1889 (which relates to the effect of repeals) any such order and any order repealed thereby shall be deemed to be an Act of Parliament.

PART III  
—cont.  
Minor and  
consequential  
amendments.

36.—(1) Section six of the principal Act (which relates to the discharge by local water authorities of the functions of local authorities) shall have effect as if for the words from “any functions” to the end of the section there were substituted the words “those functions”.

(2) Section eleven of the principal Act (which relates to the supply of water for purposes other than domestic purposes) shall have effect as if after subsection (1) there were inserted the following subsection:—

“(1A) The local water authority may require, as a condition of giving a supply of water under this section, that the person requesting the supply shall enter into an agreement undertaking to pay to them in respect of each year a sum not exceeding one-eighth of the cost of providing and laying the necessary mains (less any amounts received by the authority in respect of water supplied whether for domestic or non-domestic purposes in that year from those mains) until the aggregate amount of the charges and the domestic water rates payable annually in respect of the provision of that supply and of the supply of water to any other premises connected with those mains exceeds such sum as aforesaid or until the expiration of a period of twelve years, whichever first occurs.”

(3) Section nineteen of the principal Act (which authorises the making of arrangements for the supply of water in bulk) shall have effect as if in subsection (2) after the words “such supply as aforesaid” there were inserted the words “for such period”.

(4) Section twenty-six of the principal Act (which relates to the power of a local water authority to lay mains) shall have effect as if in subsection (1) after the word “repair” there were inserted the word “maintain”, and as if in subsection (2) after the word “repair”, where it first occurs, there were inserted the word “maintain” and after the word “repair”, in the second place where that word occurs, there were inserted the word “maintenance”.

(5) Subsection (1) of section twenty-eight of the principal Act shall have effect as if after the words “local water authority” there were inserted the words “providing the supply”.

(6) In section thirty-two of the principal Act (which relates to the charges to be made for water supplied by meter)—

(a) for the proviso to subsection (1) there shall be substituted the following proviso—

“Provided that any such charge shall be payable only in so far as it exceeds the produce of any



domestic water rate leviable in respect of the premises to which the supply is provided”;

(b) after subsection (1) there shall be inserted the following subsection—

“(1A) In this section the expression ‘domestic water rate’ means—

- (a) in relation to premises to which the supply is furnished by the local authority of the district in which the premises are situated, the domestic water rate levied by that local authority;
- (b) in relation to premises to which the supply is furnished by a joint water board or by a local authority other than the local authority of the district in which the premises are situated, the domestic water rate which is assumed to be levied by the board or authority under subsection (3) of section ten or subsection (2) of section eleven of the Water (Scotland) Act, 1949, for the purpose of determining the sum to be requisitioned from the local authority concerned”.

(7) In section thirty-three of the principal Act (which authorises the local water authority to require the supply of water to be taken by meter in certain cases) for paragraph (a) there shall be substituted the following paragraph—

“(a) any premises whereof part is used as a dwelling house and part for any business, trade or manufacturing purpose for which water is required;”

(8) Subsection (3) of section thirty-seven of the principal Act shall have effect as if after the word “provided” there were inserted the words “by a local water authority”; as if for the words from “of which no account” to “forms part” there were substituted the words “which forms part of a holding within the meaning of the Small Landholders (Scotland) Acts, 1886 to 1931”, and as if after the words “such annual sum” there were inserted the words “not being less than fifteen shillings”.

(9) Subsection (1) of section forty-two of the principal Act shall have effect as if after the words “Provided that” there were inserted the words “except as otherwise provided by the Water (Scotland) Act, 1949”.

(10) Subsection (1) of section forty-four of the principal Act shall have effect as if after the words “section nineteen” there were inserted the words “section twenty-one”.

PART III  
—cont.

(11) In subsection (1) of section eighty-four of the principal Act (which relates to the interpretation of that Act)—

(a) in paragraph (b) of the definition of “communication pipe” the words “of the part” shall be inserted after the word “boundary”;

(b) for the definitions of “enactment” and “local enactment” there shall be substituted respectively the following definitions—

“‘enactment’ means any Act of Parliament, whether public general, local or private, any statutory order or any provision in an Act of Parliament or statutory order;” and

“‘local enactment’ means any local Act of Parliament, any statutory order or any provision in any such Act of Parliament or statutory order”;

(c) the definition of “fishery district board” shall have effect as if at the end there were added the words “and for the purposes of this Act the Commissioners appointed under the Tweed Fisheries Act, 1857, shall be deemed to be a fishery district board, and the river, as defined by the Tweed Fisheries (Amendment) Act, 1859, and any byelaw amending that definition, shall be deemed to be their fishery district”;

(d) the definition of “joint water board” shall have effect as if the words “and consisting exclusively of persons appointed by local authorities” were omitted.

(12) Subsection (2) of section eighty-eight of the principal Act shall have effect as if for the words “the limits of supply” there were substituted the words “the district”.

(13) Section seven of the Fourth Schedule to the principal Act (which enables the undertakers to acquire servitudes for underground works) shall have effect as if for subsection (1) of that section there were substituted the following subsection—

“(1) Where the undertakers are authorised by the special Act to acquire any land compulsorily for the purpose of executing any underground works, they may, instead of purchasing the land, purchase only such servitudes and rights over or in the land as may be sufficient for the purpose, and the Lands Clauses Acts and the enactments relating to the compensation payable in respect of the compulsory acquisition of land shall apply accordingly subject to any exceptions and modifications with which those enactments are incorporated with the special Act and to any other necessary adaptations.”

PART IV  
GENERAL

37. Any increase attributable to this Act in the sums payable out of moneys provided by Parliament under Part II of the Local Government Act, 1948, shall be defrayed out of moneys so provided. Expenses.

38.—(1) The provisions of this Act and of the principal Act shall have effect in substitution for the provisions of any local enactment with respect to the manner in which expenditure incurred in providing a supply of water is to be defrayed (whether by the levying of a rate or rates or by the imposition of charges or otherwise), and any such enactment or any agreement made thereunder shall, in so far as it is inconsistent with the provisions of this Act or of the principal Act, cease to have effect. Provisions as to local enactments.

(2) If it appears to the Secretary of State that any provision of a local enactment, such as is mentioned in the foregoing subsection, in force immediately before the appointed day is inconsistent with any of the provisions of this Act or of the principal Act, or is no longer required, or requires to be amended, having regard to the provisions of this Act and of the principal Act, he may by order repeal or amend that provision as he may consider appropriate.

(3) The provisions of Part II of the First Schedule to the principal Act shall apply to orders made under subsection (2) of this section.

(4) Any order under subsection (2) of this section made after the expiry of five years from the appointed day shall be subject to special parliamentary procedure.

39.—(1) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:— Interpretation, construction and repeals.

“agricultural lands and heritages” has the like meaning as in the Rating and Valuation (Apportionment) Act, 1928;

“appointed day” means the sixteenth day of May, nineteen hundred and forty-nine;

“domestic water rate” and “public water rate” have the meanings assigned to them by section one of this Act;

“gross annual value” has the like meaning as in the Local Government (Scotland) Act, 1947;

“principal Act” means the Water (Scotland) Act, 1946.

(2) Except where the context otherwise requires, references in this Act to any enactment shall be construed as references to that enactment as amended by any subsequent enactment, including this Act.

PART IV  
—cont.

(3) This Act shall be construed as one with the principal Act, and, without prejudice to the generality of the foregoing provision, references in the principal Act to any provision of that Act shall be construed as references to that provision as amended by this Act.

(4) The enactments specified in the Second Schedule to this Act are hereby repealed, in the case of enactments specified in Part I of that Schedule as from the appointed day, and in the case of enactments specified in Part II of that Schedule as from the passing of this Act, to the extent specified in relation thereto in the third column of that Schedule.

Citation  
and extent.

**40.**—(1) This Act may be cited as the Water (Scotland) Act, 1949, and the principal Act and this Act may be cited together as the Water (Scotland) Acts, 1946 and 1949.

(2) This Act shall extend to Scotland only.

## Section 23.

## SCHEDULES

## FIRST SCHEDULE

ORDERS UNDER SECTION 16, SECTION 21 OR SECTION 42 OF THE  
PRINCIPAL ACT AUTHORISING COMPULSORY ACQUISITION OF LAND

1. The order shall incorporate the Lands Clauses Acts and section six of the Railways Clauses Consolidation (Scotland) Act, 1845, and those Acts and the enactments relating to the compensation payable in respect of the compulsory acquisition of land shall apply accordingly subject to the exceptions and modifications specified in Parts I and II of the Second Schedule to the Act of 1947, and to such other exceptions and modifications (if any) as may be specified in the order.

2. A copy of the notice required by paragraph 1 or paragraph 10 of the First Schedule to the principal Act to be published shall be served in accordance with the provisions of paragraph 2 or paragraph 11 of that Schedule on every owner, lessee and occupier (except tenants for a month or for any period less than a month) of any land authorised by the draft order to be compulsorily acquired.

3. Where any such objection as is mentioned in paragraph 6 or paragraph 15 of the First Schedule to the principal Act relates to the compulsory acquisition of land, the Secretary of State may require the objector to state in writing the grounds thereof, and if it is certified by the Secretary of State that the objection relates exclusively to matters that can be dealt with by the tribunal by whom the compensation for the compulsory acquisition is to be assessed—

(a) the Secretary of State may disregard the objection for the purposes of the said paragraph 6 or paragraph 15, as the case may be; and

(b) where paragraph 7 or paragraph 16 of the said First Schedule applies to the order, the objection shall be disregarded for the purposes of that paragraph.

1ST SCH.  
—cont.

4. Notwithstanding anything in paragraph 5 or paragraph 14 of the First Schedule to the principal Act, the order as made by the Secretary of State shall not, unless all persons interested consent, authorise the local water authority to acquire compulsorily any land which they would not have been so authorised to acquire if it had been made in terms of the draft submitted to or prepared by him.

5. Subject as hereinafter provided, Part III of the First Schedule to the Act of 1947 (which makes special provision with respect to land of local authorities and statutory undertakers, inalienable land of the National Trust for Scotland, and land being a common or open space or the site of an ancient monument) shall apply to the order as it applies to a compulsory purchase order:

Provided that where paragraph 7 or paragraph 16 of the First Schedule to the principal Act applies to the order, this paragraph shall have effect as if for the reference to Part III of the First Schedule to the Act of 1947 there were substituted a reference to paragraph 10 of the last mentioned Schedule.

6. As soon as may be after the order has been made, the local water authority shall publish in one or more newspapers circulating in the locality in which the land authorised to be acquired is situated a notice describing the land and stating that the order has been made authorising the local water authority to acquire it compulsorily, and naming a place where a copy of the order as made may be inspected at all reasonable hours, and shall serve a like notice and a copy of the order as made on any persons on whom notices with respect to the land were required to be served by virtue of paragraph 2 of this Schedule.

7. Part IV of the First Schedule to the Act of 1947 (which relates to the validity and date of operation of compulsory purchase orders under that Act) shall apply to the order as if it were a compulsory purchase order and as if this Act were included among the enactments specified in subsection (1) of section one of that Act; and subparagraph (1) of paragraph 15 of that Schedule shall have effect accordingly in relation to the order as if for the words "this Act", in the third place where those words occur, there were substituted the words "the First Schedule to the Water (Scotland) Act, 1949", and as if after the words "this Schedule", in the second place where those words occur, there were inserted the words "or the First Schedule to the Water (Scotland) Act, 1949":

Provided that nothing in this paragraph shall prohibit or restrict the taking of legal proceedings for questioning the order so far as it relates to matters other than the compulsory acquisition of land.

8. In this Schedule the expression "the Act of 1947" means the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947.

**SECOND SCHEDULE**  
**ENACTMENTS REPEALED**

Section 39.

**PART I**

**ENACTMENTS REPEALED AS FROM APPOINTED DAY**

| Session and Chapter       | Short Title                                       | Extent of Repeal                                                                                                                                                                                                                                                                                                                         |
|---------------------------|---------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 54 & 55 Vict.<br>c. 52.   | The Public Health (Scotland) Amendment Act, 1891. | The whole Act.                                                                                                                                                                                                                                                                                                                           |
| 16 & 17 Geo. 5.<br>c. 47. | The Rating (Scotland) Act, 1926.                  | Section twelve, so far as relating to the valuation of lands and heritages for the purposes of the domestic water rate.                                                                                                                                                                                                                  |
| 19 & 20 Geo. 5.<br>c. 25. | The Local Government (Scotland) Act, 1929.        | In section forty-four, subsection (3).<br>In section forty-nine, subsection (2).                                                                                                                                                                                                                                                         |
| 10 & 11 Geo. 6.<br>c. 43. | The Local Government (Scotland) Act, 1947.        | Part VII, so far as relating to the formation, operation and dissolution of special water supply districts.<br>In section two hundred and twenty-four, in subsection (1), paragraph (i) of the proviso.<br>In section two hundred and twenty-five, in subsection (1), the words "Special district water rate or" and "water supply and". |

**PART II**

**ENACTMENTS REPEALED AS FROM PASSING OF THIS ACT**

| Session and Chapter      | Short Title                     | Extent of Repeal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|--------------------------|---------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 9 & 10 Geo. 6.<br>c. 42. | The Water (Scotland) Act, 1946. | In section sixteen, subsection (5).<br>In section twenty-one, in subsection (1), the words from "and the enactments" to the end of the subsection; in subsection (2) the words from "and such order" to the end of the subsection; in subsection (3) in paragraph (a) the words from "or (as the case may be)" to "a stated rate", and in paragraph (b) the words from "or (as the case may be)" to "be maintained"; in subsection (4) in paragraph (a) the words from "and incorporates" to the end |

2ND SCH.  
—cont.

| Session and Chapter          | Short Title                             | Extent of Repeal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|------------------------------|-----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 9 & 10 Geo. 6<br>c. 42—cont. | The Water (Scotland)<br>Act, 1946—cont. | <p>of the paragraph, and in paragraph (b) the words from “and shall incorporate” to the end of the paragraph; and in subsection (5) the words from “or the maximum” to “be maintained”.</p> <p>Section thirty-nine.</p> <p>Section forty-five.</p> <p>In section eighty-four, in subsection (1), in the definition of “joint water board” the words “and consisting exclusively of persons appointed by local authorities”.</p> <p>In section eighty-eight, in subsection (1), the words “any provision in any local enactment, being a provision relating”; and in subsection (2) the words “provision in a” and the words “being a provision”.</p> |

Table of Statutes Referred to in this Act

| Short Title                                                            | Session and Chapter       |
|------------------------------------------------------------------------|---------------------------|
| Railways Clauses Consolidation (Scotland) Act, 1845.                   | 8 & 9 Vict. c. 33.        |
| Waterworks Clauses Act, 1847 ... ..                                    | 10 & 11 Vict. c. 17.      |
| Lands Valuation (Scotland) Act, 1854 ... ..                            | 17 & 18 Vict. c. 91.      |
| Tweed Fisheries Act, 1857... ..                                        | 20 & 21 Vict. c. cxlviii. |
| Tweed Fisheries (Amendment) Act, 1859 ... ..                           | 22 & 23 Vict. c. lxx.     |
| Interpretation Act, 1889 ... ..                                        | 52 & 53 Vict. c. 63.      |
| Burgh Police (Scotland) Act, 1892 ... ..                               | 55 & 56 Vict. c. 55.      |
| Local Government (Scotland) Act, 1894... ..                            | 57 & 58 Vict. c. 58.      |
| Burgh Police (Scotland) Act, 1903 ... ..                               | 3 Edw. 7. c. 33.          |
| House Letting and Rating (Scotland) Act, 1911                          | 1 & 2 Geo. 5. c. 53.      |
| Rating and Valuation (Apportionment) Act, 1928                         | 18 & 19 Geo. 5. c. 44.    |
| Rural Water Supplies and Sewerage Act, 1944 ...                        | 7 & 8 Geo. 6. c. 26.      |
| Water (Scotland) Act, 1946 ... ..                                      | 9 & 10 Geo. 6. c. 42.     |
| Acquisition of Land (Authorisation Procedure)<br>(Scotland) Act, 1947. | 10 & 11 Geo. 6. c. 42.    |
| Local Government (Scotland) Act, 1947... ..                            | 10 & 11 Geo. 6. c. 43.    |
| Local Government Act, 1948 ... ..                                      | 11 & 12 Geo. 6. c. 26.    |

## CHAPTER 32.

*Special Roads Act, 1949*

## ARRANGEMENT OF SECTIONS.

## Section.

1. Schemes for provision of special roads.
2. Classification of traffic for purposes of special roads.
3. Supplementary orders relating to special roads.
4. Restriction on laying of mains, etc., in special roads.
5. Application of Town and Country Planning Act, 1944, s. 25, etc.
6. Restriction of powers of sewerage authorities.
7. Private rights of access.
8. Bridges and tunnels.
9. Status of special roads, etc.
10. Additional powers of acquiring land for special roads.
11. Powers of entry.
12. Provisions as to use of special roads.
13. Determination of disputes as to compensation.
14. Amendments of law relating to trunk roads.
15. Adaptation of certain trunk road orders.
16. Supplementary provisions as to procedure.
17. Revocation and variation of schemes and orders.
18. Provisions as to schemes, orders and regulations.
19. Financial provisions.
20. Saving for Postmaster-General.
21. Interpretation.
22. Special provisions as to London.
23. Short title and extent.

## SCHEDULES :

First Schedule—Provisions as to schemes and orders.

Part I—Schemes under section one.

Part II—Orders under section three.

Part III—Application of Statutory Orders (Special Procedure) Act, 1945.

Part IV—Validity and date of operation of schemes and orders.

Second Schedule—Classes of traffic for purposes of special roads.

Third Schedule—Orders under Trunk Roads Act, 1946, to be treated as schemes under this Act.

An Act to provide for the construction of roads reserved for special classes of traffic; to amend the law relating to trunk roads; and for purposes connected with the matters aforesaid. [11th May 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled and by the authority of the same, as follows :—

Schemes for provision of special roads.

1.—(1) Any highway authority may be authorised by means of a scheme under this section to provide, along a route prescribed by the scheme, a special road for the use of traffic of any class so prescribed.



(2) A special road authorised by a scheme under this section may be provided—

- (a) by means of the construction by the highway authority (in this Act referred to as the special road authority) of a new road along the route prescribed by the scheme or any part thereof ;
- (b) by means of the appropriation under the following provisions of this Act of any road comprised in that route for which the special road authority are the highway authority ;
- (c) by means of the transfer to that authority under the following provisions of this Act of any road comprised in that route for which they are not the highway authority.

(3) A scheme under this section authorising the provision of a special road shall—

- (a) in the case of a road to be provided by the Minister, be made by the Minister ; and
- (b) in the case of a road to be provided by a local highway authority, be made by that authority and confirmed by the Minister,

in accordance with the provisions of Part I of the First Schedule to this Act.

(4) Before making or confirming a scheme under this section, the Minister shall give due consideration to the requirements of local and national planning, including the requirements of agriculture.

(5) Part III of the said First Schedule shall have effect for the purposes of the application to schemes under this section of the Statutory Orders (Special Procedure) Act, 1945 ; and Part IV of that Schedule shall have effect with respect to the validity and date of operation of such schemes.

(6) A scheme under this section may be submitted to the Minister jointly by any two or more local highway authorities, and any such scheme may determine which of those authorities shall be the special road authority for the special road or any part thereof, and may provide—

- (a) for the performance by that authority, in relation to the road or that part thereof, of any of the highway functions of any other authority who are party to the application ; and
- (b) for the making of contributions by that other authority to the special road authority in respect of expenditure incurred in the performance of those functions.

2.—(1) Different classes of traffic may be prescribed by a scheme under section one of this Act in relation to different parts of the special road to which the scheme relates.

Classification of traffic for purposes of special roads.

(2) The classes of traffic prescribed by any such scheme shall be prescribed by reference to the classes set out in the Second Schedule to this Act.

(3) The Minister may by order vary the composition of any class of traffic specified in the said Second Schedule ; and where any such order has come into operation, any reference in a scheme in force under the said section one, whether made or confirmed before or after the date on which the order comes into operation, to any class of traffic to which the order relates shall be construed as a reference to that class as varied by the order.

Supple-  
mentary  
orders  
relating to  
special roads.

3.—(1) At any time after a scheme under this Act authorising the provision of a special road has come into operation, provision may be made by an order under this section for any of the following purposes, that is to say :—

- (a) for appropriating as part of the special road, as from such date as may be specified in the order, any road comprised in the route prescribed by the scheme for which the special road authority are the highway authority ;
- (b) for transferring to the special road authority, as from such date as may be specified in the order, any road comprised in that route for which they are not the highway authority ;
- (c) for authorising that authority—
  - (i) to stop up, divert, improve, raise, lower or otherwise alter any road which crosses or enters the route of the special road or is or will be otherwise affected by the construction or improvement of the special road ;
  - (ii) to construct any new road for purposes connected with any such alteration as aforesaid or for any other purpose connected with the special road or its construction, and to close after such period as may be specified in the order any new road so constructed for temporary purposes ;
- (d) for transferring to such highway authority as may be specified in the order, as from such date as may be so specified, any road constructed by the special road authority in pursuance of the order or any previous order made under this section ;
- (e) for authorising or requiring the special road authority to exercise, either concurrently with or to the exclusion of any local authority, any functions which, apart from the order, would be exercisable by that local authority in relation to the special road or any part thereof other than functions of that authority as local

planning authority within the meaning of the Town and Country Planning Act, 1947, or the Town and Country Planning (Scotland) Act, 1947 ;

(f) for any other purpose incidental to the purposes aforesaid or otherwise incidental to the construction or maintenance of, or other dealing with, the special road.

(2) An order under this section making provision in connection with a special road shall—

(a) in the case of a special road to be provided by the Minister, be made by the Minister ; and

(b) in the case of a special road to be provided by a local highway authority, be made by that authority and confirmed by the Minister,

in accordance with the provisions of Part II of the First Schedule to this Act ; and Part IV of that Schedule shall have effect with respect to the validity and date of operation of any such order.

(3) No order authorising the stopping up of a highway shall be made or confirmed by the Minister under this section unless the Minister is satisfied that another reasonably convenient route is available or will be provided in pursuance of an order under this section before the highway is stopped up ; and no order providing for the appropriation by or transfer to the special road authority of an existing road comprised in the route prescribed by a scheme under this Act shall be made or confirmed as aforesaid unless the Minister is satisfied that another reasonably convenient route is available for traffic other than traffic of the class authorised by the scheme, or will be provided in pursuance of an order under this section before the date on which the appropriation or transfer takes effect, or unless in the case of any such traffic he is satisfied that such a route is not reasonably required.

(4) Where provision is made by an order under this section—

(a) for transferring any road from one highway authority to another ;

(b) for enabling a highway authority to alter any road vested in another ; or

(c) for authorising or requiring any functions of a local authority to be exercised by a highway authority,

the order may transfer to the highway authority to whom the road is transferred, or in whom it is vested, or by whom those functions are to be exercised, any property, rights or liabilities (other than loans or loan charges) vested in or incurred by the other authority in connection with the road or the alteration, or for the purposes of those functions, as the case may be ; and may for that purpose (whether or not the road in question is

a trunk road) apply any of the provisions of section seven of the Trunk Roads Act, 1936, or any of the transitional provisions contained in the Fifth Schedule to that Act, subject to such modifications as may be specified in the order :

Provided that no such order shall provide for transferring to any authority (except by agreement with that authority) the fabric of any bridge over or tunnel under the special road, as distinct from any road carried by the bridge or through the tunnel, and from any approaches to the bridge or tunnel.

(5) An order under this section may provide for the payment of contributions—

- (a) by the special road authority to any other highway authority in respect of any additional liabilities imposed on that other authority in consequence of the provisions of the order or of any previous order made under this section ;
- (b) to the special road authority by any other authority in respect of any liabilities so imposed on the special road authority, being liabilities which would otherwise have fallen to be discharged by the other authority ;

and may also provide for the determination by arbitration of disputes as to the payment of such contributions.

Restriction  
on laying of  
mains, etc., in  
special roads.

4.—(1) Subject to the provisions of this section, the powers conferred on statutory undertakers by or under any enactment to lay down or erect any apparatus on, under or over any land shall not be exercisable in relation to any land comprised in the route of a special road except with the consent of the special road authority :

Provided that the consent of the special road authority shall not be required under this section for the laying down or erection by statutory undertakers of any apparatus by way of renewal of any apparatus for the time being vested in or belonging to them.

(2) The consent of a special road authority under this section may be given subject to conditions, but those conditions shall not include a condition requiring any payment to be made by the undertakers to the special road authority in respect of the exercise of the powers to the exercise of which the consent is given.

(3) Where any apparatus in respect of which the consent of a special road authority is required under this section is to be laid down or erected along a line crossing the route of the special road but not running along that route, that authority—

- (a) shall not withhold their consent under this section unless there are special reasons for doing so ; and

(b) may, if they give their consent subject to conditions, make contributions to the statutory undertakers in respect of any expenses incurred by them in complying therewith.

(4) Any dispute between a special road authority and any statutory undertakers in respect of—

(a) the withholding of the consent of that authority in respect of apparatus to be laid down or erected as mentioned in the last foregoing subsection ; or

(b) the imposition of any condition on the grant of such consent ; or

(c) the making of any contributions under paragraph (b) of the last foregoing subsection,

shall be determined by arbitration ; and where the Minister is the special road authority, the arbitrator shall be a single arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers.

(5) Where the consent of a special road authority is required under this section in respect of apparatus to be laid down or erected otherwise than as mentioned in subsection (3) of this section, and the special road authority are a local highway authority, then—

(a) if the apparatus is to be laid under the carriageway of the road, the authority shall not give their consent except with the approval of the Minister ;

(b) if the consent of the authority is refused (otherwise than in consequence of the withholding of the Minister's approval under the foregoing paragraph) or is granted subject to conditions (other than conditions approved by the Minister under that paragraph) the statutory undertakers may appeal to the Minister, and the Minister may make such order as he thinks fit.

(6) The provisions of this section shall have effect in addition to and not in substitution for the provisions of any other enactment restricting or regulating the powers of any statutory undertakers to break open streets or enter upon land for the purpose of laying down or erecting apparatus.

(7) In the application of this section to Scotland, in subsection (4) for the words from " by arbitration " to the end of that subsection there shall be substituted the words " by a single arbiter appointed, in default of agreement, by any sheriff having jurisdiction ; and at any stage of the proceedings in any such arbitration the arbiter may, and shall if so directed by the Court of Session, state a case for the opinion of that Court on any question of law arising in the arbitration ".

Application  
of Town and  
Country  
Planning  
Act, 1944,  
s. 25, etc.

5.—(1) Without prejudice to the provisions of the last foregoing section, section twenty-five of the Town and Country Planning Act, 1944 (which, as incorporated with Part IV of the Town and Country Planning Act, 1947, provides for the extinguishment of certain subsisting rights of statutory undertakers over land acquired under the said Part IV) shall apply—

(a) in relation to land acquired or appropriated by a special road authority for the purpose of carrying out any works in pursuance of a scheme or order under this Act ; and

(b) in relation to land forming the site of any part of an existing road which is appropriated or transferred to a special road authority under this Act,

as it applies in relation to land acquired under the said Part IV ; and sections twenty-six and twenty-seven of the said Act of 1944 (which contain provisions consequential upon the extinguishment of any right under the said section twenty-five) shall have effect accordingly.

(2) In the application of the foregoing subsection to Scotland, for references to the Town and Country Planning Act, 1944, and to sections twenty-five, twenty-six and twenty-seven of that Act, there shall be substituted respectively references to the Town and Country Planning (Scotland) Act, 1945, and to sections twenty-four, twenty-five and twenty-six of that Act, and for references to Part IV of the Town and Country Planning Act, 1947, there shall be substituted references to Part III of the Town and Country Planning (Scotland) Act, 1947.

(3) The enactments mentioned in subsection (1) and subsection (2) of this section shall have effect, as applied for the purposes of this section, subject to the following modifications, that is to say—

(a) for references therein to the purchasing authority there shall be substituted references to the special road authority ;

(b) for references therein to the Minister of Town and Country Planning, or to the Secretary of State, as the case may be, there shall be substituted references to the Minister.

(4) Where any apparatus of any statutory undertakers supplying electricity, gas, hydraulic power or water is removed in pursuance of a notice or order given or made under section twenty-five of the Town and Country Planning Act, 1944, or section twenty-four of the Town and Country Planning (Scotland) Act, 1945, as applied for the purposes of this section, any person being the owner or occupier of premises to which a supply was given from that apparatus shall be entitled to recover from the special road authority compensation in respect of expendi-

ture reasonably incurred by him, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

6.—(1) The provisions of sections four and five of this Act (including the enactments applied by the said section five) shall, so far as applicable, apply in relation to the sewers and sewage disposal works of any sewerage authority as they apply in relation to the apparatus of statutory undertakers, and references in those provisions to statutory undertakers and statutory undertakings shall be construed accordingly.

Restriction  
of powers  
of sewerage  
authorities.

(2) In the enactments specified in subsection (1) and subsection (2) of the said section five as applied for the purposes of this section, references to the appropriate Minister shall be construed, in relation to a sewerage authority, as references to the Minister of Health or the Secretary of State, as the case may be.

(3) Where a public sewer is removed in pursuance of a notice or order given or made under section twenty-five of the Town and Country Planning Act, 1944, or section twenty-four of the Town and Country Planning (Scotland) Act, 1945, as applied for the purposes of this section, any person being the owner or occupier of any premises the drains of which communicated with that sewer, or the owner of any private sewer which communicated with that sewer, shall be entitled to recover from the special road authority compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of making his drain or sewer communicate with any other public sewer or with a private sewage disposal plant.

7.—(1) An order under section three of this Act may authorise the special road authority—

Private rights  
of access.

- (a) to stop up any private means of access to premises abutting on or adjacent to land comprised in the route of the special road or forming the site of any works authorised by the order or any previous order made under the said section three ;
- (b) to provide new means of access to any such premises as aforesaid :

Provided that no order authorising the stopping-up of any private means of access to premises shall be made or confirmed by the Minister by virtue of paragraph (a) of this subsection unless the Minister is satisfied either that no access to the premises is reasonably required or that other reasonably convenient means of access to the premises are available or will be provided in pursuance of an order made by virtue of paragraph (b) of this subsection.

(2) Where access to any premises has been stopped up in pursuance of an order made by virtue of this section or is limited by virtue of the restrictions imposed under this Act on the use of the special road, and any person has suffered damage in consequence thereof by the depreciation of any interest in the premises to which he is entitled or by being disturbed in his enjoyment of the premises, he shall be entitled to recover from the special road authority compensation in respect of that damage :

Provided that in assessing such compensation regard shall be had to any new means of access provided by the special road authority.

(3) Any expenses incurred under this section by a local highway authority shall be deemed for the purposes of the Development and Road Improvement Funds Act, 1909, to be incurred in the construction of the road.

Bridges and  
tunnels.

**8.—**(1) Where the route prescribed by a scheme under this Act authorising the provision of a special road by a local highway authority includes any road carried by a bridge which, if the special road were a trunk road, would be transferred to the Minister by virtue of section seven of the Trunk Roads Act, 1946 (which relates to private bridges), any order under section three of this Act by which that road is appropriated or transferred to the special road authority may provide for the transfer of the bridge to that authority.

(2) Where any bridge is so transferred, subsections (2) to (8) of the said section seven shall apply as they apply in relation to a bridge transferred under that section, and accordingly shall have effect—

- (a) as if for references therein to the Minister and to the trunk road there were substituted references to the special road authority and the special road ; and
- (b) as if in subsection (6) the words " as applied in relation to trunk roads by section four of the principal Act " were omitted ;

and no order shall be made by virtue of subsection (4) of section three of this Act in respect of liabilities of the owners of the bridge.

(3) Provision may be made by a scheme under section one of this Act for the construction as part of a special road of a bridge over any navigable waters specified in the scheme, or of a tunnel under any such waters :

Provided that before making or confirming a scheme providing for the construction of any such bridge or tunnel, the Minister shall take into consideration the reasonable requirements of navigation over the waters affected by the scheme.

(4) A scheme which provides for the construction of any such bridge as is mentioned in subsection (3) of this section shall



include such plans and specifications as may be necessary to indicate the position and dimensions of the proposed bridge including the spans, headways and waterways thereof, and in the case of a swing bridge (including any opening bridge operated by mechanical means) shall contain such provisions as the Minister considers expedient for regulating its operation.

(5) A scheme which provides for the construction of any such tunnel as is mentioned in subsection (3) of this section shall include such plans and specifications as may be necessary to indicate the position and dimensions of the proposed tunnel, including the depth thereof below the bed of the sea, river or other navigable waters, as the case may be.

(6) In this section the expression "owners" has the same meaning as in section seven of the Trunk Roads Act, 1946.

9.—(1) A special road to be provided by the Minister in accordance with a scheme under this Act shall, except so far as it is provided by means of the appropriation or transfer of any existing road, become a trunk road on such date as may be specified in the scheme, and any road transferred to the Minister under this Act shall become a trunk road on the date on which it is so transferred; and the provisions of the Trunk Roads Acts, 1936 and 1946, shall apply to any road which becomes a trunk road by virtue of this subsection as they apply to a road which becomes a trunk road by virtue of an order under section one of the Trunk Roads Act, 1946. Status of special roads, etc.

(2) Subsection (3) of section fourteen of the Town and Country Planning Act, 1947, or subsection (3) of section twelve of the Town and Country Planning (Scotland) Act, 1947 (which enable the Minister to restrict the grant of planning permission in respect of development affecting trunk roads in England and Wales and in Scotland respectively) shall apply to any road—

(a) which is comprised in the route of a special road to be provided by the Minister in accordance with a scheme under this Act, but has not for the time being been transferred to him;

(b) which is or is to be provided by the Minister in pursuance of any order under this Act, and has not for the time being been transferred to any other highway authority,

as if it were a trunk road.

(3) Without prejudice to the provisions of section ten of the Development and Road Improvement Funds Act, 1909, a special road constructed by the council of a county or county borough in England or Wales in accordance with a scheme under this Act, and any road (not being a county road) which is transferred to such a council by means of an order under this Act, shall be deemed, when so constructed or transferred, as the case may be, to

be a county road, and any enactment with respect to county roads, shall apply thereto accordingly :

Provided that—

- (a) section thirty-two of the Local Government Act, 1928 (which entitles the councils of certain boroughs and urban districts to claim the functions of maintenance and repair of county roads) shall not apply in relation to any part of a special road; and
  - (b) where an order under this Act provides for the transfer to the council of a county of a road not forming part of a special road, the said section thirty-two shall have effect as if the road had become a county road on the date on which the order takes effect, but any function of maintenance and repair claimed under the said section thirty-two shall not be exercisable until the date specified in the order as the date on which the road is to be transferred as aforesaid.
- (4) Section eight of the Town and Country Planning Act, 1947, and section six of the Town and Country Planning (Scotland) Act, 1947 (which provide for the incorporation in development plans of orders made in accordance with the Second Schedule to the Trunk Roads Act, 1946, and of the lines of trunk roads to be constructed in accordance with such orders) shall apply to any scheme or order made or confirmed by the Minister under this Act and to any road (whether or not being a trunk road) to be constructed or altered in accordance therewith.
- (5) Except as otherwise expressly provided by or under this Act, the enactments relating to roads shall apply in relation to special roads as they apply in relation to roads other than special roads, and any road to be constructed in pursuance of a scheme or order under this Act shall be deemed to be a proposed road within the meaning of the Restriction of Ribbon Development Act, 1935, or the Trunk Roads Acts, 1936 and 1946, in the case may be.

Additional powers of acquiring land for special roads.

10.—(1) Subject to the provisions of this section, the power of a special road authority to acquire land under section thirteen of the Restriction of Ribbon Development Act, 1935, shall include power to acquire any land which in the opinion of the authority is required—

- (a) for the improvement of an existing road which is included in the route of the special road but has not been transferred to the authority by an order under this Act ;
- (b) for the purposes of any order made in relation to the special road under section three of this Act ; or
- (c) for the provision of service stations or other buildings, facilities to be used in connection with the construction of the special road or the use or maintenance thereof.

(2) A special road authority shall not be enabled by virtue of this section to acquire otherwise than by agreement any land lying more than two hundred and twenty yards from the middle of the special road or, where the land is required for the construction, improvement or alteration of any other road, from the middle of that other road.

(3) In relation to land acquired by virtue of this section by a special road authority being a local highway authority, section one hundred and sixty-four of the Local Government Act, 1933 which enables local authorities to let land, subject, in certain cases, to the consent of the Minister of Health) shall have effect as if for references therein to the Minister of Health there were substituted references to the Minister.

(4) In relation to a special road provided or to be provided by the Minister under this Act, the reference in this section to section thirteen of the Restriction of Ribbon Development Act, 1935, shall be construed as a reference to that section as modified in relation to trunk roads by the Trunk Roads Acts, 1936 and 1946.

11.—(1) Any person duly authorised in writing by a highway authority may enter on any land— Powers of entry.

- (a) for the purpose of surveying it in connection with the making of a scheme or order under this Act ;
- (b) where an order under section three of this Act so provides, for purposes connected with the carrying out of any works in pursuance of the scheme or of any order under that section, or the removal of any temporary works so carried out.

(2) Subsections (4), (5), (6) and (9) of section one hundred and three of the Town and Country Planning Act, 1947 (which contain supplementary provisions relating to the power of entry conferred by that section) shall apply in relation to the powers conferred by this section as they apply in relation to the powers conferred by that section.

(3) Where in the exercise of a power of entering land conferred by this section (including the carrying out or removal of any such works as aforesaid), any damage has been caused to land or to chattels, any person interested in the land or chattels may recover compensation in respect of that damage from the authority by whom or on whose behalf the power was exercised ; and where in consequence of the exercise of such a power any person is disturbed in his enjoyment of any land or chattels, he may recover from that authority compensation in respect of the disturbance.

(4) In the application of this section to Scotland, for the reference to subsections (4), (5), (6) and (9) of section one hundred

and three of the Town and Country Planning Act, 1947, there shall be substituted a reference to subsections (4), (5), (6) and (9) of section ninety-nine of the Town and Country Planning (Scotland) Act, 1947, and the expression "chattels" means corporeal moveables.

**Provisions as  
to use of  
special roads.**

12.—(1) A special road shall not be used, except as provided by or under regulations made under this section, by any traffic other than traffic of the class authorised in that behalf by a scheme under section one of this Act.

(2) The Minister may make regulations with respect to the use of special roads, and such regulations may, in particular—

(a) regulate the manner in which and the conditions subject to which such roads may be used by traffic of the classes authorised in that behalf by a scheme under section one of this Act ;

(b) authorise, or enable such authority as may be specified in the regulations to authorise, the use of such roads, on occasion or in emergency or for the purpose of crossing, or for the purpose of securing access to premises abutting on or adjacent to the roads, by traffic other than such traffic as aforesaid, or relax or enable any such authority as aforesaid to relax any prohibition or restriction imposed by the regulations.

(3) Regulations made under this section may make provision with respect to special roads generally, or may make different provision with respect to special roads provided for the use of different classes of traffic, or may make provision with respect to any particular special road.

(4) If any person uses a special road in contravention of this section or of any such regulations as aforesaid, he shall be liable on summary conviction to a fine not exceeding twenty pounds, or in the case of a second or subsequent conviction, to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding three months.

(5) Notwithstanding anything in section one of the Road Traffic Act, 1934, no part of a special road shall be deemed to be in a built-up area within the meaning of that Act.

(6) The power of the Minister under subsection (4) of section ten of the Road Traffic Act, 1930, to make regulations varying the provisions of the First Schedule to that Act (which prescribes the maximum speeds at which motor vehicles of the classes or descriptions specified therein shall be driven) shall include power to make special regulations varying those provisions in relation to vehicles when driven on special roads.

(7) Section forty-six of the Road Traffic Act, 1930, and section twenty-nine of the Road and Rail Traffic Act, 1933 (which confer power on the Minister and certain local authorities to restrict the use of vehicles on specified roads or classes of roads) and section ten of the London Traffic Act, 1924 (which confers power on the Minister to make regulations with respect to road traffic generally in the London Traffic Area) shall not apply in relation to any special road.

(8) The provisions of this section, and of any regulations made thereunder, shall not apply to any part of a special road until such date as may be declared by a notice published in the prescribed manner by the highway authority to be the date on which it is open for use as a special road :

Provided that nothing in this subsection shall be construed as preventing the making of regulations under subsection (1) of this section so as to come into force, in relation to any such road, on the said date.

13.—(1) Any question of disputed compensation under subsection (4) of section five, subsection (3) of section six, section seven or section eleven of this Act shall be determined in the same manner as compensation for the acquisition of land falls to be determined under the Acquisition of Land (Assessment of Compensation) Act, 1919, and sections one, three, five, six and eight of that Act shall have effect accordingly subject to any necessary modifications.

Determination of disputes as to compensation.

(2) Paragraphs 1 and 3 of the Fourth Schedule to the Town and Country Planning Act, 1947 (which relate to the assessment of compensation for the purposes of Part III of that Act) shall apply in relation to the assessment of any such compensation as aforesaid, being compensation in respect of the depreciation in value of any interest in land, as they apply in relation to the assessment of compensation payable under the said Part III.

(3) In the application of this section to Scotland, for the references to paragraphs 1 and 3 of the Fourth Schedule to the Town and Country Planning Act, 1947, and to Part III of that Act, there shall be substituted references to paragraphs 1 and 3 of the Fourth Schedule to the Town and Country Planning (Scotland) Act, 1947, and to Part II of that Act.

14.—(1) In relation to a trunk road not being a special road the Minister may, by order made in accordance with the provisions of the Second Schedule to the Trunk Roads Act, 1946, make provision for any purpose specified in paragraph (c) or (d) of subsection (1) of section three of this Act, or for any purpose incidental to those purposes; and references in subsections (3) to (5) of the said section three to an order under that section, to a special road and to a special road authority, shall be construed accordingly.

Amendments of law relating to trunk roads.

(2) The power of the Minister under section thirteen of the Restriction of Ribbon Development Act, 1935, as modified by the Trunk Roads Acts, 1936 and 1946, to acquire land for the purposes of a trunk road shall include power to acquire any land which in his opinion is required—

- (a) for the carrying out of any works authorised by any order under the last foregoing subsection ;
- (b) for the provision of buildings or facilities to be used in connection with the construction or maintenance of the trunk road :

Provided that the Minister shall not be enabled by virtue of this section to acquire otherwise than by agreement any land lying more than two hundred and twenty yards from the middle of the trunk road or, where the land is required for the construction, improvement or alteration of any other road, from the middle of that other road.

(3) The provisions of section eleven of this Act shall apply in relation to trunk roads, not being special roads as they apply in relation to special roads with the substitution for any reference to a scheme or order under this Act, or to an order under section three of this Act, of a reference to an order under section one of the Trunk Roads Act, 1946, or under subsection (1) of this section.

(4) Part IV of the First Schedule to this Act shall have effect with respect to the validity and date of operation of any order made under section one of the Trunk Roads Act, 1946, or under subsection (2) of section thirteen of the Trunk Roads Act, 1936, or under subsection (1) of this section.

(5) Any order made by the Minister under subsection (2) of section one of the Trunk Roads Act, 1946, directing that a road proposed to be constructed by him shall become a trunk road may direct that any part of an existing road which crosses the route of the road to be so constructed, or any existing road which becomes a trunk road by virtue of the order, shall, notwithstanding anything in section three of the Trunk Roads Act, 1936, be maintained by the former highway authority until such date, not being later than the date on which the new route is opened for the purposes of through traffic, as may be specified in a notice given by the Minister to that authority.

(6) Subsection (3) of section six of the Trunk Roads Act, 1936 (which empowers the Minister to construct bridges under or over trunk roads), subsection (2) of section two of the Trunk Roads Act, 1946 (which regulates the date on which a road may become or cease to be a trunk road under that Act) and section four of the said Act of 1946 (which confers powers on the Minister relating to side roads connected with trunk roads) shall cease to have effect :

Provided that, without prejudice to the provisions of section thirty-eight of the Interpretation Act, 1889 (which relates to the

effect of repeals) any order made before the commencement of this Act under the said section four shall continue in force and may be revoked or varied, and the provisions of the said section four shall apply thereto, as if this subsection had not been enacted.

(7) Any order made under subsection (3) of section one of the Trunk Roads Act, 1936, (which enables the Minister to direct that a road shall become a trunk road or a county road) may, notwithstanding the repeal of the said subsection (3) by the Trunk Roads Act, 1946, be revoked or varied as if that subsection had not been repealed.

(8) Section six of the Trunk Roads Act, 1946 (which enables orders to be made for the construction of bridges over navigable waters as part of trunk roads) shall have effect as if in subsection (1) after the words "an order under section one of this Act" there were inserted the words "or by an order under this section made in accordance with the provisions of the Second Schedule to this Act".

15.—(1) The provisions of this Act (except subsections (1) and (2) of section nine) shall apply in relation to the roads described in the Third Schedule to this Act (being roads which are trunk roads by virtue of orders made under section one of the Trunk Roads Act, 1946) as if they were special roads to be provided by the Minister in pursuance of schemes made under section one of this Act for the use of traffic of the classes specified in the third column of that Schedule. Adaptation of certain trunk road orders.

(2) Where, at any time before the commencement of this Act, the Minister has given notice in accordance with the provisions of the Second Schedule to the Trunk Roads Act, 1946, that he proposes to make an order under section one of that Act directing that any road shall become a trunk road, then if such an order is made within one year after the commencement of this Act, the order may direct that the road shall be provided by the Minister as a special road for the use of traffic of such classes as may be specified in the order; and the provisions of this Act (except subsections (1) and (2) of section nine) shall apply in relation to the order as they apply in relation to schemes under this Act.

(3) Without prejudice to the generality of the foregoing provisions, the power conferred by this Act to revoke or vary schemes or orders made thereunder shall include power to revoke or vary any such order as is mentioned in subsection (1) or subsection (2) of this section, and to vary the provisions of the third column of the Third Schedule to this Act.

16.—(1) Subject to the provisions of the First Schedule to this Act, the Minister may make regulations for prescribing the procedure to be followed in connection with the making and Supplementary provisions as to procedure.

confirmation of schemes and orders under this Act (including the service of notices in connection therewith) and for prescribing anything which, under this Act, is authorised to be prescribed.

(2) Regulations made under this section may provide for securing—

- (a) that proceedings required to be taken for the purposes of an order under section three of this Act relating to a special road may be taken concurrently (so far as practicable) with proceedings required to be taken for the purposes of a scheme under section one of this Act relating to that road ;
  - (b) that proceedings required by the First Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, or, as the case may be, by the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, to be taken in respect of the compulsory acquisition of any land for purposes connected with a special road, may be taken concurrently (so far as practicable) with proceedings required to be taken for the purposes of a scheme or order under this Act relating to that road.
- (3) Regulations made under this section shall provide for securing that the centre line of the special road authorised by any scheme under section one of this Act shall be indicated on a map on such scale as may be prescribed by the regulations.

Revocation  
and variation  
of schemes  
and orders.

17.—(1) Any scheme or order made or confirmed by the Minister under this Act may be revoked or varied by a subsequent scheme or order so made or confirmed ; and subject to the provisions of this section any such revoking or varying scheme or order may make such consequential provisions as appear to the Minister to be expedient.

(2) Where a scheme under this Act is revoked by a subsequent scheme, any part of the special road which has been constructed before the date on which the revoking scheme comes into operation, and any road appropriated by or transferred to the special road authority before that date, shall cease on that date to be a special road within the meaning of this Act, but shall, where the special road is a trunk road or a county road, continue to be a trunk road or a county road, as the case may be.

(3) Where a scheme under this Act is varied by a subsequent scheme, the provisions of the last foregoing subsection shall apply in relation to any part of the special road which ceases to form part of the route of that road in consequence of the variation.

(4) Subject to the foregoing provisions of this section, the revocation or variation of a scheme under this Act shall not affect the validity of anything done in pursuance of the scheme before the date on which the revoking or varying scheme comes



into force, or the validity of any order made under this Act before that date in connection with the special road to be provided under the scheme.

18.—(1) Any power of the Minister to make or confirm schemes or to make regulations under this Act or orders under section two thereof shall be exercisable by statutory instrument. Provisions as to schemes, orders and regulations.

(2) An order made under section two of this Act shall be of no effect unless it is approved by resolution of each House of Parliament.

(3) Any statutory instrument containing regulations made under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

19.—(1) There shall be defrayed out of the Road Fund— Financial provisions.

(a) all expenses incurred by the Minister with the approval of the Treasury under this Act in the construction, maintenance, repair or improvement of roads ;

(b) any sums required by the Minister for making advances in respect of special roads under section eight of the Development and Road Improvement Funds Act, 1909 ;

(c) such other expenses of the Minister under this Act (not being administrative expenses) as may be determined by the Minister with the consent of the Treasury.

(2) There shall be defrayed out of moneys provided by Parliament—

(a) any expenses of the Minister under this Act, other than those which are to be defrayed out of the Road Fund, to such amount as may be approved by the Treasury ;

(b) any increase in the Exchequer Equalisation Grant payable under Part I or Part II of the Local Government Act, 1948, attributable to any expenditure of a local authority under this Act.

(3) All fines imposed in respect of offences under this Act shall be dealt with in the manner specified in section one hundred and seventeen of the Road Traffic Act, 1930, in relation to the fines therein mentioned, and the provisions of that section shall apply accordingly.

20.—(1) Subject to the provisions of this section, nothing in this Act or in any scheme or order made thereunder shall affect any powers or duties of the Postmaster-General under the provisions of the Telegraph Acts, 1863 to 1943, or apply to any telegraphic lines placed or maintained by virtue of any of those provisions. Saving for Postmaster-General.

(2) Where in pursuance of an order under section three of this Act any road is stopped up or diverted and, immediately before that order comes into force, there is under, in, upon, over, along or across the road any telegraphic line belonging to or used by the Postmaster-General, the Postmaster-General shall have the same powers in respect of that line as if the order had not come into force :

Provided that if any person entitled to land over which the road subsisted requires that the telegraphic line shall be altered, paragraphs (1) to (8) of section seven of the Telegraph Act, 1878, shall apply to the alteration, and accordingly shall have effect, subject to any necessary modifications, as if references therein to undertakers included references to the person so requiring the line to be altered.

(3) Where an order under the said section three provides for the alteration of any road, not being a trunk road, and, immediately before the date on which the order comes into force, there is under, in, upon, over, along or across the road any telegraphic line belonging to or used by the Postmaster-General, then if the highway authority require that that line should be altered, paragraphs (1) to (8) of the said section seven shall apply to the alteration, and accordingly shall have effect, subject to any necessary modifications, as if references therein to undertakers included references to the highway authority.

(4) In this section the expressions "alter" and "telegraphic line" have the same meanings as in the Telegraph Act, 1878.

**Interpretation.** 21.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

- "approaches," in relation to a bridge or tunnel, includes the facings of any embankment or cutting adjacent thereto ;
- "catchment board" has the same meaning as in the Land Drainage Act, 1930 ;
- "enactment" includes a local or private Act and an order having the force of an Act ;
- "improvement" has the same meaning as in Part II of the Development and Road Improvement Funds Act, 1909 ;
- "large burgh" has the same meaning as in the Local Government (Scotland) Act, 1947 ;
- "local authority," in relation to England and Wales, means the council of a county, the common council of the City of London, and the council of a county borough, metropolitan borough, county district or rural parish, and includes the parish meeting of a rural parish not having a separate council ; and in relation to Scotland, has the same meaning as in the Local Government (Scotland) Act, 1947 ;

“local highway authority” means a highway authority other than the Minister ;

“Minister” means the Minister of Transport ;

“navigation authority” means any person or body of persons, whether incorporated or not, having powers under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock ;

“owner”, in relation to any premises in England or Wales, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits of the premises under a lease or agreement the unexpired term whereof exceeds three years ; and in relation to any premises in Scotland includes any person who under the Lands Clauses Acts would be enabled to sell and convey the premises to the promoters of an undertaking, and includes also a lessee under a lease the unexpired period of which exceeds three years ;

“sewerage authority”, in relation to England and Wales, has the meaning assigned to it by section ninety of the Public Health Act, 1936, and in relation to Scotland means the council of a county or burgh ;

“special road” means a road provided or to be provided in accordance with a scheme under section one of this Act, and includes any part of such a road ;

“special road authority” has the meaning assigned to it by section one of this Act ;

“statutory undertakers” has the same meaning as in the Town and Country Planning Act, 1947, or, as respects Scotland, the Town and Country Planning (Scotland) Act, 1947 ;

“use”, in relation to a road, includes crossing ;

and the expressions “functions”, “land”, and “road” have the same meanings as in the Trunk Roads Act, 1936.

(2) Except where the context otherwise requires, references in this Act to any enactment shall be construed as references to that enactment as amended by any subsequent enactment.

22.—(1) The provisions of this Act shall, in relation to the Special Administrative County of London, have effect subject to the provisions as to London.

(2) For the purposes of this Act, the London County Council shall be deemed to be a highway authority, and references in this Act to a highway authority and to a local highway authority shall be construed accordingly.

(3) In relation to a special road for which the London County Council are the special road authority—

- (a) section one hundred and thirty of the Metropolis Management Act, 1855 (which provides for the lighting of certain streets) shall not apply;
- (b) subject to the provisions of the next following subsection, all other functions with respect to the paving, lighting, cleansing, watering and improving of streets exercisable by any authority under the said Act of 1855 or under the Public Health (London) Act, 1936, shall be exercisable by the London County Council to the exclusion of that other authority.

(4) Subsection (2) of section six of the London Government Act, 1899 (which provides for the maintenance and repair by the councils of metropolitan boroughs of highways vested in the London County Council) shall apply in relation to the paving, lighting, cleansing, watering and improving of a special road for which the London County Council are the special road authority, and generally in relation to the maintenance and repair of such a road as they apply to the maintenance and repair of a highway vested in the London County Council.

(5) Except in the case of a special road for which the Minister is the special road authority, section six of this Act shall not apply in relation to any sewer or sewage disposal works of the London County Council within the Administrative County of London.

(6) Notwithstanding anything in section twenty of the Restriction of Ribbon Development Act, 1935, the following sections of that Act, that is to say, section four (which provides for the fencing of roads) and sections thirteen and fourteen (which provide for the acquisition of land and rights in connection with land) shall apply in relation to special roads in the Administrative County of London, not being trunk roads, and for the purposes of the said sections thirteen and fourteen as so applied the Acquisition of Land (Authorisation Procedure) Act, 1946, shall have effect as if this subsection had been in force immediately before the commencement of that Act.

(7) In relation to any land acquired under the said section thirteen as extended by section ten of this Act by a local authority within the meaning of the London Government Act, 1939, subsection (2) of the said section ten shall have effect as if for the reference to section one hundred and sixty-four of the Local Government Act, 1933, there were substituted a reference to section one hundred and seven of the London Government Act, 1939.

(8) For the purposes of subsection (3) of section nine of this Act, the expression "the council of a county" shall not include the London County Council and the proviso to subsection (2) of section ten of the Development and Road Improvement Funds Act, 1909 (which imposes on the councils of metropolitan boroughs the responsibility for maintaining a road in respect of which a grant under that Act is made to the London County Council) shall not apply to any road provided by that Council in pursuance of a scheme or order under this Act.

(9) In its application to the Administrative County of London, the First Schedule to this Act shall have effect—

(a) as if in paragraph 4 thereof for the reference to section two hundred and ninety of the Local Government Act, 1933, there were substituted a reference to section one hundred and eighty-nine of the London Government Act, 1939 ; and

(b) as if in relation to any part of the route of a special road which is situated, or any works authorised by the proposed order which are to be carried out, in the City of London or a metropolitan borough the references in paragraphs 2 and 8 to the council of a county, county borough and county district included references to the Common Council of the City of London and to the council of a metropolitan borough respectively.

(10) Nothing in this Act or any scheme or order made thereunder shall relieve the council of a metropolitan borough from the requirement to obtain the consent of the London County Council under section seventy-two of the Metropolis Management Amendment Act, 1862, in respect of the carrying out of any such works as are mentioned in that section.

23.—(1) This Act may be cited as the Special Roads Act, 1949. Short title  
and extent.

(2) This Act shall not extend to Northern Ireland.

## SCHEDULES

### FIRST SCHEDULE.

Sections 1, 3, 14,  
16, 22.

#### PROVISIONS AS TO SCHEMES AND ORDERS.

##### PART I.

##### SCHEMES UNDER SECTION ONE.

1. Where the Minister proposes to make a scheme under section one of this Act, or where a scheme under that section is submitted to the Minister by a local highway authority, the Minister or that authority, as the case may be, shall publish in at least one newspaper circulating in the area in which the road to which the scheme relates is situated,

1ST SCH.  
—cont.

and in the London Gazette or the Edinburgh Gazette, or in both those Gazettes, according as the scheme affects England or Scotland or both, a notice—

- (a) stating the general effect of the proposed scheme ;
- (b) specifying a place in the said area where copies of a draft of the scheme, or of the scheme as submitted to the Minister, as the case may be, and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of three months from the date of the publication of the notice ; and
- (c) stating that, within the said period, any person may by notice to the Minister object to the making or confirmation of the scheme.

2. Not later than the date on which the said notice is published as aforesaid, the Minister or the local highway authority, as the case may be, shall serve a copy thereof (together with a copy of the draft scheme or of the scheme, as the case may be, and of any relevant map or plan)—

- (a) on the council of every county, county borough and county district or, in Scotland, on the council of every county, burgh and district, in which any part of the route of the special road is situated ; and
- (b) where the scheme provides for the construction of a bridge over or tunnel under any navigable waters, on every navigation authority, catchment board or river board concerned with or having jurisdiction over the waters affected or the area comprising those waters.

3. If before the expiration of the said period of three months an objection is received by the Minister from any council, authority or board on whom a copy of the notice is required to be served under paragraph 2 of this Schedule, or from any other person affected by the proposed scheme, and the objection is not withdrawn, the Minister shall cause a local inquiry to be held :

Provided that except where the objection is made by any such council, authority or board as aforesaid, the Minister may dispense with such an inquiry if he is satisfied that in the circumstances of the case the holding of such an inquiry is unnecessary.

4. In relation to any inquiry held in England under the last foregoing paragraph the provisions of subsections (2), (3), (4) and (5) of section two hundred and ninety of the Local Government Act, 1933, shall apply as they apply in relation to local inquiries held under that section with the substitution for references to a department of references to the Minister.

5. In relation to any inquiry held in Scotland under paragraph 3 of this Schedule, the provisions of subsections (3) to (9) of section three hundred and fifty-five of the Local Government (Scotland) Act, 1947, shall apply as they apply in relation to local inquiries under that section, but without prejudice to the provisions of paragraph 12 of this Schedule.

6. After considering any objections to the proposed scheme which are not withdrawn and, where a local inquiry is held, the report of the person who held the inquiry, the Minister may make or confirm the scheme either without modification or subject to such modifications as he thinks fit.

1ST SCh.  
—cont.

## PART II.

### ORDERS UNDER SECTION THREE.

7. Where the Minister proposes to make an order under section three of this Act, or where an order is submitted to the Minister under that section by a local highway authority, the Minister or that authority, as the case may be, shall publish in at least one newspaper circulating in the area in which any road to which the order relates is situated, and in the London Gazette or the Edinburgh Gazette, or in both those Gazettes, according as the order affects England or Scotland or both, a notice—

- (a) stating the general effect of the proposed order ;
- (b) specifying a place in the said area where copies of a draft of the order, or of the order as submitted to the Minister, as the case may be, and of any relevant map or plan, may be inspected by any person free of charge at all reasonable hours during a period of three months from the date of the publication of the notice ; and
- (c) stating that, within the said period, any person may by notice to the Minister object to the making or confirmation of the order.

8. Not later than the date on which the said notice is published as aforesaid, the Minister or the local highway authority, as the case may be, shall serve a copy thereof (together with a copy of the draft order or of the order, as the case may be, and of any relevant map or plan)—

- (a) on any highway authority to or from whom any road is to be transferred by the proposed order ;
- (b) on the council of every county, county borough and county district or, in Scotland, on the council of every county, burgh and district, in which any works authorised by the proposed order are to be carried out ;
- (c) where the proposed order authorises the stopping up of any private means of access to any premises, on the owner and occupier of those premises ;
- (d) where the proposed order provides for entry by the special road authority on any land, on the occupier of that land.

9. Where the proposed order authorises the stopping up or diversion of any road, the Minister or the local highway authority, as the case may be, shall, not later than the date on which the notice is published as aforesaid, cause a copy thereof to be displayed in a prominent position on that part of the road which is proposed to be so stopped up or diverted, and shall serve a copy of the notice on the parish council (or, in the case of a rural parish not having a separate parish council, on the parish meeting) of any parish in which that part of the road is situated.

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—cont.

10. Paragraphs 3 to 6 of this Schedule shall apply in relation to an order under section three of this Act as if for any reference therein to the scheme there were substituted a reference to the order and as if, in the said paragraph 3, for the reference to paragraph 2 of this Schedule there were substituted a reference to paragraph 8 of this Schedule.

### PART III.

#### APPLICATION OF STATUTORY ORDERS (SPECIAL PROCEDURE) ACT, 1945.

11. If objection to a scheme under section one of this Act is duly made in accordance with paragraph 3 of this Schedule—

- (a) by the highway authority for any road comprised in the route of the special road authorised by the scheme ;
- (b) by any navigation authority, catchment board or river board on whom notice is required to be served under paragraph 2 of this Schedule, on the ground that any bridge or tunnel over or under navigable waters for which provision is made by the scheme is likely to obstruct or impede the performance of their functions under any enactment or to interfere with the reasonable requirements of navigation over the waters affected by the scheme,

and is not withdrawn, the scheme shall be subject to special parliamentary procedure.

12.—(1) Any inquiry required by paragraph 3 of this Schedule in connection with a scheme affecting Scotland only shall, if the Minister so directs, be held by commissioners under the Private Legislation Procedure (Scotland) Act, 1936 ; and any directions so given shall be deemed to have been given under section two as read with section ten of the Statutory Orders (Special Procedure) Act, 1945.

(2) Where any such directions are given, paragraph 5 of this Schedule shall not apply, and paragraph 6 of this Schedule shall have effect as if for references to a local inquiry and to the person who held the inquiry there were substituted references to an inquiry by the commissioners and to the commissioners.

(3) The publication of a notice in accordance with the provisions of paragraph 1 of this Schedule in connection with any such scheme as aforesaid shall be deemed to be sufficient compliance with the requirements of the Statutory Orders (Special Procedure) Act, 1945, with regard to the giving of notice by advertisement.

### PART IV.

#### VALIDITY AND DATE OF OPERATION OF SCHEMES AND ORDERS.

13. After a scheme or order to which this Part of this Schedule applies has been made or confirmed by the Minister, the Minister shall publish in the London Gazette or the Edinburgh Gazette, or in both those Gazettes, according as the scheme or order affects England or Scotland or both, and in such other manner as he thinks best adapted for informing persons affected, a notice stating that the scheme or order has been made or confirmed, and naming a place where a copy thereof may be seen at all reasonable hours.



14. If any person aggrieved by the scheme or order desires to question the validity thereof, or of any provision contained therein, on the grounds that it is not within the powers of this Act or on the ground that any requirement of this Act or of regulations made thereunder have not been complied with in relation thereto, he may, within six weeks from the date on which the notice required by the last foregoing paragraph is first published, make an application for the purpose to the High Court or the Court of Session, as the case may be.

15. On any such application as aforesaid, the court—

- (a) may by interim order suspend the operation of the scheme or order or of any provision contained therein, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and
- (b) if satisfied that the scheme or order or any provision contained therein is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by failure to comply with any such requirement as aforesaid, may quash the scheme or order or any provision contained therein, either generally or in so far as it affects any property of the applicant.

16. Subject to the provisions of the last foregoing paragraph, a scheme or order to which this Part of this Schedule applies shall not, either before or after it has been made or confirmed, be questioned in any legal proceedings whatever, and shall become operative on the date on which the notice required by paragraph 13 of this Schedule is first published, or on such later date, if any, as may be specified in the scheme or order.

17. In relation to a scheme under this Act which is subject to special parliamentary procedure, the foregoing provisions of this Part of this Schedule shall have effect subject to the following modifications—

- (a) if the scheme is confirmed by Act of Parliament, under section six of the Statutory Orders (Special Procedure) Act, 1945, or under subsection (4) of section two, as read with section ten, of that Act, paragraphs 14 to 16 shall not apply; and
- (b) in any other case, paragraph 14 shall have effect as if for the reference therein to the date on which the notice required by paragraph 13 is first published, there were substituted a reference to the date on which the scheme becomes operative under the said Act of 1945, and paragraph 16 shall have effect as if the words from “and shall become operative” to the end of the paragraph were omitted.

18. In relation to any order to which this Part of this Schedule applies by virtue of subsection (4) of section fourteen of this Act, paragraphs 14 and 15 of this Schedule shall have effect as if for references therein to this Act there were substituted references to the enactment under which the order is made.

## Section 2.

## SECOND SCHEDULE.

## CLASSES OF TRAFFIC FOR PURPOSES OF SPECIAL ROADS.

**Class I:** Motor tractors, heavy motor cars, motor cars and motor cycles, and trailers drawn thereby, which comply with general regulations as to construction and use made under section thirty of the Road Traffic Act, 1930, and in the case of which the following conditions are satisfied, that is to say :—

- (i) that the whole weight of the vehicle is transmitted to the road surface by means of wheels ;
- (ii) that all wheels of the vehicle are equipped with pneumatic tyres ;
- (iii) that the vehicle is not controlled by a pedestrian ;
- (iv) that the maximum speed at which the vehicle may be driven under section ten of the Road Traffic Act, 1930, on roads which are not special roads is not less than twenty miles per hour.

**Class II:** Motor vehicles and trailers the use of which for or in connection with the conveyance of abnormal indivisible loads is authorised by order made by the Minister under paragraph (b) of the proviso to subsection (1) of section three of the Road Traffic Act, 1930.

Heavy and light locomotives when being used for or in connection with the conveyance of abnormal indivisible loads.

Motor vehicles and trailers constructed for naval, military, air force or other defence purposes, the use of which is authorised by order made by the Minister under paragraph (b) of the proviso to subsection (1) of section three of the Road Traffic Act, 1930.

**Class III:** Motor vehicles controlled by pedestrians.

**Class IV:** All motor vehicles not comprised in Class I, Class II or Class III.

**Class V:** Vehicles drawn by animals.

**Class VI:** Vehicles (other than pedal cycles) drawn or propelled by pedestrians.

**Class VII:** Pedal cycles.

**Class VIII:** Animals ridden, led or driven.

**Class IX:** Pedestrians.

In this Schedule any expression defined for the purposes of the Road Traffic Act, 1930, has the same meaning as in that Act and the expression " abnormal indivisible load " has the same meaning as in the Transport Act, 1947.

## THIRD SCHEDULE.

Section 15.

ORDERS UNDER TRUNK ROADS ACT, 1946, TO BE TREATED  
AS SCHEMES UNDER THIS ACT.

| Registered Number of Order. | Description of Road.                                                                                                                                                                                                                                                              | Class of Traffic (as described in Second Schedule). |
|-----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|
| S.R. & O., 1947, No. 2248.  | The south of Pottersheath—<br>North of Graveley Trunk Road (Stevenage By-pass, County of Hertford).                                                                                                                                                                               | Classes I and II.                                   |
| S.R. & O., 1947, No. 1562.  | The north of Almondsbury—<br>South of Haysgate Trunk Road (Severn Bridge, Counties of Gloucester and Monmouth)—<br>(a) from the junction of Redhill Lane in the Parish of Aust to the junction with Thornhill Road in the Parish of Chepstow ;<br>(b) any other part of the road. | Classes I, II, III, IV, V, VI, VII and IX.          |
| S.L., 1948, No. 924         | The south of Haysgate—<br>East of Crick Trunk Road (Haysgate to Crick, County of Monmouth).                                                                                                                                                                                       | Classes I and II.                                   |
| S.L., 1948, No. 62          | The east of Christchurch—<br>Tredegar Park Trunk Road (Newport By-pass, County of Monmouth).                                                                                                                                                                                      | Classes I and II.                                   |

Table of Statutes Referred to in this Act.

| Short Title                                                 | Session and Chapter    |
|-------------------------------------------------------------|------------------------|
| Metropolis Management Act, 1855 ...                         | 18 & 19 Vict. c. 120.  |
| Metropolis Management Amendment Act, 1862. ...              | 25 & 26 Vict. c. 102.  |
| Telegraph Act, 1878 ...                                     | 41 & 42 Vict. c. 76.   |
| Interpretation Act, 1889 ...                                | 52 & 53 Vict. c. 63.   |
| London Government Act, 1899 ...                             | 62 & 63 Vict. c. 14.   |
| Development and Road Improvement Funds Act, 1909.           | 9 Edw. 7. c. 47.       |
| Acquisition of Land (Assessment of Compensation) Act, 1919. | 9 & 10 Geo. 5. c. 57.  |
| London Traffic Act, 1924 ...                                | 14 & 15 Geo. 5. c. 34. |
| Local Government Act, 1929 ...                              | 19 & 20 Geo. 5. c. 17. |
| Road Traffic Act, 1930 ...                                  | 20 & 21 Geo. 5. c. 43. |
| Land Drainage Act, 1930 ...                                 | 20 & 21 Geo. 5. c. 44. |

3RD SCH.  
—cont.

| Short Title.                                                             | Session and Chapter.          |
|--------------------------------------------------------------------------|-------------------------------|
| Local Government Act, 1933 ... ..                                        | 23 & 24 Geo. 5. c. 51.        |
| Road and Rail Traffic Act, 1933 ... ..                                   | 23 & 24 Geo. 5. c. 53.        |
| Road Traffic Act, 1934 ... ..                                            | 24 & 25 Geo. 5. c. 50.        |
| Restriction of Ribbon Development Act,<br>1935.                          | 25 & 26 Geo. 5. c. 47.        |
| Public Health Act, 1936 ... ..                                           | 26 Geo. 5. & 1 Edw. 8. c. 49. |
| Public Health (London) Act, 1936 ... ..                                  | 26 Geo. 5. & 1 Edw. 8. c. 50. |
| Private Legislation Procedure (Scotland)<br>Act, 1936.                   | 26 Geo. 5. & 1 Edw. 8. c. 52. |
| Trunk Roads Act, 1936 ... ..                                             | 1 Edw. 8. & 1 Geo. 6. c. 5.   |
| London Government Act, 1939 ... ..                                       | 2 & 3 Geo. 6. c. 40.          |
| Town and Country Planning Act, 1944 ... ..                               | 7 & 8 Geo. 6. c. 47.          |
| Town and Country Planning (Scotland)<br>Act, 1945.                       | 8 & 9 Geo. 6. c. 33.          |
| Statutory Orders (Special Procedure) Act,<br>1945.                       | 9 & 10 Geo. 6. c. 18.         |
| Trunk Roads Act, 1946 ... ..                                             | 9 & 10 Geo. 6. c. 30.         |
| Acquisition of Land (Authorisation Pro-<br>cedure) Act, 1946.            | 9 & 10 Geo. 6. c. 49.         |
| Acquisition of Land (Authorisation Pro-<br>cedure) (Scotland) Act, 1947. | 10 & 11 Geo. 6. c. 42.        |
| Local Government (Scotland) Act, 1947 ... ..                             | 10 & 11 Geo. 6. c. 43.        |
| Transport Act, 1947 ... ..                                               | 10 & 11 Geo. 6. c. 49.        |
| Town and Country Planning Act, 1947 ... ..                               | 10 & 11 Geo. 6. c. 51.        |
| Town and Country Planning (Scotland)<br>Act, 1947.                       | 10 & 11 Geo. 6. c. 53.        |
| Local Government Act, 1948 ... ..                                        | 11 & 12 Geo. 6. c. 26.        |

## CHAPTER 33

An Act to facilitate the preparation of Bills for the purpose of consolidating the enactments relating to any subject. [31st May 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Procedure for  
making  
corrections and  
minor  
improvements

1.—(1) If at any time it appears to the Lord Chancellor to be expedient that a Bill should be prepared for the purpose of consolidating the enactments relating to any subject, but that, in order to facilitate the consolidation of those enactments, corrections and minor improvements ought to be made in such

enactments, he may cause to be laid before Parliament a memorandum proposing such corrections and minor improvements therein as he thinks to be expedient.

(2) Before any such memorandum is laid before Parliament there shall be published in the Gazette a notice specifying the place where copies of the memorandum may be obtained, and the address to which, and the time within which, representations in writing with respect thereto may be made.

(3) If, at or after the time when any such memorandum is laid before Parliament, a Bill to consolidate the enactments to which the memorandum relates with such corrections and minor improvements as may be authorised under this Act is presented to either House of Parliament, and the Bill and the memorandum are referred to a joint committee of both Houses, any representations made with respect to the memorandum in accordance with the provisions of the notice published in the Gazette shall also be referred to the joint committee ; and that committee, after considering any such representations, shall, before reporting the Bill, inform the Lord Chancellor and the Speaker of the House of Commons what corrections and minor improvements in the said enactments the committee are prepared to approve :

Provided that the committee shall not consider any such memorandum until at least one month after it has been laid before Parliament.

(4) If the joint committee approve the proposals contained in the memorandum, with or without alterations, and the Lord Chancellor and the Speaker inform the committee that they concur in such approval, the committee, after making in the Bill such amendments, if any, as may be necessary to give effect to any alterations made in the proposals, may, in reporting the Bill, report that the Bill, or the Bill as amended by the committee, as the case may be, re-enacts the existing law with such corrections and minor improvements only as have been approved by the committee with the concurrence of the Lord Chancellor and of the Speaker in accordance with the provisions of this Act.

(5) The joint committee shall not approve any corrections and minor improvements, and neither the Lord Chancellor nor the Speaker shall concur in approving any corrections and minor improvements under this Act unless they are, or he is, satisfied that the corrections and minor improvements do not effect any changes in the existing law of such importance that they ought, in their or his opinion, to be separately enacted by Parliament.

(6) If the corrections and minor improvements approved by the joint committee with the concurrence of the Lord Chancellor and of the Speaker differ in any respect from those proposed in

the memorandum laid before Parliament under subsection (1) of this section, the corrections and minor improvements so approved shall be appended to the report of the joint committee.

(7) When a Bill has been reported by the joint committee with such a report as is mentioned in subsection (4) of this section, then, for the purposes of any further proceedings in Parliament relating to the Bill, but not for any other purpose, the corrections and minor improvements approved by the joint committee with the concurrence of the Lord Chancellor and of the Speaker shall be deemed to have become law in like manner as if they had been made by an Act.

**Interpretation.** 2. In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say—

“corrections and minor improvements” means amendments of which the effect is confined to resolving ambiguities, removing doubts, bringing obsolete provisions into conformity with modern practice, or removing unnecessary provisions or anomalies which are not of substantial importance, and amendments designed to facilitate improvement in the form or manner in which the law is stated, and includes any transitional provisions which may be necessary in consequence of such amendments:

“the Gazette” means the London Gazette and, in relation to a memorandum preparatory to a Bill intended to extend to Scotland or Northern Ireland, includes the Edinburgh Gazette or Belfast Gazette, as the case may be, so, however, that, in relation to a memorandum preparatory to a Bill intended to extend only to Scotland, the said expression means the Edinburgh Gazette.

**Short title and application to Scotland.** 3.—(1) This Act may be cited as the Consolidation of Enactments (Procedure) Act, 1949.

(2) In relation to any Bill intended to extend only to Scotland this Act shall have effect as if for the reference to the Lord Chancellor in subsection (1) of section one thereof there were substituted a reference to the Secretary of State.



## CHAPTER 34.

*Milk (Special Designations) Act, 1949.*

## ARRANGEMENT OF SECTIONS.

*Obligation to use a special designation on retailing of milk in specified areas, and provisions ancillary thereto.*

## Section

1. Use of special designation on retailing of milk (otherwise than as refreshments) in specified areas, and on certain associated sales.
2. Use of special designation as regards sales in specified areas of milk or milk products as refreshments.
3. Power of the Minister to consent to sales without use of special designation in certain circumstances.
4. Restriction on use of special designations " Accredited " and " Standard ".
5. Areas for operation of preceding provisions.
6. Power of the Minister to provide facilities for treatment of milk.
7. Revocation of Regulation 55G of Defence (General) Regulations.

*Enforcement of conditions of licences for specified areas, and limitation of power to revoke, suspend or refuse such licences.*

8. Breach of certain conditions of licences for specified areas to be punishable.
9. Restrictions on liability under the preceding section.
10. Licences for specified areas not to be revoked or refused except in case of conviction, and not to be suspended for over 3 months.

*Amendments of certain enactments in relation to special designations.*

11. Amendments as to revocation, suspension or refusal of licences.
12. Amendments as to use of special designations.
13. Amendment as to procuring of samples for enforcement of conditions of licences.

*General.*

14. Interpretation.
15. Provisions as to Scotland.
16. Short title, commencement, construction, citation and extent.

SCHEDULE.—Conditions to which s. 8 of this Act applies.

An Act to render compulsory the use of special designations on sales of milk by retail in specified areas, to enact certain provisions ancillary thereto as to the use of such designations, and to amend certain enactments in relation to such designations. [31st May 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*Obligation to use a special designation on retailing of milk in specified areas, and provisions ancillary thereto.*

Use of special designation on retailing of milk (otherwise than as refreshments) in specified areas, and on certain associated sales

1.—(1) Subject to the provisions of this Act, the use of a special designation shall be obligatory for the purpose of all sales of milk by retail for human consumption (other than catering sales) where the place of sale is in an area in which this subsection is in operation by virtue of the subsequent provisions of this Act in that behalf (in this Act referred to as "a specified area").

In this Act the expression "special designation" means—

- (a) in its application otherwise than to Scotland, a designation prescribed by Regulations made under subsection (1) of section twenty-one of the Food and Drugs Act, 1938;
- (b) in its application to Scotland, a designation prescribed by Order made under subsection (1) of section three of the Milk and Dairies (Amendment) Act, 1922, as enacted in section ten of the Milk Act, 1934;

and the said sections twenty-one and three respectively are in this Act referred to as "the principal enactment" for the purposes of the application of this Act otherwise than to Scotland, and for the purposes of its application to Scotland, respectively.

(2) The use of a special designation shall be obligatory also for the purpose of a sale of milk by retail for human consumption (other than a catering sale), notwithstanding that the place of sale is not in a specified area, if the milk is delivered from an establishment (whether in or outside a specified area) where there is carried on a business of selling milk which includes any sales for the purpose of which the use of a special designation is obligatory by virtue of the preceding subsection.

(3) The preceding subsections shall not apply to the selling of milk as therein mentioned by a producer of milk from cows to persons employed by him in or in connection with such production or employed by him otherwise in agriculture, if he does not engage in any other selling of milk as mentioned in those subsections.



- (4) In this Act selling milk by retail means selling it—
- (a) to any person other than a milk dealer (that is to say, a person who carries on a business which consists in or comprises the selling of milk) or a manufacturer of milk products (that is to say, a person who carries on a business which consists in or comprises the making of things made from milk or of which milk is an ingredient) ; or
  - (b) to such a dealer or manufacturer otherwise than for the purposes of his business as such.

(5) Any person who sells milk without the use of a special designation under a sale for the purpose of which the use of a special designation is obligatory by virtue of this section shall be guilty of an offence.

(6) It shall be the duty of every Food and Drugs authority within their area, and of every local authority in Scotland within their area, to carry into execution and enforce the provisions of this section.

2.—(1) The provisions of this section shall apply to catering sales, and to sales of milk to a person who carries on a business which consists in or comprises making catering sales (in this section referred to as "a caterer").

Use of special designation as regards sales in specified areas of milk or milk products as refreshments.

(2) Subject to the provisions of this Act, a catering sale made in a specified area—

- (a) shall be lawful (unless it is for any reason unlawful apart from this subsection) if the caterer bought the milk under a sale for the purpose of which a special designation was used, or if he holds a licence authorising him to use a special designation in connection with the milk, whether the designation is used for the purpose of the catering sale or not ; but
- (b) otherwise shall be unlawful.

(3) Subject to the provisions of this Act, on a sale of milk to a caterer, being a sale for the purpose of which the use of a special designation would be obligatory by virtue of section one of this Act if it were a sale by retail, the use of such a designation shall be obligatory, except where—

- (a) the caterer buys the milk with a view to subjecting it to a process to which milk is required to be subjected as a condition of the use of a special designation in connection therewith, and he is the holder of a licence authorising him to use that designation, or
- (b) the caterer buys the milk for the purposes of a business of his as a milk dealer or a manufacturer of milk products other than his business as a caterer.

(4) Any person who makes a catering sale which is unlawful by virtue of subsection (2) of this section, or who sells milk without the use of a special designation under a sale for the purpose of which the use of a special designation is obligatory by virtue of subsection (3) of this section, shall be guilty of an offence :

Provided that a person shall not be guilty of an offence by virtue of subsection (3) of this section if at the time of the sale in question he had reasonable cause to believe that the conditions specified in paragraph (a) or (b) of that subsection were satisfied as to that sale or that the buyer was not a caterer.

(5) It shall be the duty of every Food and Drugs authority within their area, and of every local authority in Scotland within their area, to carry into execution and enforce the provisions of this section.

Power of the Minister to consent to sales without use of special designation in certain circumstances.

3.—(1) Notwithstanding anything in subsection (1) or (2) of section one of this Act, or in subsection (3) of section two thereof, selling milk as therein mentioned without the use of a special designation shall be permissible if done with the consent of the Minister, and he may give consents for the purposes of this section, either generally as respects selling milk as mentioned in those subsections or restricted to a particular retailer or establishment or otherwise, and either unconditionally or subject to conditions, as may appear to him to be requisite in order to meet any circumstances in which use of a special designation which would be obligatory by virtue of those subsections apart from the consent appears to him to be for the time being not reasonably practicable.

(2) A catering sale made in a specified area shall not be unlawful by virtue of subsection (2) of section two of this Act if the milk was sold to the caterer with consent given by the Minister for the purposes of this section.

Restriction on use of special designations "Accredited" and "Standard."

4.—(1) After the expiration of five years from the commencement of this Act the special designation "Accredited" shall be excluded from the designations which may be used in satisfaction of an obligation to use a special designation subsisting by virtue of this Act in its application otherwise than to Scotland, and the special designation "Standard" shall be excluded from the designations which may be used in satisfaction of an obligation to use a special designation subsisting by virtue of this Act in its application to Scotland.

(2) A person shall not use the special designation "Accredited" or "Standard" for a purpose for which the use of a special designation is obligatory by virtue of this Act unless the milk in question is all from a single herd, and any person who contravenes this subsection shall be guilty of an offence.

It shall be the duty of every Food and Drugs authority within their area, and of every local authority in Scotland within their area, to carry into execution and enforce the provisions of this subsection :

Provided that the said duty of a Food and Drugs authority shall not extend to execution and enforcement of the said provisions as regards use of the special designation " Accredited " by the producer of the milk in question.

5.—(1) The Minister may at any time order that subsection (1) of section one of this Act shall come into operation in any area in which it is not then in operation, or shall cease to be in operation in any area in which it is then in operation. Areas for operation of preceding provisions.

(2) Before making an order under this section the Minister shall consult with such representative organisations as appear to him substantially to represent the interests concerned with the purposes of the order.

(3) The powers conferred on the Minister by this section shall be exercisable by statutory instrument, and—

(a) a draft of any statutory instrument bringing subsection (1) of section one of this Act into operation in any area shall be laid before Parliament ;

(b) a statutory instrument ordering that subsection (1) of section one of this Act shall cease to be in operation in any area shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) For the purposes of this Act,—

(a) if a contract of sale of milk is made in one place and it is delivered under the contract in another place, the place of the sale shall, except in a case falling within paragraph (b) of this subsection, be taken to be the place where the milk is so delivered ;

(b) if a contract of sale of milk is made in one place and it is delivered under the contract to a carrier for transport to another place, the place of the sale shall be taken to be that other place.

6.—(1) The Minister may install, maintain and operate apparatus for the subjection of milk to any process to which it is required to be subjected as a condition of the use of a special designation in connection therewith, and may provide any other facilities for that purpose, in any case in which it appears to him, as respects any area which is a specified area, or an area as to which he proposes to make an order bringing subsection (1) of section one of this Act into operation, that Power of the Minister to provide facilities for treatment of milk.

facilities for the application of such treatment sufficient to provide for supplies of milk of that designation in that area in requisite quantities are not available and are not likely otherwise to become available.

(2) Where the Minister provides facilities under this section he may either buy the milk to be treated and re-sell it, otherwise than by retail or to a caterer for the purposes of his business as such, after treatment or apply the treatment to milk of others.

(3) The Minister may make arrangements with local authorities or other persons for the doing, on his behalf and at his expense, of things which he is authorised by this section to do, and it shall be within the powers of local authorities to carry out arrangements so made.

(4) Any expenses incurred by the Minister under this section shall be defrayed out of moneys provided by Parliament, and payments received by the Minister for milk sold by him thereunder, or for treating thereunder milk of others, shall be paid into the Exchequer.

Revocation of  
Regulation 55G  
of Defence  
(General)  
Regulations

7. Regulation fifty-five G of the Defence (General) Regulations, 1939 (which conferred power to specify areas in which selling milk by retail otherwise than under certain designations is to be unlawful) is hereby revoked.

*Enforcement of conditions of licences for specified areas, and limitation of power to revoke, suspend or refuse such licences.*

Breach of  
certain  
conditions of  
licences for  
specified areas  
to be  
punishable.

8.—(1) In the event of a breach of any condition to which this section applies of a licence to which this section applies, the holder of the licence shall, subject as provided in the next succeeding section, be guilty of an offence under this section.

(2) This section applies to a licence held by a retailer for a specified area, that is to say, a licence authorising the use of a special designation held by a person carrying on a business which includes any sales which are sales for the purpose of which the use of a special designation is obligatory by virtue of this Act and are of milk in relation to which that licence authorises the use of a special designation.

(3) The conditions to which this section applies are conditions as to any such matters as are specified in the Schedule to this Act.

(4) Milk (Special Designation) Regulations shall specify the authorities, whether local authorities or Food and Drugs authorities, by whom the provisions of this section are to be enforced as respects licences other than licences authorising the use of a

special designation in relation to raw milk by the producer thereof or authorising the use of a special designation by a local authority.

This subsection shall not apply to Scotland.

(5) It shall be the duty of every local authority in Scotland within their area to carry into execution and enforce the provisions of this section.

9.—(1) Such a breach of condition as is mentioned in the last preceding section, constituted by an act or omission for which the holder of the licence is liable to any punishment imposed by or under any enactment other than that section, shall not render the holder of the licence guilty of an offence under the last preceding section. Restrictions on liability under the preceding section.

(2) Such a breach of condition as is mentioned in the last preceding section shall not render the holder of the licence guilty of an offence under that section unless it was the later, or a later, of two or more such breaches, occurring within a period of twelve months, of conditions either of that licence or of that licence and a former licence by way of renewal whereof that licence was granted, and was committed either—

- (a) after the licensing authority had given him notice in writing as to an earlier of those two or more breaches informing him of his being alleged to have committed it, and warning him of the liability to prosecution imposed by the last preceding section; or
- (b) after he had been convicted of an offence under that section by virtue of an earlier of those two or more breaches.

(3) In the case of any prosecution in respect of such a breach of condition as is mentioned in the last preceding section which would otherwise render the holder of the licence guilty of an offence under that section, it shall be a defence for him to prove the following matters (either as to that breach, or as to the earlier breach relied on for the purpose of subsection (2) of this section unless it is one by virtue of which he has been convicted of such an offence), that is to say—

- (a) that neither he nor any servant or agent of his did, or knew of the doing of, any act that constituted the breach or can reasonably be regarded as having been the cause or amongst the causes of it, or omitted to do, or knew of an omission to do, any act the omission whereof constituted the breach or the doing whereof can reasonably be regarded as a precaution that would have prevented it; and

- (b) if the breach was in connection with milk that had been sold to him, or had been delivered to him after being subjected to a process to which it was required to be subjected as a condition of the use of the special designation to which his licence related, that that designation was used for the purpose of the sale to him or in connection with the delivery to him, as the case may be, and was so used without any breach, discoverable by the exercise of reasonable diligence on the part of himself or any servant or agent of his, of any condition relating to receptacles, to closing, to fastening or to marking of a licence to use that designation held by the person who sold the milk to him or subjected it to the process as the case may be.

Licences for specified areas not to be revoked or refused except in case of conviction, and not to be suspended for over 3 months.

10.—(1) Any provision for the revocation of a licence authorising the use of a special designation on the ground of breach of a condition thereof made by Milk (Special Designation) Regulation or Milk (Special Designations) (Scotland) Orders shall be such as to secure that a licence held by a retailer for a specified area shall not be revoked, and a grant of a licence by way of renewal of a licence so held shall not be refused on the ground of breach of a condition of the licence so held, unless—

- (a) the breach in question is of a condition to which section eight of this Act applies,
- (b) the holder of the licence has been convicted of an offence under that section by virtue of the breach in question or has been convicted, within twelve months before the time of the breach in question or after the time of it of an offence under section one, two or four of this Act, of an offence under the principal enactment, or of an offence under Milk and Dairies Regulations for which a penalty is thereby imposed, or under the Milk and Dairies (Scotland) Acts, 1914 to 1948, or any Order or byelaw made under any of the last mentioned Acts, and
- (c) the decision of the licensing authority to revoke, or to refuse renewal, as the case may be, is made within twelve months from the date of the breach in question

(2) Any provision for the suspension of a licence authorising the use of a special designation on the ground of breach of a condition thereof made by Milk (Special Designation) Regulation or Milk (Special Designations) (Scotland) Orders shall be such as to secure that—

- (a) a licence held by a retailer for a specified area shall not be suspended, by virtue of any one decision of the authority having power to suspend it, for a period of more than three months, but

(b) a period of suspension of such a licence awarded by any such decision may be extended by a subsequent such decision made in accordance with the provisions of the next succeeding section.

(3) For the purposes of any decision for the suspension of a licence held by a retailer for a specified area, the term of that licence and of any licence granted by way of renewal thereof shall be treated as if they had been a single term, and accordingly—

(a) a period of suspension of such a licence of three months or less may be awarded notwithstanding that that period is longer than the unexpired residue of the term of the licence; and

(b) where such a longer period of suspension of such a licence is awarded, a licence may be granted by way of renewal thereof but that licence shall be in suspense until the expiry of that period, and such a decision for extension of that period as is mentioned in paragraph (b) of the last preceding subsection may be made so as to extend the suspension of that licence.

*Amendments of certain enactments in relation to special designations.*

11.—(1) Provision shall be made by Milk (Special Designation) Regulations, and by Milk (Special Designations) (Scotland) Orders, for enabling the licensing authority or, on an appeal made to him by virtue of the subsequent provisions of this section in that behalf, the Minister or the Secretary of State, to revoke or suspend a licence authorising the use of a special designation, on the ground of any breach of condition thereof being a breach by virtue of which the holder has been convicted of an offence under section eight of this Act, or which, not being such a breach as aforesaid, is proved (in a case referred to a tribunal by virtue of the subsequent provisions of this section in that behalf) by the finding of the tribunal, or (in any other case) to the satisfaction of the licensing authority or of the Minister or the Secretary of State as the case may be.

**Amendments  
as to  
revocation,  
suspension or  
refusal of  
licences.**

(2) Provision shall be made by such Regulations and Orders as aforesaid, as to any decision to revoke or suspend such a licence as aforesaid or to refuse a grant of such a licence,—

(a) where the licensing authority is a local authority, for conferring on the holder of the licence or the applicant, as the case may be (in this subsection referred to as "the person affected") a right to be heard by the appropriate committee of the authority before a decision is made, and a right of appeal to the Minister or the Secretary of State against a decision adverse to the person affected;

H

- (b) for requiring the Minister or the Secretary of State on any such appeal to him, and any Minister of the Crown when acting as licensing authority, before making his decision, to afford to the person affected an opportunity of making representations, and, where the issue is as to revocation or suspension of a licence held by a retailer for a specified area or refusal of a grant of a licence by way of renewal of such a licence and the person affected so requests, to refer the matter to a tribunal constituted in accordance with the Regulations or Order ;
  - (c) for requiring that the duty of such a tribunal on any such reference shall be to report findings on any questions of fact appearing to them to be relevant, and in particular, where the issue is as to revocation or suspension on the ground of a breach of condition not being one by virtue of which the holder of the licence has been convicted of an offence under section eight of this Act, to find and report whether the breach was in fact committed (which finding shall be conclusive for the purposes of this section), and for requiring the Minister or Secretary of State, or the Minister acting as licensing authority, as the case may be, to consider the report of the tribunal before making his decision ;
  - (d) for the procedure of such a tribunal, including provision for conferring on the person affected a right to be heard by the tribunal, and including provision for treating the finding of a majority of the members of such a tribunal as the finding of the tribunal in the event of a difference of opinion among the members ;
  - (e) for securing that any such hearing as aforesaid by a committee or tribunal shall be in public, that the person affected shall be entitled to be heard by himself or by counsel or a solicitor or other representative as he may elect, and that he or his representative shall be entitled to call witnesses and to cross-examine witnesses called by another ; and
  - (f) for securing that such notice of a decision or proposed decision shall be given to the person affected as may be requisite for enabling him effectively to exercise rights conferred on him by virtue of the preceding paragraphs.
- (3) The preceding provisions of this section shall be in substitution for paragraphs (d) and (e) of subsection (1) of the principal enactment (which confer power to provide by such Regulations and Orders as aforesaid for the suspension or revocation of a licence authorising the use of a special designation in the event of a breach of condition thereof, and for an appeal to the Minister or the Secretary of State against refusal, suspension or revocation of such a licence by a local authority), and those



paragraphs are accordingly hereby repealed, and paragraph (c) of subsection (2) of section ninety-two of the Food and Drugs Act, 1938 (which confers power to provide for an appeal against certain decisions) shall not apply to such a decision as is mentioned in the last preceding subsection :

Provided that such Regulations and Orders as aforesaid may provide for giving continuing effect to decisions, proceedings in connection with appeals, and other things made, taken or done before the coming into operation of the repeal of paragraphs (d) and (e) of subsection (1) of the principal enactment, or pending at the coming into operation thereof, as if they had been made, taken or done for the purposes of the provision to be made by such Regulations and Orders under subsections (1) and (2) of this section.

(4) There shall be paid out of moneys provided by Parliament to the chairman of any such tribunal as aforesaid such remuneration (by way of salary or fees) and such allowances as the authority appointing him may, with the approval of the Treasury, determine.

12.—(1) Where there has been a breach of a condition subject to which a licence authorising the use of a special designation was granted but the licence has not been revoked or suspended, the breach shall not be treated as rendering the use of the designation unauthorised, either for the purpose of paragraph (a) of subsection (2) of the principal enactment (which provides that no person shall, for the purpose of the sale or advertisement of any milk, use a special designation in any manner calculated to suggest that it refers to that milk unless he holds a licence authorising the use of that designation in connection with that milk) or for any other of the purposes of the Food and Drugs Act, 1938, of the Milk and Dairies (Scotland) Acts, 1914 to 1948, or of this Act.

Amendments  
as to use  
of special  
designations.

(2) For the purpose of a sale or advertisement of milk as, or as part of, a meal or refreshments, a special designation may, notwithstanding anything in subsection (2) of the principal enactment, be used by a person who does not hold a licence authorising the use of that designation in connection with the milk, if the milk is milk bought by him and that designation was used for the purpose of the sale thereof to him.

(3) The following subsection shall be substituted for subsection (4) of section twenty-one of the Food and Drugs Act, 1938 (which specifies authorities whose duty it is to enforce the provisions of subsection (2) of that section), that is to say—

“(4) It shall be the duty of every Food and Drugs authority within their area to carry into execution and enforce the provisions of subsection (2) of this section :

Provided that this subsection shall not apply to the execution or enforcement of those provisions, after the

coming into operation of the Food and Drugs (Milk and Dairies) Act, 1944, as regards any use of a special designation, or any reference to milk by such a description as is mentioned in the said subsection (2), by the producer of the milk in question where that milk is raw milk."

Where by virtue of the preceding provisions of this subsection the duty therein mentioned is transferred from one body to another, anything commenced before the coming into operation of those provisions by or under the authority of the former may, so far as it relates to that duty, be carried on or completed by or under the authority of the latter, and, in any legal proceedings having reference to that duty which are pending at the coming into operation of those provisions and to which the former is a party, the latter shall be substituted for the former and the proceedings shall not abate by reason of the substitution.

Amendment  
as to procuring  
of samples for  
enforcement  
of conditions  
of licences.

13. The power conferred by section ninety-two of the Food and Drugs Act, 1938, to make, by Milk (Special Designation) Regulations, modifications in the application of provisions of that Act as respects matters dealt with by those Regulations shall include power, in dealing with the procuring of samples for the purpose of the enforcement of conditions of licences authorising the use of special designations, to exclude provisions of the Third Schedule to that Act which may appear not to be appropriate for that purpose.

#### *General.*

Interpreta-  
tion.

14.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say,—

"business" includes the business of a hospital, school or other institution whose selling of milk is incidental only to the rendering of the health, educational or other services rendered by the institution ;

"catering sale" means a sale of milk, or of things made from milk or of which milk is an ingredient, as, or a part of, a meal or refreshments ;

"licence held by a retailer for a specified area" has the meaning assigned to it by subsection (2) of section eight of this Act ;

"licensing authority" means, in relation to grant of a licence authorising the use of a special designation, the authority having power to grant it by virtue of Milk (Special Designation) Regulations or Milk (Special Designations) (Scotland) Orders, and, in relation to such a licence which has been granted, the authority which would for the time being have power by virtue of such Regulations or Orders as aforesaid to grant a licence by way of renewal thereof if it had expired ;

“local authority”, in the application of this Act otherwise than to Scotland, includes any local authority within the meaning of the Local Government Act, 1933, or the London Government Act, 1939 ;

“milk” has the meaning assigned to it by subsection (3) of this section ;

“Milk and Dairies Regulations” does not include Milk (Special Designation) Regulations ;

“Milk (Special Designation) Regulations” and “Milk (Special Designations) (Scotland) Orders” mean respectively Regulations and Orders made under subsection (1) of the principal enactment ;

“the Minister” means the Minister of Food ;

“the principal enactment” has the meaning assigned to it by subsection (1) of section one of this Act ;

“raw milk” means milk which has not been treated by heat ;

“selling” means selling in the course of a business, and includes, in relation to milk, supplying it under arrangements for free supply, and, in relation to milk and things made from milk or of which milk is an ingredient, supplying it or them, in the course of any business, otherwise than under such arrangements ; and references to sales and contracts of sale shall be construed accordingly ;

“specified area” has the meaning assigned to it by subsection (1) of section one of this Act ;

“supplying under arrangements for free supply” means, in relation to any milk, supplying it, free from any payment made or to be made by the person to whom it is supplied, under arrangements made in exercise of powers in that behalf conferred by any Regulation in the Defence (General) Regulations, 1939, by section forty-nine, or subsection (2) of section seventy-eight, of the Education Act, 1944, or by section forty-seven or forty-nine of the Education (Scotland) Act, 1946 ; and references to a person’s buying milk include references to his having it supplied to him under such arrangements.

(2) In paragraph (b) of subsection (1) of the principal enactment (which relates to the granting of licences to producers and purveyors of milk authorising the use of special designations) the reference to purveyors of milk shall include a reference to persons who supply milk under arrangements for free supply, or who

supply milk, in the course of any business, otherwise than under such arrangements; and in subsection (2) of the principal enactment the reference to sale shall be construed in accordance with the definition of the expression "selling" in the preceding subsection.

(3) In this Act the expression "milk" means cows' milk, but does not include cream, or separated, skimmed, dried, condensed or evaporated milk, or butter milk:

Provided that for the purposes of section twelve of this Act and of the last preceding subsection (which relate to the interpretation and amendment of the principal enactment) the said expression has the same meaning as in the principal enactment.

Provisions as to Scotland.

15.—(1) A person guilty of an offence under this Act in its application to Scotland shall be liable to the like penalties as a person guilty of an offence under the Milk and Dairies (Amendment) Act, 1922.

(2) Nothing in this Act imposing a duty on a local authority in Scotland to execute and enforce any provision thereof shall be construed as authorising them to institute proceedings for any offence under this Act.

Short title, commencement, construction, citation and extent.

16.—(1) This Act may be cited as the Milk (Special Designations) Act, 1949.

(2) This Act shall come into operation on the first day of October, nineteen hundred and forty-nine.

(3) This Act, save as it applies to Scotland, shall be construed as one with the Food and Drugs Act, 1938, as if included in Part II thereof (except that references in this Act to the Minister and to other expressions defined in section fourteen of this Act shall be construed in accordance with that section); and this Act, save as it applies to Scotland, and the Food and Drugs Acts, 1938 and 1944, may be cited together as the Food and Drugs Acts, 1938 to 1949.

(4) This Act, as it applies to Scotland, shall be construed as one with the Milk and Dairies (Scotland) Act, 1914, the Milk and Dairies (Amendment) Act, 1922, as that Act applies to Scotland, and the Milk Acts, 1934 to 1938, as those Acts apply to Scotland (except that references in this Act to expressions defined in section fourteen of this Act shall be construed in accordance with that section); and this Act and those Acts, as they apply to Scotland, may be cited together as the Milk and Dairies (Scotland) Acts, 1914 to 1949.

(5) This Act shall not extend to Northern Ireland.

## SCHEDULE.

## Section 8.

## CONDITIONS TO WHICH S. 8 OF THIS ACT APPLIES.

Conditions to which section eight of this Act applies are conditions relating to any of the following matters, that is to say :—

The examination or testing of animals, the inoculation of animals, the keeping of any animal or herd away from other animals, or other measures for detecting the existence of disease in animals or preventing the contracting or spread of it.

The marking, or keeping records, of any animals, or other measures for identification thereof.

The subjecting of milk to any process of heat-treatment, or to any cooling or other process, requirements in connection with the subjecting of milk thereto or as to the temperature or other conditions under which it is to be kept thereafter, or the recording or retention of evidence of the observance of such requirements.

Satisfaction of a test of milk, being a test related to the subjecting of milk to such a process as aforesaid or to the observance of any such requirements as aforesaid.

Measures for securing that milk produced, or subjected to a process, as required by any conditions is kept away from, and free from admixture with, other milk not so produced or subjected or other things, or is not subjected to some specified process.

The manner in which milk produced, or subjected to any process, in accordance with any conditions is to be dealt with or kept as respects the receptacles in which it is to be put or to remain, the closing or fastening of receptacles, or the marking of receptacles or of things by which they are closed or fastened.

The manner of describing milk produced, or subjected to any process, in accordance with any conditions.

The making or keeping of records of milk produced, bought, subjected to any process, or sold.

*Table of Statutes referred to in this Act*

| Short Title                                     | Session and Chapter    |
|-------------------------------------------------|------------------------|
| Milk and Dairies (Scotland) Act, 1914 ...       | 4 & 5 Geo. 5. c. 46.   |
| Milk and Dairies (Amendment) Act, 1922... ..    | 12 & 13 Geo. 5. c. 54. |
| Local Government Act, 1933 ... ..               | 23 & 24 Geo. 5. c. 51. |
| Milk Act, 1934 ... ..                           | 24 & 25 Geo. 5. c. 51. |
| Food and Drugs Act, 1938 ... ..                 | 1 & 2 Geo. 6. c. 56.   |
| London Government Act, 1939 ... ..              | 2 & 3 Geo. 6. c. 40.   |
| Food and Drugs (Milk and Dairies) Act, 1944 ... | 7 & 8 Geo. 6. c. 29.   |
| Education Act, 1944 ... ..                      | 7 & 8 Geo. 6. c. 31.   |
| Education (Scotland) Act, 1946 ... ..           | 9 & 10 Geo. 6. c. 72.  |

## CHAPTER 35

An Act to provide for the payment to the British Film Institute of grants out of moneys provided by Parliament. [31st May 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Payment of grants to British Film Institute.  
22 & 23 Geo. 5.  
c. 51.

1. In addition to any grants that may be made by the Privy Council to the British Film Institute out of the Cinematograph Fund established under the Sunday Entertainments Act, 1932, the Treasury may from time to time make grants to that Institute of such amounts as they think fit out of moneys provided by Parliament.

Short title.

2. This Act may be cited as the British Film Institute Act, 1949.

## CHAPTER 36.

*War Damage (Public Utility Undertakings, &c.) Act, 1949*

## ARRANGEMENT OF SECTIONS.

## PART I.

PUBLIC UTILITY UNDERTAKINGS: SPECIAL PAYMENT  
AND CONTRIBUTION PROVISIONS.

*Payments for war damage to land, goods and commodities of public utility undertakings, and contributions towards expense of making such payments.*

Section.

1. Public utility payments and contributions, and land, goods and commodities to be the subject thereof.
2. Amounts of public utility payments and contributions, and bodies to and by whom they are to be paid.
3. Mode of payment of public utility payments and contributions.

*Exclusion of land, goods and commodities the subject of public utility payments and contributions under this Act from corresponding provisions of general war damage legislation.*

4. Public utility payments and contributions to be in lieu of those under general war damage legislation.
5. Exclusion of public utility land from payments under Part I of principal Act.
6. Exclusion of public utility land from contributions under Part I of principal Act.
7. Exclusion of public utility goods from insurance under Part II of principal Act.
8. Exclusion of public utility commodities from insurance under Part II of War Risks Insurance Act.

*Remission to general war damage legislation of land and goods not the subject of public utility payments and contributions under this Act.*

9. Remission of land other than public utility land for payments and contributions under Part I of principal Act.

## Section.

10. Remission of goods of an undertaking other than a public utility undertaking for payments and premiums as under insurance under Part II of principal Act.

## PART II.

CERTAIN UNDERTAKINGS OTHER THAN PUBLIC UTILITY UNDERTAKINGS:  
MODIFICATIONS OF PRINCIPAL ACT CONTRIBUTION PROVISIONS.

11. Properties to which this Part applies: modification of principal Act contribution provisions.
12. Modifications as to properties that are to be contributory, and as to contributory value.
13. Modifications as to direct liability for contributions.
14. Modifications as to ultimate incidence of contributions.
15. Modifications as to amount of, and liability for, contributions in case of mineral properties.
16. Supplementary and consequential provisions as to properties to which this Part applies.

## PART III.

## MISCELLANEOUS.

*Ultimate incidence of contributions, and payments in respect of war damage, in case of privileged short interests.*

17. Ultimate incidence of contributions, and payments in respect of war damage, in case of privileged short interests.

*Miscellaneous provisions relating to war damage payments.*

18. Payments in respect of war damage causing obstruction in ports, etc.
19. S. 14 of the principal Act not to apply on acquisitions under nationalisation Acts.
20. Amendment as to exclusion from payments of grant-aided air-raid shelters.
21. Provisions as to interest on certain payments in respect of goods.
22. Amendment as to plant and machinery to be treated as "land" for purposes of payments.
23. Exclusion of compensation by virtue of 8 & 9 Geo. 6. c. 43 for war damage the subject of a payment under s. 1 of this Act.

*Miscellaneous provisions relating to contributions and premiums.*

24. Power of certain bodies to raise money to discharge contribution and premium liabilities.
25. Exclusion of certain instalments from operation of ss. 61, 63 and 64 of the principal Act.
26. Contribution on unfit properties to become leviable on making of certain war damage payments.
27. Modification of contribution provisions in their application to requisitioned land.

*Miscellaneous provisions relating both to war damage payments and to contributions and premiums.*

28. Contributions and premiums, and expenses of making good war damage the subject of payments, not to be deducted for income tax, etc.
29. Allocation of payments and contributions in respect of certain undertakings in the electricity group.
30. Inclusion of certain liabilities and rights under the principal Act and this Act in transfers on nationalisations, etc.

H\*

## PART IV.

## GENERAL.

## Section.

31. Application to the Crown.
32. Exercise of functions of Board of Trade.
33. Expenses under 11 & 12 Geo. 6. c. 26.
34. Interpretation.
35. Application to Scotland.
36. Application to Northern Ireland.
37. Short title and citation.

## SCHEDULES :

First Schedule.—Definition, and provisions as to grouping, of public utility undertakings.

Second Schedule.—Provisions as to payments made, and contributions or premiums paid, before the passing of this Act in respect of land, goods or commodities excluded thereby from general war damage legislation.

Third Schedule.—Payments under this Act in respect of war damage affecting interests in public utility land of persons other than the undertakers.

Fourth Schedule.—Recovery, in respect of contributions, from landlords, tenants and mortgagees.

Fifth Schedule.—Provisions as to properties to which Part II of this Act is to apply, and subjects of regulations.

An Act to repeal section seventy of the War Damage Act, 1943, to make provision with respect to war damage to immovable property, goods and commodities which belonged to certain undertakings or in which both such undertakings and others had interests and to war damage causing obstruction in waterways, to amend provisions of the said Act as respects such undertakings and otherwise in certain respects, and for purposes connected with the matters aforesaid.

[31st May 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows :—

## PART I.

PUBLIC UTILITY UNDERTAKINGS: SPECIAL PAYMENT  
AND CONTRIBUTION PROVISIONS.

*Payments for war damage to land, goods and commodities of public utility undertakings, and contributions towards expense of making such payments.*

1.—(1) There shall be made, subject to and in accordance with the provisions of this Act, payments in respect of war damage which has occurred on or after the third day of September, nineteen hundred and thirty-nine, and has been

Public utility payments and contributions, and land, goods and commodities to be the subject thereof.



notified for the purposes of the consultations mentioned in section two of this Act in accordance with the arrangements in that behalf made for the purposes of those consultations, being—

**PART I.**  
—*cont.*

- (a) damage to land which immediately before the occurrence of the damage was held by a public utility owner otherwise than as landlord on a long term;
- (b) damage to land which immediately before the occurrence of the damage formed part of the distribution works of a public utility undertaking;
- (c) damage to the interests of bodies carrying on public utility undertakings in goods of a kind insurable against war damage which immediately before the occurrence of the damage were owned in the course of, or held or used mainly or exclusively for the purpose of, the carrying on of a public utility undertaking, or to the interests of such bodies in railway ships, in lightships (whether being goods of a kind so insurable or not), or in machinery, tackle or furniture of such ships; or
- (d) damage in respect of commodities of any of the following classes, that is to say gas of a kind used (whether unmixcd or mixed with other gas) for heating, lighting or power purposes, materials and ingredients for such gas, and water, being commodities which immediately before the occurrence of the damage were owned in the course of the carrying on a public utility undertaking.

References in this Act to a payment in respect of a public utility undertaking are to a payment to be made under this section in respect of war damage to any property so related to such an undertaking as to bring the damage within the operation of this subsection.

(2) Contributions towards the expense of making the payments to be made under this section shall be made, subject to and in accordance with the provisions of this Act, in respect of public utility undertakings carried on during the period beginning with the third day of September, nineteen hundred and thirty-nine, and ending with the eighth day of May, nineteen hundred and forty-five, and such contributions shall be treated for all purposes as outgoings of a capital nature.

(3) The provisions of the First Schedule to this Act shall have effect as to the definition for the purposes of this Act of a "public utility undertaking," and of an undertaking other than a public utility undertaking.

PART I.  
—cont.

(4) References in this Act to " land held by a public utility owner otherwise than as landlord on a long term " are to land in which, at the time to which the reference relates, there was subsisting a proprietary interest which—

- (a) was owned by the body by whom a public utility undertaking was carried on and was held by them for public utility purposes within the meaning assigned to that expression by paragraph 9 of the First Schedule to this Act, and
- (b) was not held in reversion expectant on a tenancy which was a proprietary interest:

Provided that, notwithstanding that the state of the ownership of a piece of land was such that the application of the preceding provisions of this subsection to it would bring it within references in this Act to land held by a public utility owner otherwise than as landlord on a long term, that piece of land shall not be within any such reference if at the time to which the reference relates it was a part only of a Schedule A unit and formed less than one-half in value of that unit, unless that unit then included also another or other pieces of land the state of the ownership whereof was such as aforesaid and both or all of those pieces of land taken together formed one-half or more in value of that unit.

(5) References in this Act to " distribution works " are to mains, conduits, lines and other works, machinery, plant and buildings which in the opinion of the Treasury are such as to fall within the purposes of the provision made by subsection (1) of this section.

(6) The reference in this section to " goods of a kind insurable against war damage " is to goods which, immediately before the occurrence of war damage thereto, were insurable, in relation to the body carrying on the public utility undertaking in question, under the business scheme operated under Part II of the War Damage Act, 1943 (in this Act referred to as " the principal Act ") or, if the damage occurred before that scheme came into force, would have been so insurable if that scheme had then been in force.

(7) The reference in this section to " railway ships " is to ships which, immediately before the occurrence of war damage thereto, were owned in the course of, or held or used mainly or exclusively for the purpose of, the carrying on of a public utility undertaking being a railway undertaking excluding ships then in the possession or held at the disposal of a Government department or other person on behalf of

His Majesty (otherwise than by virtue of the taking of control on behalf of His Majesty of the undertaking or a part thereof).

PART I.  
—cont.

(8) The reference in this section to "materials and ingredients for gas" is to goods which, immediately before the occurrence of war damage thereto, were owned as materials from which such gas as therein mentioned was produced or as ingredients for such gas, and were in the United Kingdom or consigned from a port in the United Kingdom to another such port in a vessel which in its transit between those ports was not due to call at any port outside the United Kingdom.

2.—(1) Subject to the provisions of subsection (2) of this section, the respective gross amounts of the payments and contributions to be made under section one of this Act shall be determined by the Treasury having regard to consultations had between the Treasury or the appropriate Departments on the one hand, and the bodies concerned (that is to say bodies by whom the undertakings were carried on during the period mentioned in subsection (2) of section one of this Act or other bodies to or by whom the said payments and contributions are to be made) or organisations appearing to the Treasury to be representative of such bodies on the other hand.

Amounts of public utility payments and contributions, and bodies to and by whom they are to be paid.

(2) For the purposes of the said payments and contributions there shall be eight groups, named and in this Act referred to as specified in the first column of the Table set out at the end of this subsection, and comprising respectively, subject to the provisions of paragraph 7 of the First Schedule to this Act, public utility undertakings being undertakings of the classes specified in paragraph 1 of that Schedule, and—

- (a) the aggregate of the gross amounts of the payments to be made under section one of this Act in respect of undertakings comprised in any of the said groups shall be the sum specified in the second column of the said Table in relation to that group;
- (b) the aggregate of the gross amounts of the contributions to be made under section one of this Act in respect of undertakings comprised in each of the said groups shall be the following percentage of the sum specified in the second column of the said Table in relation to that group, that is to say, in the case of each group other than the harbour group twenty-seven and a half per cent., and, in the case of the harbour group, ten per cent.

PART I.  
—cont.

TABLE.

| Name of group.                  | Aggregate of gross amounts of payments in respect of undertakings in group. |
|---------------------------------|-----------------------------------------------------------------------------|
|                                 | £                                                                           |
| (i) The railway group ...       | 34,894,956                                                                  |
| (ii) The canal group ...        | 509,471                                                                     |
| (iii) The harbour group ...     | 28,623,184                                                                  |
| (iv) The gas group ...          | 12,211,142                                                                  |
| (v) The electricity group ...   | 9,663,194                                                                   |
| (vi) The water group ...        | 2,006,016                                                                   |
| (vii) The sewerage group ...    | 2,958,864                                                                   |
| (viii) The lighthouse group ... | 336,853                                                                     |

(3) The gross amount of a payment or contribution under section one of this Act, as determined under the preceding subsections, shall be subject to reduction in accordance with the provisions in that behalf of paragraphs 2 and 4 respectively of the Second Schedule to this Act, by reference respectively to payments made before the passing of this Act as under the principal Act or Part II of the War Risks Insurance Act, 1939, and to contributions and premiums paid before the passing of this Act, and the amount of a payment or contribution under section one of this Act as so reduced is in this Act referred to as the net amount thereof.

(4) A payment or contribution to be made under section one of this Act in respect of an undertaking shall be made to or by such body as the Treasury may determine having regard to such consultations as aforesaid, being either—

- (a) in the case of a payment, the body by whom the undertaking was being carried on at the time of the occurrence of the war damage in respect of which it is to be made, and
- (b) in the case of a contribution, the body by whom the undertaking was being carried on at the end of the period mentioned in subsection (2) of section one of this Act,

or, if any change in the identity of the body carrying on the undertaking for the time being or any cesser of the carrying on of the undertaking or other circumstances appear to the Treasury to render it requisite or more equitable that the payment or contribution should be made to or by another body, that other body:

Provided that this subsection shall not apply to contributions in respect of undertakings in the sewerage group (as

to which provision is made by the next succeeding subsection) or to payments or contributions in respect of undertakings in the lighthouse group (as to which provision is made by subsection (2) of section three of this Act).

PART I.  
—cont.

(5) In the case of the sewerage group the contributions to be made under section one of this Act shall, in lieu of being made by bodies determined under the last preceding subsection in respect of particular undertakings, be made by such local authorities as the Treasury may determine having regard to such consultations as aforesaid, their contributions as a whole being in respect of the undertakings comprised in that group as a whole and the several amounts thereof being determined as provided by subsections (1) to (3) of this section.

(6) A determination of the Treasury for the purposes of any of the preceding provisions of this section made at any time on or after the first day of October, nineteen hundred and forty-eight, shall have effect notwithstanding that it was made before the passing of this Act.

3.—(1) The Treasury shall make for each group of public utility undertakings (other than the lighthouse group) an order specifying, as respects each body to or by whom under the last preceding section a payment or payments or a contribution or contributions in respect of an undertaking or undertakings in the group is or are to be made, the sum which represents the credit or debit to that body, that is to say—

Mode of  
payment of  
public  
utility pay-  
ments and  
contributions

- (a) in the case of a body who are to receive such a payment or payments but are not to make any such contribution, a credit equal to the net amount of the payment or to the aggregate of the net amounts of the payments;
- (b) in the case of a body who are to make such a contribution or contributions but are not to receive any such payment, a debit equal to the net amount of the contribution or to the aggregate of the net amounts of the contributions;
- (c) in the case of a body who are both to receive such a payment or payments and to make such a contribution or contributions, a credit or debit, as the case may require, equal to the difference between such a credit and such a debit as aforesaid;

and the amount of a credit or debit specified in such an order shall on the coming into operation of the order be paid by the

**PART I.**  
*—cont.*

Treasury to, or, as the case may be, be recoverable by the Treasury as a debt due to His Majesty from, the body as respects whom the credit or debit is specified.

(2) The Treasury shall make for the lighthouse group an order specifying the sum which represents the credit consisting of the aggregate of the net amounts of the payments, less the aggregate of the net amounts of the contributions, to be made in respect of undertakings in that group, and shall on the coming into operation of the order pay the amount of that credit into the General Lighthouse Fund.

(3) There shall be established in accordance with directions given by the Treasury an Account to be called the War Damage (Public Utility Undertakings) Account which shall be under the control and management of the Treasury, and all sums paid or recovered by them by virtue of the preceding subsections shall be paid out of or into the Account.

(4) There shall be issued to the Account out of the Consolidated Fund or the growing produce thereof sums which are at any time required for making payments required by this Act to be made thereout and which the moneys then standing to the credit of the Account are insufficient to provide.

(5) The power of the Treasury to raise money under the National Loans Act, 1939, shall include power to raise any money required for the purpose of providing sums to be issued out of the Consolidated Fund under the last preceding subsection.

(6) The Treasury shall prepare an account of the transactions of the Account in each financial year, and the account so prepared for any year shall, on or before the thirtieth day of November next following the end of that year, be transmitted to the Comptroller and Auditor-General, who shall examine and certify it and lay copies thereof, together with his report thereon, before Parliament.

(7) As soon as orders have been made under this section for all groups of public utility undertakings, and the amounts of all credits and debits specified in the orders respectively have been paid and recovered, the Treasury shall cause the Account to be wound up and shall pay any moneys standing to the credit thereof into the Exchequer.

(8) An order under this section may be varied by a subsequent order for correcting any clerical mistake therein, or any error therein arising from any accidental slip or omission, but not otherwise.

*Exclusion of land, goods and commodities the subject of public utility payments and contributions under this Act from corresponding provisions of general war damage legislation.*

PART I.  
—cont.

4. The making of the said payments and contributions under section one of this Act shall be in substitution for any corresponding provision which might otherwise have fallen to be made, as respects land, under Part I of the principal Act, or, as respects goods or commodities, under Part II of the principal Act or Part II of the War Risks Insurance Act, 1939, and the provisions of the four next succeeding sections shall have effect accordingly.

Public utility payments and contributions to be in lieu of those under general war damage legislation.

5. As regards payments in respect of war damage to land—

Exclusion of public utility land from payments under Part I of principal Act.

(a) the provisions of Part I of the principal Act as to payments in respect of war damage shall not apply to war damage to land where the land sustaining it was, immediately before its occurrence, held by a public utility owner otherwise than as landlord on a long term or then formed part of the distribution works of a public utility undertaking, and, subject to the provisions of paragraphs 2 and 3 of the Second Schedule to this Act as to payments made before the passing of this Act, those provisions of Part I of the principal Act shall be treated as having never applied to such war damage; and

(b) in cases in which such war damage affected an interest in such land other than that of the body carrying on the public utility undertaking, the provisions of the Third Schedule to this Act shall have effect as to payments in respect of such other interests.

6.—(1) As regards contributions in respect of land, the following provisions shall have effect as to an instalment of contribution which, apart from this section and section seventy of the principal Act (or section forty of the War Damage Act, 1941), would have fallen due in respect of a contributory property in any of the years in which instalments of contributions under Part I of the principal Act fell due (each of which years is in this Act referred to as a "contribution year"), that is to say,—

Exclusion of public utility land from contributions under Part I of principal Act.

(a) if at the relevant date in that year the property was occupied mainly or exclusively for the purpose of the carrying on of a public utility undertaking, the instalment shall not be payable and, subject to the provisions of subsection (2) of this section, shall be deemed never to have been payable;

PART I.  
—cont.

- (b) if at the relevant date in that year the property was not occupied as mentioned in the preceding paragraph, but the body carrying on a public utility undertaking owned a proprietary interest subsisting in the whole of the property (being an interest held by them for public utility purposes within the meaning assigned to that expression by paragraph 9 of the First Schedule to this Act) by virtue of which they would have been the direct contributor for the instalment, the instalment shall not be payable and, subject to the provisions of subsection (2) of this section, shall be deemed never to have been payable;
- (c) if at the relevant date in that year the property was not occupied as mentioned in paragraph (a) of this subsection, but the body carrying on a public utility undertaking owned a proprietary interest subsisting in a part of the property (being an interest held by them as aforesaid) by virtue of which they would, on an apportionment of the instalment under subsection (2) of section forty-five of the principal Act, have been the direct contributor for a part of the instalment apportioned to that part of the property, that part of the instalment shall not be payable and, subject to the provisions of subsection (2) of this section, shall be deemed never to have been payable:

Provided that paragraphs (b) and (c) of this subsection shall not have effect in the case of a property to which Part II of this Act applies for the contribution year in question.

(2) Where an instalment of contribution, or an apportioned part of an instalment of contribution, which under the preceding subsection is to be deemed never to have been payable has been paid, wholly or in part, before the passing of this Act, the provisions of paragraphs 4 and 5 respectively of the Second Schedule to this Act shall have effect as to—

- (a) the taking of any sum so paid into account for the purposes of section two of this Act, or the repayment thereof; and
- (b) the repayment of any indemnity received before the passing of this Act, in respect of any such instalment or apportioned part, under the provisions of Part I of the principal Act as to the ultimate incidence of the liability for instalments of contribution under the said Part I as between landlords, tenants and mortgagees of contributory properties.

(3) The provisions as to public utility land of Part I of the Fourth Schedule to this Act (corresponding to the said



provisions of Part I of the principal Act as to the ultimate incidence of the liability for instalments of contribution under Part I of the principal Act as between landlords, tenants and mortgagees of contributory properties) shall have effect as to the ultimate incidence of the liability for contributions under section one of this Act as between landlords, tenants and mortgagees of public utility land not contributory under the principal Act.

PART I.  
—cont.

In this Act the expression “ public utility land not contributory under the principal Act ” means, for any contribution year—

- (a) land which at the relevant date in that year was comprised in a contributory property which was occupied mainly or exclusively for the purpose of the carrying on of a public utility undertaking;
  - (b) land in which at the relevant date in that year the body carrying on a public utility undertaking owned a proprietary interest being an interest held by them for public utility purposes within the meaning assigned to that expression by paragraph 9 of the First Schedule to this Act, and which at the relevant date in that year either formed a contributory property in respect of which there would, but for paragraph (b) of subsection (1) of this section, have been payable an instalment of contribution for that year which is deemed by virtue of that paragraph never to have been payable, or formed a part of a contributory property in respect of which there would, but for paragraph (c) of that subsection, have been payable a part of an instalment of contribution for that year which under that paragraph is to be deemed never to have been payable; and
  - (c) land in which at the relevant date in that year the body carrying on a public utility undertaking owned an interest held by them for public utility purposes within the meaning assigned to that expression by paragraph 9 of the First Schedule to this Act, and which at the relevant date in that year did not form, and was not comprised in, any contributory property.
- (4) The references in paragraph (a) of subsections (1) and (3) of this section to occupation for the purpose of the carrying on of a public utility undertaking do not include occupation as a tenant by a person other than the body carrying on the undertaking, notwithstanding that that occupation was for purposes connected with the purposes of the undertaking.

PART I.  
—cont.

(5) For the purposes of this section, and of paragraphs 4 and 5 of the Second Schedule to this Act, an instalment of contribution in respect of incorporeal rights over land, or an apportioned part of such an instalment, which under section forty-six of the principal Act is payable by the direct contributor for the instalment of contribution in respect of the contributory property comprising the land shall be treated as forming part of the instalment in respect of that property.

## Exclusion of public utility goods from insurance under Part II of principal Act.

7.—(1) As regards payments and premiums in respect of goods under the business scheme operated under Part II of the principal Act, where any goods were, when war damage occurred to them, or at any time relevant for insurance under that scheme or for a payment under section ninety-five of that Act, owned in the course of, or held or used mainly or exclusively for the purpose of, the carrying on of a public utility undertaking, the goods shall be treated as not having been then insurable, in relation to the body carrying on the undertaking, under that scheme (and, as regards any war damage sustained before that scheme came into force, shall be treated as having been such as would not have been then so insurable if that scheme had then been in force), but subject to the provisions of paragraphs 2 and 4 of the Second Schedule to this Act as to payments or premiums made or paid before the passing of this Act.

(2) In accordance with the last preceding subsection, and with the provisions of paragraph 4 of the Second Schedule to this Act as to the reduction of contributions under section one of this Act by reference to premiums paid before the passing of this Act, an insurance under the business scheme, or a notice of intention to make a payment under section ninety-five of the principal Act, entered into or given before the passing of this Act in relation to the interest of the body carrying on a public utility undertaking in goods falling within the preceding subsection shall be treated as superseded by this Act, and no payment shall be made by virtue of the insurance or in accordance with the notice after the passing of this Act.

## Exclusion of public utility commodities from insurance under Part II of War Risks Insurance Act.

8.—(1) As regards payments and premiums in respect of commodities under the commodity insurance scheme operated under Part II of the War Risks Insurance Act, 1939, where any commodities of a class mentioned in paragraph (d) of subsection (1) of section one of this Act were, when war damage occurred to them, or at any time relevant for insurance under that scheme, owned in the course of the carrying on of a public utility undertaking, the commodities shall be treated as not having been then so insurable, but subject to the provisions of paragraphs 2 and 4 of the Second Schedule

to this Act as to payments or premiums made or paid before the passing of this Act.

PART I.  
—cont.

(2) The provisions of subsection (2) of the last preceding section shall apply to an insurance under the commodity insurance scheme of commodities falling within subsection (1) of this section as they apply to an insurance under the business scheme in relation to the interest of the body carrying on a public utility undertaking in goods falling within subsection (1) of that section.

*Remission to general war damage legislation of land and goods not the subject of public utility payments and contributions under this Act.*

9.—(1) Section seventy of the principal Act (which excluded hereditaments occupied mainly or exclusively for the purpose of the carrying on of public utility undertakings as therein defined, and hereditaments occupied mainly or exclusively for the purpose of the carrying on of certain other undertakings, from the provisions of Part I of that Act as to payments in respect of war damage to land, and which excluded contributory properties so occupied from the provisions of that Part of that Act as to contributions) is hereby repealed.

Remission of land other than public utility land for payments and contributions under Part I of principal Act.

(2) In accordance with the preceding subsection (and notwithstanding anything in subsection (2) of section thirty-eight of the Interpretation Act, 1889, as to the effect of repeals)—

- (a) the provisions of the principal Act as to payments in respect of war damage to land under Part I thereof shall apply, and be deemed always to have applied, in relation to war damage to a hereditament occupied as mentioned in the said section seventy unless it is damage as to which the operation of those provisions is excluded by section five of this Act; and
- (b) the provisions of the principal Act as to contributions and indemnities under Part I thereof shall apply, and be deemed always to have applied, in relation to a contributory property occupied as mentioned in the said section seventy save in so far as the operation of those provisions in relation thereto is excluded as regards any instalment or part of an instalment by section six of this Act:

Provided that—

- (i) in the application of the said provisions as aforesaid they shall have effect subject to any relevant modifications and exceptions specified in subsequent provisions of this Act;

PART I.  
—cont.

- (ii) any payment made under paragraph (b) of subsection (3) of the said section seventy towards the cost of works urgently required for meeting the circumstances created by war damage to a hereditament in respect of which that subsection had effect shall be brought into account in such manner as the War Damage Commission may determine against the payments to be made in respect of war damage to that hereditament under the said provisions of the principal Act as to payments as applied by paragraph (a) of this subsection to war damage to that hereditament.

Remission of goods of an undertaking other than a public utility undertaking for payments as under insurance under Part II of principal Act.

10.—(1) This section applies to goods which, at a time specified in that behalf in this section, satisfied the following conditions, that is to say, that the goods—

- (a) were owned in the course of, or held or used mainly or exclusively for the purpose of, the carrying on of an undertaking which was a public utility undertaking as defined for the purposes of section seventy of the principal Act (or section forty of the War Damage Act, 1941) but was an undertaking other than a public utility undertaking as defined for the purposes of this Act; and
- (b) were insurable, in relation to the body carrying on that undertaking, under the business scheme operated under Part II of the principal Act; and
- (c) were not in fact insured in relation to that body under that scheme; and
- (d) were in one of the categories of exemption from the obligation to insure under that scheme imposed by section eighty-six of the principal Act which were specified in sub-paragraph (1), and heads (a) to (w) of sub-paragraph (2), of Article 6 of the War Damage (Business Scheme) Order, 1941.

(2) Where any goods satisfied the said conditions at any time during a period of insurance for the purposes of the business scheme (in this section referred to as a "period of insurance"), and satisfied the said condition (d) by virtue only of the goods being in the category of exemption specified in head (h) of the heads therein referred to (which head related to goods of a public utility undertaking as defined for the purposes of section forty of the War Damage Act, 1941), the body then carrying on the undertaking shall, by virtue of this section,—

- (a) be liable to pay an amount equal to the premium which they would have been required to pay if, being as regards those goods and that period under the

obligation to insure imposed by section eighty-six of the principal Act, they had insured them in accordance with that obligation; and

- (b) have a right to receive, in respect of any of those goods which sustained war damage during that period and satisfied the said conditions as aforesaid at the time of the damage, an amount equal to the indemnity which they would have been entitled to receive if they had insured as aforesaid:

Provided that, if the body carrying on the undertaking at the time of the assumed insurance are no longer carrying it on at the passing of this Act, the said liability shall be upon, and the said right shall vest in, such body as by virtue of their connection with the undertaking the Board of Trade may determine to be appropriate after consultation with the parties concerned.

(3) Where any goods satisfied the said conditions at a time during a period of insurance when they sustained war damage, and satisfied the said condition (d) by virtue of the goods being in a category of exemption other than that specified in the said head (h), the body then carrying on the undertaking (or, if they are no longer carrying it on at the passing of this Act, such body as the Board of Trade may determine as mentioned in the proviso to the last preceding subsection) shall have the like right as is mentioned in the last preceding subsection:

Provided that the body entitled to that right shall be subject to an obligation to bring into account against the payment for satisfying that right an amount equal to all liabilities which would have subsisted by virtue of the last preceding subsection if all goods which, at any time during any period of insurance, satisfied the said conditions in relation to the undertaking, and satisfied the said condition (d) by virtue of the goods being in the same category of exemption as the damaged goods, had fallen within the last preceding subsection as respects that period.

(4) The Board of Trade may allow the amount of an insurance which is to be assumed for the purposes of this section to have been effected to be reckoned on the basis of an ascertainment of particulars of the goods which are to be assumed to have been insured, or of the value of any such goods, or both, made on any basis agreed between the Board and the body who are subject to the relevant liability subsisting by virtue of subsection (2) of this section or to the relevant obligation subsisting by virtue of subsection (3) thereof, as the case may be, or, in default of such agreement, may require that that amount shall be reckoned on a basis specified by the Board unless that body proves the relevant particulars as at the assumed time of the insurance.

PART I.  
—cont.

(5) A payment for satisfying a liability subsisting by virtue of subsection (2) of this section shall be recoverable by the Board of Trade as a debt due to His Majesty:

Provided that no such payment shall be recoverable before the expiration of three months from the passing of this Act.

(6) A payment for satisfying a liability subsisting by virtue of subsection (2) of this section shall be treated for the purposes of the principal Act as if it were a premium paid under a policy issued under the business scheme, and a payment for satisfying a right subsisting by virtue of this section shall be treated for the purposes of the principal Act as if it were a payment made under such a policy, and shall be treated for the purposes of the Miscellaneous Financial Provisions Act, 1946 (which relates to payment out of the Consolidated Fund) as such a payment by the Board of Trade in respect of war damage as is mentioned in section two of that Act.

(7) A payment for satisfying a liability subsisting by virtue of subsection (2) of this section shall be treated for all purposes as an outgoing of a capital nature.

(8) The Board of Trade shall have power, exercisable by statutory instrument subject to annulment in pursuance of resolution of either House of Parliament, to make regulations for any purpose for which provision appears to the Board to be required for the due operation of this section, and in particular, but without prejudice to the generality of the power hereby conferred, for—

- (a) the furnishing, production and verification of information and documents for enabling the Board to ascertain what goods satisfied the conditions mentioned in subsection (1) of this section at a time specified in that behalf in this section, the value of such goods or of an interest therein at any such time, particulars as to war damage sustained by any such goods, the bodies by whom such undertakings as are mentioned in subsection (1) of this section were carried on at any such time, or any other facts material for the purposes of this section;
- (b) the making of claims for payments for satisfying rights subsisting by virtue of this section; and
- (c) imposing limits of time within which, or other conditions in accordance with which, things to be done for the purposes of the regulations must be done, with or without power to any authority therein specified to extend limits or to waive conditions imposed.

(g) The following provisions of the principal Act or made thereunder shall apply with the following modifications for the purposes of this section, that is to say—

- (a) section eighty-five (which relates to time for payments) as amended by this Act, and regulations made under that section, with the substitution of payments for satisfying rights subsisting by virtue of this section for payments under the business scheme;
- (b) subsection (1) of section eighty-seven (which relates to obtaining information), with the substitution of the purposes of this section for the purposes mentioned in that subsection;
- (c) subsection (2) of section eighty-seven (which relates to procedure where early payments have been made), with the substitution of payments for satisfying rights subsisting by virtue of this section for payments under the business scheme;
- (d) subsection (4) of section eighty-seven (which relates to giving false information in purporting to comply with obligations under that section), with the addition of a reference to obligations under regulations made under paragraph (a) of the last preceding subsection; and
- (e) section one hundred and twelve (which relates to false claims for payments under policies), with the substitution of payments for satisfying rights subsisting by virtue of this section for payments under policies.

## PART II.

### CERTAIN UNDERTAKINGS OTHER THAN PUBLIC UTILITY UNDERTAKINGS: MODIFICATIONS OF PRINCIPAL ACT CONTRIBUTION PROVISIONS.

11.—(1) In the case of properties to which this Part of this Act applies the provisions of the principal Act as to contributions and indemnities under Part I thereof shall have effect, and be deemed always to have had effect, subject to the modifications specified or provided for in this Part of this Act.

Properties to which this Part applies :  
modification of principal Act contribution provisions.

(2) This Part of this Act applies, for any contribution year, to every property which was, at any time during the period beginning with the third day of September, nineteen hundred and thirty-nine, and ending with the relevant date in that contribution year, the subject of a rating valuation by reference to which the body carrying on an undertaking other than a public utility undertaking had, on or before that relevant date, been rated by reason of occupation

PART II.  
—cont.

of the property in the course of the undertaking, being occupation mainly or exclusively for one or more of the purposes specified in paragraph 1 of the Fifth Schedule to this Act:

Provided that this Part of this Act shall not apply, for any given contribution year, to a property to which it would apply for that year apart from this proviso, in a case in which any of the conditions specified in paragraph 2 of the Fifth Schedule to this Act is satisfied.

(3) For the purposes of this Act, a body shall be treated as having been rated by reference to a valuation during any period in respect of which they were liable (or would apart from any exemption from rates have been liable) under any enactment, and by reason of occupation, to be charged with, and to bear, the whole or any part of a rate made by reference to the valuation.

Modifications  
as to properties  
that are to be  
contributory,  
and as to  
contributory  
value.

12.—(1) The following provisions of this section shall have effect as to properties that are to be contributory properties and as to contributory value.

(2) Where a property falling in relation to any contribution year within paragraph (a) of subsection (1) of section thirty-nine of the principal Act, as being the subject of such an assessment under Schedule A as is referred to in that paragraph, was comprised wholly within a property to which this Part of this Act applies for that year, the assessment under Schedule A shall be disregarded for the purposes of sections thirty-nine and forty of the principal Act (which specify what are to be contributory properties for the purposes of that Act and their contributory value) in relation to that year:

Provided that the preceding provisions of this subsection shall not have effect if at the relevant date in that year the property falling as aforesaid within the said paragraph (a) was not in the possession of the body carrying on the relevant Part II undertaking.

(3) Where the subject of a rating valuation, being at the relevant date in any contribution year a property to which this Part of this Act applies for that year by reason of occupation on or before that date in the course of any undertaking, comprised the whole (both as to area and as to any buildings or works) of the subject of a later rating valuation being a property to which this Part of this Act applies for that year by reason of occupation on or before that date in the course of the same undertaking, the later valuation shall be disregarded for the purposes of sections thirty-nine and forty of the principal Act:

Provided that where the later valuation was in force at the relevant date in any contribution year and was of a lesser



amount than the earlier valuation, and it is shown to the satisfaction of the Commissioners of Inland Revenue that the difference between the two valuations was mainly or exclusively due to the destruction or demolition, otherwise than by war damage, of buildings or works or parts thereof, and that the value of the buildings, works or parts thereof had at the relevant date in that year not been made good by the repair or construction of buildings or works on the property, the contributory value of the property shall be determined for that year as if the amount of the earlier valuation had been that of the later valuation.

PART II.  
—*cont.*

13.—(1) As regards direct liability for instalments of contributions, an instalment of contribution falling due in any contribution year in respect of a contributory property being for that year a property to which this Part of this Act applies shall be payable by the body who at the relevant date in that year were carrying on the relevant Part II undertaking, in lieu of any other person or persons who might have been the direct contributor or contributors for the instalment under section forty-five of the principal Act (which enacts the general rule as to the person or persons by whom an instalment of contribution is to be payable) or under section forty-seven thereof (which provides for payment by a mortgagee in certain circumstances).

Modifications  
as to direct  
liability for  
contributions.

(2) In accordance with the preceding subsection—

(a) references in the principal Act to a direct contributor and to the liability of a direct contributor shall, in relation to an instalment within the operation of the preceding subsection, be construed, subject to the provisions of this Act and of regulations made thereunder, as references respectively to a body liable under the preceding subsection to pay the instalment and to their liability in respect thereof; and

(b) subsection (2) of section forty-five of the principal Act (which provides for apportionment of an instalment of contribution between different parts of a contributory property in certain circumstances) shall not apply to an instalment within the operation of the preceding subsection.

14. As regards the ultimate incidence of instalments of contributions,—

(a) in the case of properties to which this Part of this Act applies other than mineral properties, the provisions of Part I of the Fourth Schedule to this Act as to land forming or comprised in such properties shall have effect; and

Modifications  
as to ultimate  
incidence of  
contributions.

PART II.  
—cont.

(b) in the case of properties to which this Part of this Act applies being mineral properties (other than coal-mining properties), the provisions of Part III of the Fourth Schedule to this Act shall have effect.

Modifications as to amount of, and liability for, contributions in case of mineral properties.

15.—(1) The amount of an instalment of contribution in respect of a contributory property being for the contribution year in which the instalment fell due a mineral property (other than a coal-mining property) shall, in lieu of being two shillings in every pound of the contributory value of the property as provided in section forty-two of the principal Act, be sixpence in every pound of the contributory value of the property.

(2) No instalment of contribution shall be payable in respect of a contributory property being, for the contribution year in which that instalment would otherwise have fallen due, a coal-mining property.

(3) The National Coal Board as successors of the Coal Commission in the ownership of the fee simple in coal in Great Britain shall contribute in respect of coal-mining properties therein the sum of one hundred and twenty-five thousand pounds, and the sum to be so contributed—

- (a) shall be paid by the National Coal Board not later than the expiration of three months from the passing of this Act to the Commissioners of Inland Revenue and shall be paid by them into the Exchequer; and
- (b) shall be treated for all purposes as an outgoing of a capital nature.

(4) In this Part of this Act, and in the Fourth Schedule thereto—

- (a) the expression “ mineral property ” means a property to which this Part of this Act applies by virtue of head (c) of paragraph 1 of the Fifth Schedule to this Act (including any such property to which it applies by virtue also of head (a) of that paragraph); and
- (b) the expression “ coal-mining property ” means a mineral property in the case of which the relevant purposes of occupation specified in the said head (c) related to coal (that is to say, bituminous coal, cannel coal or anthracite).

Supplementary and consequential provisions as to properties to which this Part applies.

16.—(1) Section forty-four of the principal Act (which relates to the amount of contributions in respect of requisitioned land), and section sixty-four thereof (which relates to suspension of collection of instalments of contributions in respect of properties unfit through war damage), shall not apply as respects an instalment of contribution falling due in any contribution year in respect of a contributory property being

for that year a property to which this Part of this Act applies, and section seventy-seven thereof (which provides for relief against payment of instalments, or parts of instalments, where conditions as to ownership by the National Trust or the National Trust for Scotland therein mentioned are satisfied) shall not apply as respects such an instalment as aforesaid if relief afforded by the application thereof would inure for the benefit of a person other than the said Trust or the said Trust for Scotland.

PART II.  
—cont.

(2) The Treasury shall have power, exercisable by statutory instrument subject to annulment in pursuance of resolution of either House of Parliament, to make regulations (including regulations having retrospective effect so far as may be requisite for securing their operation as regards any contribution year) as to the matters and for the purposes specified in paragraph 3 of the Fifth Schedule to this Act.

### PART III.

#### MISCELLANEOUS.

#### *Ultimate incidence of contributions, and payments in respect of war damage, in case of privileged short interests.*

17.—(1) This section applies to certain short tenancies and certain licences (in this Act referred to as “privileged short interests”), namely short tenancies, and licences, as to which the conditions set out in this subsection were satisfied at the relevant date in a contribution year (as regards the provisions referred to in subsection (2) of this section) or immediately before the occurrence of war damage to land in which the short tenancy or licence subsisted (as regards the provisions of subsection (3) of this section), but excluding tenancies and licences granted for the duration of the late war.

Ultimate incidence of contributions, and payments in respect of war damage, in case of privileged short interests.

The said conditions are—

- (a) that the landlord or licensor was the body carrying on an undertaking the purposes whereof consisted in or comprised the provision of railway, canal, inland navigation, dock, harbour, quay or pier services or facilities;
- (b) that by reason of relations between that body and the tenant or licensee, or any predecessors in title of theirs respectively, a reasonable expectation had been created that the tenancy or licence would be

PART III.  
—cont.

continued for such a period as would have rendered it a proprietary interest if it had been a tenancy granted for a term equal to its past and expected continuance without any right of the landlord to determine, or, in the case of a licence, that it was in fact granted on such terms as would have rendered it a proprietary interest if it had been a tenancy;

- (c) that there were buildings or works on the land comprised in the interest, that the tenant or licensee or a predecessor in title of his had incurred the expense of erecting or constructing the whole of them or the greater part of them (ascertained in such manner, whether solely or partly by reference to value or size or by reference to other considerations, as appears to be appropriate for the purposes of this section), and that the tenant or licensee had a right, or was subject to an obligation (whether subsisting or to arise or liable to arise on the termination of the interest or in some other event), to remove buildings or works on the land so as to be entitled on removing them to them or to the materials thereof; and
- (d) that the land comprised in the interest was other than land consisting mainly or exclusively of agricultural land or agricultural buildings or of such land and such buildings, or of land devoted to advertising purposes.

(2) The provisions of Part II of the Fourth Schedule to this Act shall have effect as to the exercise against the person who was at the relevant date in a contribution year the tenant or licensee under a privileged short interest, and as to the exercise by that person, of the rights as to recovery from and by tenants in respect of contributions which are conferred by sections forty-eight and forty-nine of the principal Act, either as exercisable under those sections and paragraphs 4 and 1 of that Schedule or as exercisable under those sections alone.

(3) Where war damage has been sustained by land which immediately before the occurrence of the damage was held by a public utility owner otherwise than as landlord on a long term (the public utility undertaking being for purposes mentioned in paragraph (a) of subsection (1) of this section), but the proprietary interest owned by the body carrying on the public utility undertaking was then subject to a privileged short interest, the land comprised in the short interest shall be treated as regards a payment in respect of the war damage in question as if the short interest had been a proprietary interest and as if the proprietary interest owned by the body

carrying on the public utility undertaking had been held by them as landlord on a long term, and accordingly—

PART III.  
—cont.

(a) the provisions of section one of this Act shall not, and

(b) notwithstanding anything in section five of this Act the provisions of the principal Act shall,

have effect as to the damage :

Provided that any share of a payment under the principal Act which would be payable thereunder in respect of the proprietary interest of the body carrying on the undertaking shall be withheld if the appropriate Department certify to the War Damage Commission that the damage was taken into account for the purpose of determining the gross amount of a payment to be made under section one of this Act in respect of the undertaking.

(4) Any question whether the conditions set out in subsection (1) of this section were fulfilled as to a short tenancy or licence at the relevant date in a contribution year, or immediately before the occurrence of war damage, as the case may be, shall be determined—

(a) in the case of a question arising in giving effect to the provisions of Part II of the Fourth Schedule to this Act, in default of agreement between the parties concerned, by the Government department which is the appropriate Department in relation to the landlord or licensor of the short tenant or licensee;

(b) in the case of a question arising in giving effect to the provisions of subsection (3) of this section, by the War Damage Commission.

(5) In this section the reference to a tenancy or licence granted for the duration of the late war is to a tenancy or licence granted or purported to be granted for such a term as is mentioned in paragraph (d) of the definition of a short tenancy in the principal Act.

*Miscellaneous provisions relating to war damage payments.*

18.—(1) In respect of war damage the occurrence of which caused an obstruction in a waterway forming part of or giving access to a port, canal or inland navigation, or in the approaches to such a waterway, payments shall be made by reference to the cost of measures taken or to be taken, whether before or after the passing of this Act, to meet the circumstances created by the obstruction, as follows, that is to say—

Payments in respect of war damage causing obstruction in ports, &c.

(a) in so far as the cost in question is the cost of measures taken in the course of the carrying on of a public utility undertaking by the body carrying on

**PART III.**  
—*cont.*

that undertaking and is cost appearing to the appropriate Department not to be reasonably capable of being recovered by that body by the exercise of any right of sale or right of action against the owner of the vessel or other object causing the obstruction, under and subject to the provisions of section one of this Act as a payment in respect of the undertaking; or

- (b) in so far as the cost in question is other than as aforesaid, by the War Damage Commission or the Board of Trade in such cases, and in accordance with and subject to such conditions and provisions, as may be prescribed by regulations made by the Treasury by statutory instrument which shall be subject to annulment in pursuance of resolution of either House of Parliament.

(2) Payments under this section by the War Damage Commission or the Board of Trade, shall be treated for the purposes of the Miscellaneous Financial Provisions Act, 1946 (which relates to payments out of the Consolidated Fund) as such a payment by them in respect of war damage as is mentioned in section two of that Act.

(3) In this section the expression "port" includes any dock, harbour, pier, quay, wharf, mooring, anchorage or other similar place.

S. 14 of the principal Act not to apply on acquisitions under nationalisation Acts.

19. Section fourteen of the principal Act (which provides that, if land in respect of war damage to which a payment of cost of works would otherwise be appropriate is acquired compulsorily by virtue of any enactment, or is acquired by agreement by a person authorised by virtue of any enactment to acquire it compulsorily, such payments as are therein mentioned shall be made, to the exclusion of any payment of cost of works by reference to the cost of any works executed on or after the date of the acquisition) shall not apply, and shall be deemed never to have applied, where the enactment in question is an enactment in a nationalisation Act and the acquisition in question is thereby provided for as part of the initial putting into force of the scheme embodied therein.

Amendment as to exclusion from payments of grant-aided air-raid shelters.

20. Section seventy-four of the principal Act (which provides that certain payments under Part I of that Act are not to be made in respect of war damage to air raid shelters which were the subjects of grants out of public moneys, with an exception for grants payable under section twenty-two of the Civil Defence Act, 1939) shall have effect, and shall be deemed always to have had effect, as if the exception had extended to grants payable under section thirty-eight of the said Act of 1939 (which made provision in relation to undertakings being public utility undertakings within the

meaning of that Act corresponding to the provision made by the said section twenty-two).

PART III.  
—cont.

21.—(1) The exception from the provision for interest on payments under the insurance schemes operated under Part II of the principal Act which is made by subsection (5) of section eighty-five of that Act in the case of early settlements (that is to say, such payments so far as made by virtue of subsection (2) of that section at a date earlier than would be allowable under subsection (1) thereof) shall not apply, and shall be deemed not to have applied, in the case of early settlements under the business scheme where the date of the early settlement is after the passing of this Act, or was before the passing of this Act but after the twentieth day of October, nineteen hundred and forty-six, and—

Provisions as to interest on certain payments in respect of goods.

(a) in accordance with the preceding provision, where there is or was such an early settlement the date whereof is or was as aforesaid, interest at the rate specified in the said subsection (5) shall be treated as having accrued on the amount thereof from the time of the occurrence of the war damage to the date thereof;

(b) interest treated by virtue of this section as having accrued shall be payable, in the case of an early settlement comprising the whole of a payment under the business scheme, at the time of the early settlement (or at the passing of this Act in the case of an early settlement made before the passing of this Act), or, in the case of an early settlement consisting of a part only of a payment under the business scheme, at the time of final discharge of that payment whether by way of further early settlement or otherwise (or at the passing of this Act in the case of a final settlement made before the passing of this Act).

(2) In the application of subsection (5) of section eighty-five of the principal Act to payments under section ninety-five of that Act (to which payments that subsection is made applicable by regulations under the said section ninety-five)—

(a) the said subsection (5) shall be applied as amended by the preceding subsection; and

(b) in the case of a payment from which a sum representing premium is deductible under the said regulations, the amount on which interest is to be computed shall be the net amount of the payment after deducting that sum and not the gross amount thereof, and the said regulations shall be deemed always to have had effect in accordance with this paragraph.

PART III.  
—cont.

(3) A payment of interest made by virtue of this section shall be treated for the purposes of the Miscellaneous Financial Provisions Act, 1946 (which relates to payment out of the Consolidated Fund) as such a payment by the Board of Trade in respect of interest as is mentioned in section two of that Act.

Amendment as to plant and machinery to be treated as "land" for purposes of payments.

22.—(1) For the purposes of provisions of the principal Act, and provisions of this Act which operate by way of application thereof or by reference thereto, other than provisions thereof relating to contributions in respect of land, the question whether any plant or machinery is to be treated, in relation to any land, as land or goods shall be determined, and shall be deemed always to have fallen to be determined, by reference to the provisions of the Plant and Machinery (Valuation for Rating) Order, 1927, whether or not the land is, or is comprised in, a hereditament to which section twenty-four of the Rating and Valuation Act, 1925, applies.

(2) In accordance with the preceding subsection, section one hundred and three of the principal Act (which defines the expression "land") shall have effect, and be deemed always to have had effect, for the purposes aforesaid,—

- (a) as if subsection (4) thereof (which makes particular provision as to the inclusion of plant and machinery in the said expression in relation to land the subject of certain rating valuations), and the reference to that subsection in subsection (6), were omitted; and
- (b) as if in subsection (5) (which makes general provision as to the inclusion of plant and machinery in the said expression in relation to land not the subject of those rating valuations), the words "in relation to any land" were substituted for the words "in relation to land not comprised in a hereditament for rating purposes which is the subject of such a valuation as is mentioned in the last preceding subsection".

(3) The preceding provisions of this section shall not render any payment made before the passing of this Act in respect of war damage unlawful or recoverable, but any payment so made in respect of damage to any plant or machinery otherwise than in accordance with those provisions shall be treated as having been made in or towards the discharge of any payment falling to be made in respect of the damage having regard to those provisions.

(4) Nothing in those provisions shall impose on any person any liability in respect of failure to be insured under the business scheme operated under Part II of the principal Act in respect of any plant or machinery which is by virtue only



of those provisions to be treated as goods for the purposes of that Act.

PART III.  
—cont.

(5) Any increase attributable to the provisions of this section in the sums to be paid out of the Consolidated Fund under section two of the Miscellaneous Financial Provisions Act, 1946, shall be paid out of that Fund.

(6) In this section the expression "provisions relating to contributions in respect of land" means provisions relating to contributions or indemnities under Part I of the principal Act, including section six of this Act (together with provisions of this Act which refer to that section), Part II of this Act and the Fourth Schedule thereto.

23.—(1) Subsection (5) of section forty-one of the Requisitioned Land and War Works Act, 1945 (which subsection excepts war damage in respect of which a payment falls to be made under the principal Act from provisions of subsection (1) of that section which deal with damage generally as a factor diminishing the value of land) shall have effect as to war damage in respect of which a payment has been made, or is to be made, under section one of this Act as it has effect as to war damage in relation to which a payment falls to be made under the principal Act, for the following purposes, that is to say—

Exclusion of compensation by virtue of 8 & 9 Geo. 6. c. 43 for war damage the subject of a payment under s. 1 of this Act.

(a) for the purposes of the operation of subsection (1) of the said section forty-one in relation to a compulsory acquisition pursuant to a notice to treat given after the passing of this Act; and

(b) for the purposes of the operation of paragraph 11 of the Third Schedule to the Civil Aviation Act, 1946 (which applies the said subsections (1) and (5) as respects certain orders) in relation to an order coming into operation after the passing of this Act.

(2) A certificate of the appropriate Department as to whether or not a payment in respect of any war damage has been made, or is to be made, under section one of this Act shall be conclusive for the purposes of this section.

*Miscellaneous provisions relating to contributions and premiums.*

24.—(1) Where a contribution or premium liability is imposed by the principal Act or this Act in respect of a statutory undertaking of any class mentioned in subsection (2) of this section and the obligation to satisfy the liability is on the body carrying on that undertaking or carrying on an undertaking for like purposes, that body shall have power by virtue of this section, and subject to the provisions thereof, to raise as therein specified such sums as may be required for satisfying the liability:

Power of certain bodies to raise money to discharge contribution and premium liabilities.

PART III.  
—cont.

Provided that this section shall not apply to a body being a council having power to borrow under the Local Government Act, 1933, or the London Government Act, 1939, or to any Authority, Board, Commission or other body constituted by or under a nationalisation Act.

(2) The classes of undertakings referred to in the preceding subsection are—

- (a) undertakings of any class specified in heads (i) to (vii) of sub-paragraph (1) of paragraph 1 of the First Schedule to this Act, and any canal, inland navigation, harbour, dock or lighthouse undertaking not of a class therein specified; and
- (b) tramway or trolley vehicle undertakings, quay or pier undertakings, and undertakings of drainage authorities within the meaning of the Land Drainage Act, 1930.

(3) The reference in subsection (1) of this section to a contribution or premium liability imposed by the principal Act or this Act in respect of an undertaking is to—

- (a) a liability under subsection (1) of section three of this Act in respect of the undertaking;
- (b) a liability, arising by virtue of an interest of the body carrying on the undertaking in land, as, or as a mortgagee of, a direct or indirect contributor, in respect of an instalment of contribution under Part I of the principal Act or of an apportioned part of such an instalment, and a liability as a direct contributor in respect of such an instalment imposed on the body carrying on the undertaking by section thirteen of this Act;
- (c) a liability as landlord or tenant, arising by virtue of an interest of the body carrying on the undertaking in land, under section forty-eight or forty-nine of the principal Act as applied by paragraph 1 or 4 of the Fourth Schedule to this Act or under paragraph 11 of that Schedule, and a liability as mortgagee, arising as aforesaid, under paragraph 8 of that Schedule; and
- (d) a liability, arising by virtue of an interest of the body carrying on the undertaking in goods, to make a payment under subsection (2) of section ten of this Act.

(4) Where a body would be empowered by subsection (1) of this section to raise a given sum by reference to a liability for a contribution under section one of this Act in respect of an undertaking but for the setting-off against that contribution (under subsection (1) of section three of this Act) of

war damage payments in respect of that undertaking, that body shall have power by virtue of this section, and subject to the provisions thereof, to raise that sum, notwithstanding that in consequence of the set-off that sum, or part of it, does not constitute a liability under subsection (1) of section three of this Act.

PART III.  
—cont.

(5) Subject to the provisions of this section, the power to raise money thereby conferred may be exercised in any manner (whether by mortgage, or by an issue of debentures or of stock or shares, or otherwise), and on such terms as may be agreed between the body in question and the person by whom the money is proposed to be provided, and, where the repayment of any money raised under the said power is secured by a mortgage or charge of an interest in any property, being an interest owned by the body in question mainly or exclusively in connection with the undertaking carried on by that body which is mentioned in subsection (1) of this section, a provision of any such agreement giving that mortgage or charge priority over any other mortgage or charge of that interest, whether created earlier or later, shall have effect notwithstanding anything in any enactment or rule of law or equity.

(6) The power to raise money conferred by this section shall be in addition to and not in substitution for any other power in that behalf, and shall be exercisable notwithstanding any restriction which apart from this subsection would have had effect as to the amount of any money which could lawfully be raised by the body in question, either generally or in any manner or on any security; and in the application of any such restriction the amount of any money raised under the power conferred by this section shall be disregarded.

(7) A person lending money on a loan purported to be raised under this section or taking stock or shares purported to be issued thereunder shall not be bound to enquire whether the raising or issue thereof is or was legal or regular, or whether the proceeds thereof were properly applied, and shall not be prejudiced by any illegality or irregularity in the matters aforesaid or by any misapplication or non-application of any such proceeds.

(8) The consent of the Treasury shall be requisite for any exercise of the power to raise money conferred by this section and may be given either generally and unconditionally or subject to limitations or conditions as to the amount to be raised, or the time or times at which, the manner in which or the terms on which, the power is to be exercised, or other matters.

PART III.  
—cont.

A body shall not exercise the said power otherwise than after obtaining such consent and in accordance therewith, and shall duly perform any obligation to which they may become subject by virtue of terms on which the said power has been exercised, and the Schedule to the Borrowing (Control and Guarantees) Act, 1946 (which relates to enforcement and penalties) shall apply for the purposes of this subsection with the substitution therein of references to this subsection and to an offence thereunder for references to that Act or an order made thereunder and to an offence under that Act.

(9) If it appears to the Treasury that a body to whom this section applies could more conveniently raise sums which they have power to raise under this section by exercising a power to raise money vested in them otherwise than by this section, but that modification or adaptation of an enactment or instrument by which that other power is conferred, or which affects its exercise, is requisite for enabling the body so to do, the Treasury may by order provide for the modification or adaptation thereof as appears to them to be requisite for that purpose, and, if it appears to the Treasury to be requisite, for the application of the last preceding subsection in relation to any exercise of that other power for the raising of such sums as aforesaid.

(10) Notwithstanding any provision of the principal Act or of this Act, a payment towards the discharge of any moneys raised in exercise of the power conferred by this section, or of any moneys (being moneys which could have been so raised) raised in exercise of another power, being a payment made by the body carrying on a statutory undertaking where that body is other than a local authority and the undertaking is carried on otherwise than for profit, shall not be required to be treated as an outgoing of a capital nature:

Provided that nothing in this subsection shall affect the operation of any provision of section twenty-eight of this Act.

Exclusion of certain instalments from operation of ss. 61, 63 and 64 of the principal Act

## 25. Where—

- (a) an instalment of contribution under Part I of the principal Act or an apportioned part of such an instalment, being an instalment or part which was not payable at a time when a value payment made before the passing of this Act was made, is, apart from the sections of that Act mentioned in paragraphs (i), (ii) and (iii) of this section, payable by virtue of section nine of this Act, and
- (b) that instalment or part would have been deductible from that value payment by virtue of section sixty-one of the principal Act if it had been payable when that value payment was made,

none of the following sections of the principal Act shall apply as regards the instalment or part, that is to say—

PART III.  
—cont.

- (i) the said section sixty-one (which provides for deduction from a value payment made as therein mentioned of so much of a contribution as has not been paid at the time of the making of the value payment, and enacts that no person shall be under any liability to the Commissioners of Inland Revenue in respect of so much of the contribution as has not then been paid);
- (ii) section sixty-three of the principal Act (which prohibits the taking of steps to recover an instalment or any part of an instalment in respect of a contributory property comprised wholly in a hereditament as to which notice is given as therein mentioned of likelihood that a value payment would fall to be made as therein mentioned);
- (iii) section sixty-four of the principal Act (which prohibits the taking of steps to recover an instalment or any part of an instalment in respect of a contributory property comprised wholly in a hereditament as to which the Commissioners of Inland Revenue are satisfied that it is unfit by reason of war damage).

26.—(1) Where a contributory property as to which the Commissioners of Inland Revenue have been satisfied that it was unfit within the meaning of section sixty-four of the principal Act by reason of war damage is comprised wholly within a hereditament in respect of war damage to which payments or a payment are or is made under section thirteen, fourteen, fifteen or twenty of that Act (under which sections there may in certain cases be made in respect of war damage both a payment of cost of works and a value payment or one or other of them), the prohibition imposed by the said section sixty-four shall cease to apply to any instalment in respect of the property on the completion of the making of the payments or payment to be made in respect of the damage in question.

Contribution on unfit properties to become leviable on making of certain war damage payments.

(2) In the case of an instalment in respect of such a property which is comprised wholly within a hereditament in respect of war damage to which payments or a payment were or was made as aforesaid, and the making thereof completed, before the passing of this Act, the said prohibition shall cease to apply on the passing of this Act.

(3) In the case of an instalment in respect of a property to which Part II of this Act applies for the contribution year

PART III.  
—*cont.*

in which the instalment fell due, the exclusion of the said section sixty-four provided for by subsection (1) of section sixteen of this Act shall apply in substitution for the preceding provisions of this section.

Modification of contribution provisions in their application to requisitioned land.

27. The Treasury shall have power, exercisable by statutory instrument subject to annulment in pursuance of resolution of either House of Parliament, to make regulations (including regulations having retrospective effect so far as may be requisite for securing their operation as regards any contribution year) for providing for modifications in the application of provisions of the principal Act as to contributions and indemnities under Part I thereof, or of provisions of this Act which relate to such contributions or indemnities or apply any of those provisions of the principal Act with or without modification, in respect of requisitioned land which immediately before the beginning of the period of requisition was such land as is dealt with by Part II of this Act or by the provisions of this Act relating to public utility land not contributory under the principal Act.

*Miscellaneous provisions relating both to war damage payments and to contributions and premiums.*

Contributions and premiums, and expenses of making good war damage the subject of payments, not to be deductions for income tax, etc.

28.—(1) In computing the amount of the profits or gains, or of the income from any source, of any person for any purpose of the Income Tax Acts, or the amount of the profits of any person for the purposes of the profits tax or for the purposes of excess profits tax, no sum shall be deducted in respect of any payment or expenditure to which this section applies.

(2) No sum shall be included in respect of any payment or expenditure to which this section applies in computing—

- (a) the expenses of management of any person in respect of which relief may be claimed under section thirty-three of the Income Tax Act, 1918; or
  - (b) the cost to any person of maintenance, repairs, insurance and management in respect of which relief may be claimed under or by reference to Rule 8 of No. V of Schedule A; or
  - (c) the cost to any person of management or supervision in respect of which relief may be claimed under section twenty-six of the Finance Act, 1922.
- (3) The payments to which this section applies are—
- (a) any payment made in or towards discharge of a liability imposed by or under any provision of Part I of the principal Act (whether alone or as applied or modified by or under any provision of this Act);

- (b) any payment made in or towards discharge of a premium payable under a policy issued under either of the schemes operated under Part II of the principal Act; and
- (c) any payment made in or towards discharge of a liability imposed by or under any provision of this Act.
- (4) Expenditure to which this section applies is—
- (a) any expenditure on repairing or otherwise making good war damage to land in so far as any person has received or is entitled to a payment in respect of the damage by virtue of any of the provisions of the principal Act (whether alone or as applied or modified by or under any provision of this Act), and any expenditure on making good detriment to an interest in goods caused by war damage in so far as any person has received or is entitled to a payment in respect of the detriment by virtue of any of those provisions or of a policy issued under either of the schemes operated under Part II of the principal Act or by virtue of section ten of this Act; and
- (b) any expenditure on repairing or otherwise making good war damage being damage of a class mentioned in any of paragraphs (a) to (d) of subsection (1) of section one of this Act, or on measures for meeting the circumstances created by any such obstruction as is mentioned in section eighteen of this Act.

For the purposes of paragraph (a) of this subsection, a payment made in respect of war damage to goods by reference to the diminution caused by the damage in the value of an interest in the goods shall be deemed to be a payment made in respect of detriment to that interest caused by the damage.

(5) The preceding provisions of this section shall have effect, and shall be deemed always to have had effect, in substitution for the provisions of section one hundred and thirteen of the principal Act; and references in any document made or issued at any time (whether before or after the passing of this Act) to the said section one hundred and thirteen or to any provision thereof shall, unless the contrary intention appears, be construed as references to this section or to the corresponding provision thereof, as the case may be.

(6) Where before the passing of this Act the liability of any person in respect of income tax or excess profits tax or in respect of profits tax (whether assessed under that name or under the name of the national defence contribution) has been reduced, or any person has been repaid any amount in respect thereof, by reason of the deduction or inclusion of any sum which under the provisions of subsection (1) or subsection (2) of this section would not have fallen to be

**PART III.**  
—*cont.*

deducted or included, the amount by which his liability has been so reduced or the amount so repaid, as the case may be, shall be recoverable, and for the purpose of the recovery thereof an assessment or additional assessment may be made in like manner as such an assessment may be made to rectify an undercharge of income tax, excess profits tax or profits tax respectively, and the enactments relating to income tax, excess profits tax and profits tax (including the provisions thereof as to appeals) shall apply accordingly :

Provided that—

- (a) an assessment or additional assessment to income tax may be made under this subsection at any time within the period of three years from the date of the passing of this Act, but shall not be made after the expiration of that period; and
- (b) in the case of the reduction of a liability to, or repayment of, income tax by reason of the inclusion of any sum which under the provisions of subsection (2) of this section would not have fallen to be included, the assessment or additional assessment shall be made under Case VI of Schedule D as in respect of profits or gains not charged by virtue of any other Schedule, but any appeal shall be determined by the Commissioners by whom a claim for repayment under the relevant enactment mentioned in that subsection would fall to be determined and subject to the provisions of the Income Tax Acts applicable to the determination of such a claim.

(7) In the enactments relating to exceptional depreciation allowance for the purposes of income tax, excess profits tax and the profits tax respectively (that is to say, in section nineteen of the Finance Act, 1941, in paragraph 3 of Part I of the Seventh Schedule to the Finance (No. 2) Act, 1939, as amended by the Third Schedule to the Finance Act, 1941, in the said paragraph 3 as applied by subsection (2) of section forty-three of the Finance Act, 1941, in sections forty-nine and fifty of the Income Tax Act, 1945, and in paragraphs 3, 4 and 10 of the Eighth Schedule to the Finance (No. 2) Act, 1945) references to Part I of the War Damage Act, 1941, or to the principal Act or to Part I thereof, shall be construed as including references to this Act.

Allocation of payments and contributions in respect of certain undertakings in the electricity group.

**29.** The powers conferred on the British Electricity Authority and the Minister of Fuel and Power respectively by section forty-one of the Electricity Act, 1947 (which empowers that Authority to require Area Boards within the meaning of that Act to contribute, to such extent as may be determined by that Authority, towards the satisfaction of the obligations of that Authority therein mentioned, and require



that Authority in exercising their said powers to act on general principles settled with the approval of the said Minister) may be exercised in such manner as to effect allocations between that Authority on the one hand and the said Boards on the other hand, or between such Boards respectively, of payments or contributions under section one of this Act which by virtue of subsection (4) of section two of this Act are made to or by that Authority, or of sums recovered by that Authority by virtue of the Fourth Schedule to this Act.

PART III.  
—cont.

30.—(1) Where the effect of any of the provisions of the principal Act relating to contributions or indemnities under Part I thereof (whether alone or as applied or modified by or under any provision of this Act other than this section), of any provision of this Act other than this section or of any provision made under this Act, is to designate as having a liability or right to which this section applies a body (whether existing or dissolved) from whom, before that liability or right accrued, there have been transferred, by virtue of any nationalisation Act or otherwise, liabilities or rights of a class which would have included that liability or right if it had accrued before the transfer, that liability or right, so far as undischarged or unexercised at the time when this section takes effect in relation thereto, shall by virtue of this section be imposed on or vest in the body having the transferred liabilities or rights at the passing of this Act or at the time of the accruer of the liability or right to which this section applies if later.

Inclusion of certain liabilities and rights under the principal Act and this Act in transfers on nationalisations, etc.

(2) This section applies to a liability to pay an instalment of contribution under Part I of the principal Act or an apportioned part of such an instalment, a right to receive repayment of such an instalment or part, a liability to pay or a right to receive an indemnity in respect of such an instalment or part, a liability to repay or a right to receive repayment of such an indemnity, a right to receive a payment under the Third Schedule to this Act, and a liability to make or a right to receive a payment under the Fourth Schedule to this Act.

#### PART IV.

##### GENERAL.

31.—(1) In this Act references to an undertaking include references to an undertaking carried on on behalf of the Crown.

Application to the Crown.

(2) A contribution under section one of this Act may, under subsection (4) of section two thereof, be made payable by or on behalf of the Crown.

(3) Payments under the Fourth Schedule to this Act shall be made by and to the Crown in respect of any Crown interest and of any interest belonging to His Majesty in right of the

PART IV.  
—cont.

Duchy of Lancaster or to the Duchy of Cornwall, as if that interest had belonged to a subject of the realm.

(4) Where in relation to a property to which Part II of this Act applies for any contribution year the relevant Part II undertaking was an undertaking which at the relevant date in that year was carried on on behalf of the Crown, the Duchy of Lancaster, the Duchy of Cornwall or a Government department, Part I of the principal Act, as modified by Part II of this Act and by regulations under section sixteen thereof, shall be construed as imposing the like liability for an instalment of contribution falling due in that year in respect of the property as if the authority carrying on the undertaking had been a subject of the realm, and for the purposes of this Act that authority shall be treated as having been rated by reference to a rating valuation during any period in respect of which a contribution in aid of rates in respect of occupation by that authority was made by reference to an amount computed and entered in the valuation list:

Provided that—

- (a) that liability shall be imposed in the case of an undertaking carried on on behalf of the Crown or a Government department only if there was subsisting in the property at the relevant date an interest, other than a Crown interest, by virtue of which a person other than the authority carrying on the undertaking will be subject to the ultimate incidence of the liability for the instalment or some part of it;
- (b) the power to make regulations conferred by subsection (2) of section sixteen of this Act shall include power to make special provision for modifications in the application of provisions of the principal Act to properties to which Part II of this Act applies in cases falling within this subsection.

(5) In relation to a property to which Part II of this Act applies for any contribution year the two last preceding subsections shall have effect as respects that year in substitution for, and to the exclusion of, subsection (1) of section seventy-two of the principal Act.

(6) It is hereby declared that, for the purposes of subsection (1) of section thirty of the Limitation Act, 1939 (which enacts that that Act is to apply to proceedings by or against the Crown, but subject to a proviso that that Act shall not apply to any proceedings by the Crown for the recovery of any tax or duty), an instalment of contribution under Part I of the principal Act or an apportioned part of such an instalment, and an amount recoverable as a debt due to His Majesty under subsection (1) of section three of this Act or subsection

(5) of section ten of this Act, are respectively to be treated as duties within the meaning of that proviso.

PART IV.  
—cont.

(7) In this section the expression " Crown interest " means an interest belonging to His Majesty in right of the Crown, or belonging to a Government department or held in trust for His Majesty for the purposes of a Government department.

32. Anything required or authorised by or under this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board of Trade, any secretary, under-secretary or assistant secretary of the Board, or any person authorised in that behalf by the President.

Exercise of  
functions of  
Board of  
Trade.

33. There shall be paid out of moneys provided by Parliament any increase resulting from any of the provisions of this Act in the sums which, under Part I or Part II of the Local Government Act, 1948, fall to be paid out of moneys so provided.

Expenses  
under 11 & 12  
Geo. 6. c. 26.

34.—(1) This Act shall be construed as one with the principal Act.

Interpretation.

(2) Except where the context otherwise requires, references in this Act to the principal Act, or to any provision thereof, include respectively references to the enactments repealed by the principal Act or to the corresponding provision of the enactments thereby repealed, notwithstanding that certain provisions of the enactments thereby repealed are expressly referred to in this Act.

(3) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

" appropriate Department " means, in relation to any undertaking, the Government department concerned with the purposes thereof, and, for determining any question what Government department is or was the appropriate Department for any purpose of this Act in relation to an undertaking, a certificate of the Treasury shall be conclusive;

" body " includes an individual;

" Consolidated Fund " means the Consolidated Fund of the United Kingdom or the growing produce thereof;

" contribution year " has the meaning assigned to it by subsection (1) of section six of this Act;

" distribution works " has the meaning assigned to it by subsection (5) of section one of this Act;

" land devoted to advertising purposes " means land which was held or used only for advertising purposes as mentioned in paragraph (a) of subsection (2) of section thirty-nine of the principal Act;

PART IV.  
—cont.

- “ land held by a public utility owner otherwise than as landlord on a long term ” has the meaning assigned to it by subsection (4) of section one of this Act;
- “ lighthouse ” has the meaning assigned to it by section seven hundred and forty-two of the Merchant Shipping Act, 1894, and includes buoys and beacons and all other marks and signs of the sea;
- “ local authority ” includes the Council of the Isles of Scilly;
- “ mineral property ” has the meaning assigned to it by subsection (4) of section fifteen of this Act;
- “ nationalisation Act ” means any Act, whether passed before or after the passing of this Act, which embodies any scheme for the carrying on of any industry, or part of an industry, under national ownership or control;
- “ owner ”, in relation to an interest other than a proprietary interest, shall be construed in accordance with the provisions of section one hundred and five of the principal Act relating to a proprietary interest;
- “ Part II undertaking ” means an undertaking by reason of occupation in the course of which a property is a property to which Part II of this Act applies, and “ relevant Part II undertaking ” means, in relation to such a property, the undertaking in the course of which the property was occupied so as to be such a property;
- “ person ” includes a body of persons corporate or unincorporate;
- “ principal Act ” means the War Damage Act, 1943;
- “ public utility land not contributory under the principal Act ” has the meaning assigned to it by subsection (3) of section six of this Act;
- “ rating valuation ” means a valuation shown in such a valuation list in force under enactments relating to rating as is mentioned in paragraph (b) of subsection (1) of section thirty-nine of the principal Act;
- “ Schedule A unit ” means, in relation to any war damage, a property the full annual value of which was ascertained for the purposes of an assessment under Schedule A in force immediately before the occurrence of the damage, and for the purposes of this definition and of the application thereof—
- (a) an assessment under Schedule A shall be treated as having been in force during the period as respects which it had effect; and
- (b) subsections (1) and (3) of section one hundred and seventeen of the principal Act (which relate to disclosure of information necessary for

the purposes of that Act) shall have effect as they have effect for the purposes of that Act;

PART IV.  
—cont.

“statutory undertaking” means, in relation to an undertaking of any class, an undertaking the activities of which, or some of the activities of which (including some or all of its distinctive activities, that is to say, those which bring the undertaking within that class), are carried on under authorisation conferred by an Act or by an order or scheme made under an Act;

“war damage”, in relation to commodities, means damage the risks of which are King’s enemy risks as defined by order of the Board of Trade for the purposes of Part II of the War Risks Insurance Act, 1939.

(4) In this Act references to an interest of any kind subsisting in the whole of a contributory property or other unit, or to the subject of an interest of any kind forming such a property or other unit, shall be construed as references respectively to such an interest subsisting in, or to the subject of such an interest forming, so much of that property or unit as is capable of being the subject of such an interest, and references to a tenancy of a contributory property or other unit shall be construed as references to a tenancy of so much of the property or unit as is capable of being the subject of a tenancy.

(5) The mention of particular matters in this section shall not be held to prejudice or affect the general application of the Interpretation Act, 1889.

35.—(1) The following provisions of this section shall have effect for the purpose of the application of this Act to Scotland. Application to Scotland.

(2) Any reference to an interest held in reversion expectant on a tenancy or to a reversion on a tenancy shall be construed as a reference to the interest of a landlord in property subject to a lease; and any reference to a tenancy derived out of another tenancy shall be construed as a reference to a lease or tenancy granted by a superior tenant.

(3) Expenditure incurred by a county council in satisfying a liability imposed on them by the order made under subsection (1) of section three of this Act for the sewerage group shall, for the purposes of section two hundred and twenty-five of the Local Government (Scotland) Act, 1947 (which relates to expenditure incurred in carrying out the purposes for which a special district has been formed), be deemed to be expenditure incurred in providing sewerage and sewage disposal services.

(4) Section seventeen of this Act shall not apply.

(5) Section twenty-two of this Act shall have effect as if the Act and Order mentioned in subsection (1) thereof applied to Scotland.

**PART IV.**  
—*cont.*

(6) Section twenty-four of this Act shall have effect as if for the reference to the Acts of 1933 and 1939 therein mentioned there were substituted a reference to the Local Government (Scotland) Act, 1947.

(7) Section thirty-four of this Act shall have effect as if the definition in subsection (3) thereof of the expression "owner" were omitted.

(8) Paragraph 1 of the First Schedule and paragraph 1 of the Fifth Schedule to this Act shall have effect as if the references therein to the Public Health Act, 1936, were omitted.

**Application to Northern Ireland.**

**36.**—(1) The following provisions of this section shall have effect for the purpose of the application of this Act to Northern Ireland.

(2) For the references in section twenty of this Act to sections twenty-two and thirty-eight of the Civil Defence Act, 1939, there shall be substituted references to sections twenty and thirty-two of the Civil Defence Act (Northern Ireland), 1939, respectively.

(3) Section twenty-two of this Act shall have effect as if the Act and Order mentioned in subsection (1) thereof applied to Northern Ireland.

(4) In section twenty-four of this Act—

- (a) the proviso to subsection (1) shall be omitted;
- (b) for the reference in paragraph (b) of subsection (2) to the Land Drainage Act, 1930, there shall be substituted a reference to the Drainage Acts (Northern Ireland), 1925 to 1947;
- (c) for the references in subsections (8) and (9) to the Treasury there shall be substituted references to the Ministry of Finance for Northern Ireland; and
- (d) for the references in subsection (8) to the Schedule to the Borrowing (Control and Guarantees) Act, 1946, and to that Act there shall be substituted references to the Schedule to the Loans Guarantee and Borrowing Regulation Act (Northern Ireland), 1946, and to that Act respectively.

(5) Any reference in this Act to any provision of the principal Act or of any other enactment which applies in Northern Ireland shall be construed as a reference to that provision as it applies in Northern Ireland.

(6) In the First and Fifth Schedules to this Act for the reference to the Public Health Act, 1936, there shall be substituted a reference to the Public Health (Ireland) Act, 1878.

**Short title and citation.**

**37.**—(1) This Act may be cited as the War Damage (Public Utility Undertakings, &c.) Act, 1949.

(2) The principal Act, the War Damage (Valuation Appeals) Act, 1945, and this Act may be cited together as the War Damage Acts, 1943 to 1949.

## SCHEDULES.

## FIRST SCHEDULE.

Sections 1, 2, 6,  
24, 35, 36.DEFINITION, AND PROVISIONS AS TO GROUPING, OF PUBLIC  
UTILITY UNDERTAKINGS.

*Meaning of references in this Act to "public utility undertakings", as regards the classes of undertakings referred to.*

1.—(1) In this Act, except when the context otherwise requires, the expression "public utility undertaking" means, subject to the provisions of this Schedule, a statutory undertaking of any of the following classes, that is to say—

- (i) Any railway undertaking and any light railway undertaking, but excluding an undertaking associated with a manufacturing, mining or quarrying concern and dealing mainly or exclusively with traffic of that concern.
- (ii) Any canal undertaking and any inland navigation undertaking which (whether being a canal undertaking or an inland navigation undertaking or both) either was named in Article I of the Canal Control Order, 1942, made under Regulation 69 of the Defence (General) Regulations, 1939, or had in its last financial year ended before the third day of September, nineteen hundred and thirty-nine, income from the movement along the waterway of goods or of craft, or of both, amounting to five thousand pounds or more.
- (iii) Any harbour undertaking and any dock undertaking which (whether being a harbour undertaking or a dock undertaking or both) accommodated, in the year nineteen hundred and thirty-eight, vessels with cargo arrived and vessels with cargo departed of an aggregate net registered tonnage of two hundred thousand tons or more, but excluding an undertaking carried on at a marine work within the meaning of the Harbours, Piers and Ferries (Scotland) Act, 1937.
- (iv) Any gas undertaking, that is to say, any undertaking for the supply of gas by means which include the use of pipes laid in or under highways.
- (v) Any electricity undertaking, that is to say, an undertaking for the supply of electricity being an undertaking within the application of the provisions of the Electricity (Supply) Acts, 1882 to 1936, or of the Electricity (Supply) Acts (Northern Ireland) 1882 to 1936.
- (vi) Any water undertaking, that is to say, an undertaking for the supply of water for domestic or other purposes, and any hydraulic power undertaking, that is to say, an undertaking for the supply of motive power by hydraulic pressure.
- (vii) Any sewerage undertaking, that is to say, an undertaking for the drainage of any locality by means of sewers as defined by the Public Health Act, 1936, and any sewage disposal undertaking, that is to say, an undertaking for the purification and disposal of the contents of sewers as defined by that Act.

1ST SCH.  
—cont.

(viii) Any lighthouse undertaking of a general lighthouse authority.

(2) A gas undertaking not being a statutory undertaking shall be treated for the purposes of this Act as if it had been a statutory undertaking if either—

- (a) it was carried on by a body whose principal or only business it was to carry on that undertaking, or that undertaking and one or more other gas undertakings, or
- (b) the quantity of gas sold in the carrying on of the undertaking during the year nineteen hundred and forty-five exceeded one hundred and fifty million cubic feet.

2. Where there were comprised in a single undertaking (in this Schedule referred to as a "composite undertaking") activities which if taken alone would constitute a statutory undertaking of any of the classes specified in heads (i) to (vii) of sub-paragraph (1) of paragraph 1 of this Schedule, and also other activities which if taken alone would constitute a statutory undertaking of another of those classes, the former and the latter activities shall, subject to paragraph 7 of this Schedule, be treated for the purposes of this Act as constituting (together with any activities to be treated as comprised therein under paragraph 4 of this Schedule) separate statutory undertakings.

3.—(1) In the case of an undertaking in respect of which there has been neither any war damage notified as mentioned in subsection (1) of section one of this Act nor any notification for the purposes of the consultations therein mentioned of the undertaking's not having sustained war damage, the Treasury may by order direct that it shall not be within references in this Act to a public utility undertaking, notwithstanding that under the preceding provisions of this Schedule it would be within such references.

(2) An undertaking which under the preceding provisions of this Schedule would be within references in this Act to a public utility undertaking, but which did not carry on in the United Kingdom any activities other than management or office activities, shall not be within such references.

*Meaning of references in this Act to "public utility undertakings", as regards activities comprised therein.*

4.—(1) Where a statutory undertaking of any of the classes specified in heads (i) to (vii) of sub-paragraph (1) of paragraph 1 of this Schedule or a composite undertaking was carried on by a body who carried on activities other than public utility activities, the following of those other activities shall, subject to the subsequent provisions of this Schedule, be treated for the purposes of this Act as having been comprised in the undertaking, that is to say—

- (a) if that body was a body whose principal business it was to carry on that undertaking or that undertaking and one or more other such undertakings, all of those other activities with such exceptions, if any, as the Treasury may determine; or



(b) if that body was a local authority or other body not falling within head (a) of this sub-paragraph such, if any, of those other activities as the Treasury may determine.

1st Sch.  
—cont.

(2) Such other activities as are mentioned in the preceding sub-paragraph shall, if carried on by a body who carried on two or more undertakings each of which was an undertaking of a class aforesaid or a composite undertaking, be allocated as the Treasury may determine between those undertakings (and, if a composite undertaking is concerned, between the separate undertakings mentioned in paragraph 2 of this Schedule) and shall, subject to paragraph 7 of this Schedule, be treated as comprised therein respectively.

5. Where the beneficial interest in the whole of the ordinary share capital of a company carrying on the operation of ships was owned by the body carrying on a railway undertaking, the provisions of this Act shall have effect as if the company and the body carrying on the railway undertaking had been one body, and references in this Act to the ownership of an interest in land or of goods, and to the holding or using of land or goods, shall be construed accordingly.

6. No activities carried on outside the United Kingdom shall be treated for the purposes of this Act as comprised in any public utility undertaking:

Provided that this sub-paragraph shall not apply—

- (a) to the operation of ships as part of, or in connection with, the carrying on of a railway undertaking; or
- (b) to the maintenance of aids to navigation in or about any place in the British Islands other than the coast of Eire as part of, or in connection with, the carrying on of a harbour, dock or lighthouse undertaking;

and for the purposes of this Act land, works, machinery, plant or buildings held or used for the purposes of a lighthouse or owned in connection therewith shall not be treated as falling outside the meaning of the expression "land" by reason only of its or their being outside the United Kingdom.

*Provisions as to grouping of public utility undertakings.*

7.—(1) The Treasury may, for the purposes of sections two and three of this Act,

- (a) treat a statutory undertaking of any of the classes specified in heads (i) to (vii) of sub-paragraph (1) of paragraph 1 of this Schedule as if it had been of another such class; or
- (b) treat any activities of a statutory undertaking of any such class as not comprised therein, but either as comprised in another statutory undertaking (whether of the same class or of another such class) or as constituting a separate statutory undertaking (whether of the same class or of another such class);

and provisions relating to undertakings in a particular group in the subsequent Schedules to this Act shall have effect in accordance with any exercise of the power conferred by this sub-paragraph.

1ST SCH.  
—cont.

(2) In the preceding sub-paragraph the references to a statutory undertaking shall be construed in relation to a composite undertaking as references to each of the separate undertakings mentioned in paragraph 2 of this Schedule.

*Definitions, etc.*

8.—(1) In this Schedule—

“light railway undertaking” does not include an undertaking for operating a light railway of the nature of a tramway, that is to say, a light railway laid mainly or exclusively along a public carriageway and used mainly or exclusively for the carriage of passengers;

“public utility activities” means statutory activities (that is to say, activities carried on under authorisation conferred by an Act or by an order or scheme made under an Act) such as would if taken alone constitute an undertaking of any of the classes specified in heads (i) to (viii) of sub-paragraph (1) of paragraph 1 of this Schedule.

(2) For the purposes of this Act a canal undertaking or an inland navigation undertaking shall not be treated as a statutory water undertaking by virtue of any authorisation conferred as aforesaid to sell surplus water.

9. For the purposes of this Act any interest in land owned by the body by whom a public utility undertaking was carried on (whether a proprietary interest or not) shall be treated as held by them for public utility purposes unless—

(a) that body carried on activities other than those which, under the preceding provisions of this Schedule, constitute, or are to be treated as comprised in, a public utility undertaking, and

(b) the interest in question was owned by them mainly or exclusively in connection with some such other activities.

10. Where an undertaking comprises both activities which under the preceding provisions of this Schedule constitute, or are to be treated as comprised in, a public utility undertaking and also other activities, those other activities shall be treated for the purposes of provisions of this Act relating to undertakings other than public utility undertakings as constituting an undertaking other than a public utility undertaking.

Sections 2, 5, 6,  
7, 8.

SECOND SCHEDULE.

PROVISIONS AS TO PAYMENTS MADE, AND CONTRIBUTIONS OR PREMIUMS PAID, BEFORE THE PASSING OF THE ACT IN RESPECT OF LAND, GOODS OR COMMODITIES EXCLUDED THEREBY FROM GENERAL WAR DAMAGE LEGISLATION.

*Introductory.*

1. The following provisions of this Schedule shall have effect as to payments made before the passing of this Act by virtue of the principal Act or of Part II of the War Risks Insurance Act, 1939, and as to contributions made or premiums paid before the passing of this Act, in respect of matters as to which the operation of provisions of that Act or of that Part is excluded by sections four to eight of this Act.

*Provisions as to war damage payments made before the passing of  
this Act.*2ND SCH.  
—cont.

2. Where there has been made, before the passing of this Act,—

- (a) a payment representing the whole or part of a payment of cost of works or of a temporary works payment, or a payment under paragraph (b) of subsection (3) of section seventy of the principal Act or of section forty of the War Damage Act, 1941 (which related to payments towards the cost of urgent works for the purposes of undertakings to which that section applied), in respect of war damage to land being damage as to which section five of this Act requires that the provisions of Part I of the principal Act are to be treated as having never applied, or
- (b) a payment under the business scheme operated under Part II of the principal Act or under section ninety-five of that Act, in respect of the interest of the body carrying on a public utility undertaking in goods that sustained war damage, being goods as to which section seven of this Act requires that they are to be treated as not having been insurable in relation to that body when the damage occurred, or
- (c) a payment under the commodity insurance scheme in respect of commodities that sustained war damage, being commodities as to which section eight of this Act requires that they are to be treated as not having been insurable when the damage occurred,

and the payment was made to the body carrying on the undertaking whose connection with the land, goods or commodities rendered section five, seven or eight of this Act, as the case may be, applicable, that section shall not be construed as rendering the payment unlawful or repayable, but the amount of the payment made shall be brought into account against the gross amount or the aggregate of the gross amounts of the payment or payments under section one of this Act in respect of the undertaking, and it or they shall be reduced accordingly.

3. If any payment other than such as is mentioned in the last preceding paragraph has been made before the passing of this Act, as under any provision of the principal Act, in respect of war damage to land being damage as to which section five of this Act requires that the provisions of Part I of the principal Act are to be treated as never having applied, or any such payment as is mentioned in the last preceding paragraph has been so made otherwise than to the body carrying on the undertaking therein mentioned, section five of this Act shall not be construed as rendering the payment unlawful or repayable, nor shall it be brought into account as aforesaid.

*Provisions as to contributions and premiums paid before the passing  
of this Act.*

4.—(1) Where there has been paid, wholly or in part, before the passing of this Act—

- (a) an instalment of contribution, or an apportioned part of an instalment of contribution, which under section six of this Act is to be deemed never to have been payable, or

2ND SCH.  
—cont.

- (b) a premium under the business scheme in respect of the interest of the body carrying on a public utility undertaking in goods as to which section seven of this Act requires that they are to be treated as not having been insurable in relation to that body at the time of the insurance in question, or
- (c) a premium under the commodity insurance scheme in respect of commodities as to which section eight of this Act requires that they are to be treated as not having been insurable at the time of the insurance in question,

and the payment was made by the body carrying on the undertaking whose connection with the land, goods or commodities rendered section six, seven or eight of this Act, as the case may be, applicable, that section shall not be construed as rendering the sum paid (or, if part of it has been repaid, the balance) repayable, but the amount of the sum paid (or, if part of it has been repaid, the balance) shall be brought into account against the gross amount of the contribution under section one of this Act in respect of the undertaking, and that gross amount shall be reduced accordingly:

Provided that—

- (i) if the undertaking is in the sewerage group and is one which was being carried on at the relevant date for the instalment of contribution or at the time of the insurance in question, as the case may be, by a local authority who by virtue of a determination under subsection (5) of section two of this Act are to make a contribution under section one thereof, the preceding provisions of this sub-paragraph, and sub-paragraph (2) of this paragraph, shall apply as if that contribution were a contribution in respect of the undertaking, but
- (ii) if the undertaking is in the sewerage group but is not one which was being carried on as aforesaid, or if the undertaking is in the water group and is one in respect of which it is determined under subsection (1) of section two of this Act that no separate contribution is to be made, the sum paid (or, if part of it has been repaid, the balance) shall be repaid.
- (2) If the amount or the aggregate of the amounts of a sum or sums required by the preceding sub-paragraph to be brought into account against the gross amount of a contribution under section one of this Act in respect of an undertaking exceeds that gross amount, an amount equal to the excess shall be treated for the purposes of subsection (4) of section two of this Act and of section three thereof as if it were a payment under section one of this Act in respect of the undertaking of a net amount equal to the excess.
- (3) Where any sum has been paid as mentioned in sub-paragraph (1) of this paragraph by a person other than the body carrying on the undertaking mentioned in that sub-paragraph and has not been repaid in full, it or the balance shall be repaid.

5.—(1) Where before the passing of this Act a direct or indirect contributor for an instalment of contribution, or an apportioned part of an instalment of contribution, which under section six of this Act

is to be deemed never to have been payable has received any indemnity in respect of the instalment or apportioned part, the indemnity shall be repaid.

2ND SCH.  
—cont.

(2) The reference in this paragraph to the direct contributor for an instalment or apportioned part includes a reference to a mortgagee who has paid the instalment or apportioned part by virtue of section forty-seven of the principal Act, and, where any amount which has been treated under paragraph (ii) of that section as an addition to the capital sum secured by a mortgage is repaid under the last preceding paragraph, the said capital sum shall be treated as having been reduced by that amount as at the date of the repayment.

### THIRD SCHEDULE.

Sections 5, 30.

#### PAYMENTS UNDER THIS ACT IN RESPECT OF WAR DAMAGE AFFECTING INTERESTS IN PUBLIC UTILITY LAND OF PERSONS OTHER THAN THE UNDERTAKERS.

##### *Payment in case of detriment to proprietary interest other than that of the undertakers.*

1.—(1) Where immediately before the occurrence of war damage in respect of which a payment is directed to be made by section one of this Act, being damage to land held by a public utility owner otherwise than as landlord on a long term, there was subsisting in the land a proprietary interest not owned by the body carrying on the public utility undertaking, as well as that owned by them, the payment under section one of this Act in respect of the undertaking shall be treated as comprising a payment in respect of the damage as a whole, including the detriment to the other proprietary interest, and accordingly the body in whom the right to the said payment under section one of this Act vests shall be liable, subject to the provisions of this paragraph, to make a payment under this paragraph in respect of the detriment to that interest.

(2) The amount of the payment under this paragraph shall be the amount which represents so much (if any) of the depreciation attributable to the war damage in the value of the proprietary interest not owned by the body carrying on the undertaking as remains after taking into account the benefit (if any) accruing to that interest from the execution of works as to which the appropriate Department certify to the War Damage Commission that the cost thereof has been or is to be allowed in determining the gross amount of the payment under section one of this Act in respect of the undertaking, or the cost whereof has been or is to be paid by the Commission under paragraph 2 of this Schedule.

(3) For the purposes of the last preceding sub-paragraph the depreciation attributable to the war damage in the value of the proprietary interest shall be taken to be—

(a) an amount determined in the manner prescribed by subsection (3) of section twelve of the principal Act for determining the extent to which a proprietary interest in a hereditament is to be taken to be depreciated by war damage in a case in which the material time is the time immediately before the occurrence of war damage, together with

3RD SCH.  
—cont.

(b) an addition to that amount equal to the following percentage thereof, that is to say, sixty per cent. unless the appropriate Department certify to the Commission that the amount of the said payment under section one of this Act was fixed by reference to prices current at the thirty-first day of March nineteen hundred and thirty-nine increased by forty-five per cent. thereof only, and in that case forty-five per cent.

(4) In accordance with sub-paragraph (2) of this paragraph no payment shall be made under this paragraph if there is no such depreciation as therein mentioned remaining after taking into account benefit accruing as therein mentioned.

*Payment in case of execution of works otherwise than  
by the undertakers.*

2.—(1) Where immediately before the occurrence of war damage in respect of which a payment is directed to be made by section one of this Act, being damage to land held by a public utility owner otherwise than as landlord on a long term, there was a short tenancy subsisting in the land (not being a privileged short interest within the meaning of section seventeen of this Act) and a person other than the body for the time being carrying on the public utility undertaking has, whether before or after the passing of this Act, incurred the cost of executing works, being cost such as would fall to be included in a payment of cost of works or a temporary works payment if the provisions of Part I of the principal Act as to payments in respect of war damage applied to that damage,—

(a) the payment under section one of this Act in respect of the undertaking shall (except in the circumstances mentioned in head (b) of this sub-paragraph) be treated as comprising a payment in respect of the damage as a whole, including the damage so far as made good by the works, and accordingly the body in whom the right to the said payment under section one of this Act vests shall be liable to pay the amount of the cost incurred to the person by whom it was incurred; but

(b) if the appropriate Department certify to the War Damage Commission that no claim has been made to have the damage so far as made good by the works taken into account for the purpose of determining the gross amount of the said payment under section one of this Act, the Commission shall be liable as aforesaid in lieu of that body:

Provided that the preceding provisions of this paragraph shall not apply to any such cost as aforesaid in so far as it has been the subject of any payment of cost of works, or of any temporary works payment, as the case may be, made before the passing of this Act.

(2) Notwithstanding anything in the preceding sub-paragraph, in a case in which before the passing of this Act the Commission have made a payment of cost of works or a temporary works payment in respect of such war damage as is mentioned in the preceding sub-paragraph but the whole of the war damage sustained by the land in question (whether on a single occasion or on two or more occasions) which has been notified to the Commission, and in respect of which

a payment of cost of works would be the appropriate payment under the principal Act, has not been made good, the Commission may pay the amount of any cost of executing works for completing the making good (being cost such as is mentioned in the preceding sub-paragraph) incurred by a person other than the body for the time being carrying on the public utility undertaking:

3RD SCH.  
—cont.

Provided that this sub-paragraph shall not apply to an amount as to which the Commission are satisfied that it has been in fact paid by the body in whom the right to the said payment under section one of this Act vests to the person by whom the cost was incurred.

*Payment in case of detriment to removable articles.*

3. Where land, being land held by a public utility owner otherwise than as landlord on a long-term or being land forming part of the distribution works of a public utility undertaking, has sustained war damage in respect of which a payment is directed to be made by section one of this Act, and a person other than the body carrying on the public utility undertaking would, if a value payment had fallen to be made in respect of the damage under section seven of the principal Act, have been entitled by virtue of section twenty-six of that Act, to receive a share of that payment in respect of removable articles, buildings or works,—

- (a) the payment under section one of this Act in respect of the undertaking shall (except in the circumstances mentioned in sub-paragraph (b) of this paragraph) be treated as comprising a payment in respect of the damage as a whole, including the damage to the removable things, and accordingly the body in whom the right to the said payment under section one of this Act vests shall be liable to make a payment under this paragraph in respect of the damage to the removable things of an amount equal to what that share would have been if it had been computed under the said section twenty-six, subject however to the like provisions relating to benefit from the execution of works as apply to a payment under paragraph 1 of this Schedule by virtue of sub-paragraphs (2) and (4) of that paragraph; but
- (b) if the appropriate Department certify to the War Damage Commission that no claim has been made to have the damage to the removable things taken into account for the purpose of determining the gross amount of the said payment under section one of this Act, the Commission shall be liable as aforesaid in lieu of that body.

*Supplementary provisions as to payments under this Schedule.*

4. The War Damage Commission shall have sole jurisdiction to determine, in default of agreement between the parties concerned, any question whose determination is necessary for ascertaining whether circumstances mentioned in any of the preceding paragraphs in which the provisions of those paragraphs respectively are to operate exist, or for giving effect to those provisions, including any question as to the vesting or devolution of any right to receive a payment under paragraph 1 or 3 of this Schedule:

3RD SCH.  
—cont.

Provided that such a certificate of the appropriate Department as is referred to in any of the preceding paragraphs shall be conclusive as to the matter certified.

5. Section thirty-one of the principal Act (which confers power on the Treasury to make regulations as to procedure in connection with payments in respect of war damage under Part I of that Act) shall apply in relation to payments under this Schedule by the War Damage Commission, and subsection (5) of section ten thereof (which relates to interest on value payments) shall apply in relation to payments under paragraph 1 or 3 of this Schedule.

6. Payments under this Schedule by the War Damage Commission shall be treated for the purposes of the Miscellaneous Financial Provisions Act, 1946 (which relates to payments out of the Consolidated Fund) as such a payment by the Commission in respect of war damage as is mentioned in section two of that Act.

Sections 6. 14.  
15. 17. 22. 24.  
29. 30. 31.

#### FOURTH SCHEDULE.

#### RECOVERY, IN RESPECT OF CONTRIBUTIONS, FROM LANDLORDS, TENANTS AND MORTGAGEES.

##### PART I.

#### RECOVERY BY AND FROM TENANTS, AND FROM MORTGAGEES, OF UNDERTAKINGS' LAND.

##### *Rights against landlords of undertakings' land.*

1.—(1) Where at the relevant date in any contribution year—

- (a) the body carrying on a public utility undertaking were tenants of land which was public utility land not contributory under the principal Act for that year, or
- (b) the body carrying on a Part II undertaking were tenants of land which formed or was comprised in a property (other than a mineral property) to which Part II of this Act applies for that year by reason of its occupation in the course of that undertaking, and either the land was in the possession of that body, or the land did not form, and was not comprised in, the subject of any relevant Schedule A assessment (as defined in paragraph 9 of this Schedule) or of any relevant rating valuation (as defined in that paragraph) other than the rating valuation by virtue of which the property is such a property,

the following provisions of this paragraph and the two succeeding paragraphs shall have effect:

Provided that—

- (i) the said provisions shall not have effect as to land which formed or was comprised in a property in respect of which there is, by virtue of subsection (4) of section thirty-one of this Act, no liability for an instalment of contribution for that year; and



(ii) the said provisions shall not have effect as to land which consisted at the relevant date mainly or exclusively of land devoted to advertising purposes, and references in this Schedule to such land as is mentioned in head (a) of this sub-paragraph shall be construed as excluding land so devoted.

4TH SCH.  
—cont.

(2) If the tenancy was a proprietary interest, the provisions of sections forty-eight to fifty of the principal Act relating to the ultimate incidence of instalments of contributions as between landlords and tenants shall, subject to the provisions of this Part of this Schedule, apply as between the body entitled to recover under this paragraph in right of the undertaking and the landlord of the body by whom the undertaking was carried on, and as between that landlord and any superior landlord, and so on, and in relation to any reversionary tenancy of the land immediately derived out of an interest of any of the said landlords,—

- (a) as if the land had been a contributory property, not subject to any tenancy derived out of the tenancy of the body carrying on the undertaking, having a contributory value of an amount equal to the rent reserved in respect of the tenancy of the body carrying on the undertaking for such period for which that rent was reserved as comprised the relevant date, or, if that period was other than a year, to the annual equivalent thereof;
- (b) as if the body entitled to recover under this paragraph in right of the undertaking had been the direct contributor for an instalment in respect of the property, at the appropriate rate mentioned in sub-paragraph (4) of this paragraph, falling due in the year in question, and had paid the instalment on the passing of this Act; and
- (c) in a case in which the body entitled to recover under this paragraph in right of the undertaking is other than the body by whom the undertaking was carried on at the relevant date, as if the former body had held at that date the tenancy of the body carrying on the undertaking.

(3) If the tenancy was not a proprietary interest, the said provisions of sections forty-eight to fifty of the principal Act shall, subject to the provisions of this Part of this Schedule, apply as aforesaid, but as if under those sections the proportion of an instalment appropriate to a tenancy not being a proprietary interest were one hundred per cent. and did not fall to be determined in accordance with the Table set out at the end of section fifty of the principal Act.

(4) In head (b) of sub-paragraph (2) of this paragraph the expression "the appropriate rate" means the rate of contribution which at the relevant date would have been appropriate to the land in question under Part I of the principal Act if that land had been a contributory property in respect of which an instalment of contribution had been leviable under the said Part I:

Provided that, in its application to a case falling within head (a) of sub-paragraph (1) of this paragraph in which the land in question

4TH SCH.  
—cont.

at the relevant date formed or was comprised in a property which would, if the undertaking had been an undertaking other than a public utility undertaking, have been a property to which Part II of this Act applies and a mineral property as therein defined, the said expression means the rate of contribution which at the relevant date would have been appropriate to that property under the said Part II.

(5) The body entitled to recover under this paragraph in right of any public utility undertaking shall be—

- (a) except in the cases mentioned in heads (b) and (c) of this sub-paragraph, the body by whom a contribution under section one of this Act in respect of the undertaking has been or is to be made;
- (b) in the case of an undertaking in the water group in respect of which it is determined under subsection (1) of section two of this Act that no separate contribution is to be made, and in the case of an undertaking in the lighthouse group, the body by whom the undertaking was carried on at the relevant date;
- (c) in the case of an undertaking in the sewerage group, either, if the undertaking was being carried on at the relevant date by a local authority who by virtue of a determination under subsection (5) of section two of this Act have made or are to make a contribution under section one thereof, that authority, or, if it was not, such body as the Treasury may determine;

and a certificate of the appropriate Department identifying the body who are or were in relation to any undertaking the body so entitled shall be conclusive.

(6) The body entitled to recover under this paragraph in right of any Part II undertaking shall be the body by whom the undertaking was carried on at the relevant date.

2. The Treasury shall have power, exercisable by statutory instrument subject to annulment in pursuance of resolution of either House of Parliament, to make regulations providing for appropriate modifications in the operation of sub-paragraph (2) of the preceding paragraph as regards the contributory value to be assumed for the purposes thereof, in cases in which—

- (a) the land in question was not the only premises comprised in the tenancy of the body carrying on the undertaking; or
- (b) the rent reserved in respect of the tenancy of that body was greater by any amount than it would otherwise have been by reason of the landlord's undertaking to bear any tenant's rates, or rendering or providing, or procuring to be rendered or provided, any services or goods; or
- (c) the tenancy of that body was granted to them in consideration of a premium or other payment, or had at any time on or before the relevant date been assigned to them for valuable consideration; or
- (d) a rent other than a money rent was reserved.

3. In relation to such land as is mentioned in head (a) of sub-paragraph (1) of paragraph 1 of this Schedule in which at the relevant date in the contribution year in question there subsisted more than one public utility interest, references in that paragraph to the body carrying on a public utility undertaking being tenants of any land and to their tenancy (other than references to their being tenants under a reversionary tenancy and to such a tenancy) shall be construed as referring only to the owner of the tenancy, and to the tenancy, which was at the relevant date that interest in the land which, as against any other tenancy being a public utility interest in the land, carried the right to possession thereof.

In this paragraph the expression "public utility interest" means an interest, whether a proprietary interest or not, owned by the body carrying on a public utility undertaking and held by them for public utility purposes within the meaning assigned to that expression by paragraph 9 of the First Schedule to this Act.

*Rights against tenants of undertakings' land.*

4.—(1) Where at the relevant date in any contribution year—

- (a) the body carrying on a public utility undertaking had a tenant of land which was public utility land not contributory under the principal Act for that year, or
- (b) the body carrying on a Part II undertaking had a tenant of land which formed or was comprised in a property (other than a mineral property) to which Part II of this Act applies for that year by reason of its occupation in the course of that undertaking, and the land did not form, and was not comprised in, the subject of any relevant Schedule A assessment (as defined in paragraph 9 of this Schedule) or of any relevant rating valuation (as defined in that paragraph) other than the rating valuation by virtue of which the property is such a property,

and the tenancy was a proprietary interest, the following provisions of this paragraph and the two succeeding paragraphs shall have effect:

Provided that—

- (i) the said provisions shall not have effect as to land which formed or was comprised in a property in respect of which there is, by virtue of subsection (4) of section thirty-one of this Act, no liability for an instalment of contribution for that year; and
- (ii) the said provisions shall not have effect as to land which consisted at the relevant date mainly or exclusively of land devoted to advertising purposes, and references in this Schedule to such land as is mentioned in head (a) or head (b) of this sub-paragraph shall be construed as excluding land so devoted.

(2) The provisions of sections forty-eight to fifty of the principal Act relating to the ultimate incidence of instalments of contributions as between landlords and tenants shall, with the modifications mentioned in paragraph 5 of this Schedule and subject to the provisions

4TH SCH  
—cont.

of this Part of this Schedule, apply as between the body entitled to recover under this paragraph in right of the undertaking and the tenant of the body by whom the undertaking was carried on, and as between that tenant and any inferior tenant, and so on,—

- (a) as if the land had been a contributory property having a contributory value of an amount equal to the rent at which the land might at the relevant date reasonably have been expected to let from year to year if the tenant undertook to pay all usual tenant's rates and taxes and to bear the cost of repairs and insurance and the other expenses, if any, necessary to maintain the land in a state to command that rent;
- (b) as if the body entitled to recover under this paragraph in right of the undertaking had been the direct contributor for an instalment in respect of the property falling due in the year in question, and had paid the instalment on the passing of this Act; and
- (c) in a case in which the body entitled to recover under this paragraph in right of the undertaking is other than the body by whom the undertaking was carried on at the relevant date, as if the former body had held at that date the latter body's reversion on the tenancy:

Provided that where during the period beginning with the third day of September, nineteen hundred and thirty-nine, and ending with the relevant date war damage had occurred to the land, the amount recoverable by any person under this paragraph as in respect of an instalment falling due in the contribution year in which the relevant date fell shall not be less than the amount which he would have been entitled to recover under this paragraph if the rent mentioned in head (a) of this sub-paragraph had been calculated by reference to the state of the land immediately before the occurrence of the damage.

(3) In determining the rent mentioned in head (a) of the last preceding sub-paragraph regard shall be had so far as may be to the amount of the net annual value under any rating valuation having effect during any period in which the relevant date fell:

Provided that where the proviso to the last preceding sub-paragraph has effect by reason of the occurrence of war damage, regard shall be had not to the said amount but so far as may be to the amount of the net annual value under any rating valuation having effect as respects any period immediately before the occurrence of the damage.

(4) The body entitled to recover under this paragraph in right of any undertaking shall be determined in accordance with the like provisions as have effect by virtue of sub-paragraph (5) or (6) of paragraph 1 of this Schedule for the determination of the body entitled to recover under that paragraph (including the provision of the said sub-paragraph (5) as to certification).

5. The provisions of the said sections forty-eight to fifty (which, as regards recovery from tenants under subsections (4) and (5) of the said section forty-eight, are limited to cases where a tenancy is of a part only of a contributory property) shall, in cases falling

within the last preceding paragraph in which the tenant was a tenant of the whole of the land in question, apply as mentioned in that paragraph with the following modifications, that is to say,—

4TH SCH.  
—cont.

- (a) references in those subsections to a tenant of a part of a property shall be construed as references to a tenant of the whole of a property; and
- (b) references to the fraction of an instalment attributable to a part of a property shall be construed as references to the amount of an instalment.

6. In relation to such land as is mentioned in head (a) of sub-paragraph (1) of paragraph 4 of this Schedule in which at the relevant date in the contribution year in question there subsisted more than one public utility interest, references in that paragraph to a tenant of the body carrying on a public utility undertaking shall be construed as referring only to a tenant whose interest was immediately derived out of that interest in the land owned by the body carrying on such an undertaking which as against any other tenancy being a public utility interest in the land carried the right to possession thereof.

In this paragraph the expression "public utility interest" has the same meaning as in paragraph 3 of this Schedule.

*Application of certain provisions of the principal Act in relation to exercise of rights under paragraphs 1 and 4.*

7.—(1) The provisions of the principal Act mentioned in sub-paragraph (2) of this paragraph shall apply in relation to any sum paid or payable under paragraph 1 or 4 of this Schedule, as if—

- (a) the land in question mentioned in the said paragraph 1 or the said paragraph 4, as the case may be, were a contributory property,
- (b) the body entitled to recover under that paragraph in right of the undertaking in question were entitled to receive the sum in question, as a direct contributor, by way of indemnity under Part I of the principal Act, and, in a case in which that body is other than the body by whom the undertaking was carried on at the relevant date, as if the former body had at the relevant date held the tenancy of the body carrying on the undertaking (in the case of a sum paid or payable under the said paragraph 1) or the latter body's reversion on the tenancy (in the case of a sum paid or payable under the said paragraph 4),
- (c) any person liable under that paragraph to pay such a sum in respect of the land in question were an indirect contributor for an instalment of contribution in respect of the contributory property referred to in head (a) of this sub-paragraph and the interest by virtue of which the liability arose were in all cases a proprietary interest, and
- (d) the amount of any sums payable as aforesaid which the owner of an interest is liable to pay for any year, less the amount of any such sums which he is entitled to receive for that year, were his net liability in respect of that interest

4TH SCH.  
—cont.

for the instalment of contribution falling due in that year in respect of the contributory property referred to in head (a) of this sub-paragraph.

(2) The provisions of the principal Act which are to apply as mentioned in the preceding sub-paragraph are—

- section fifty-eight (deduction of indemnities from rent and mortgage payments);
- section sixty-six, subsections (2) to (5) (application of capital moneys in discharge of contributions);
- section sixty-seven (limitation of liability of trustees, etc. in respect of contributions);
- section sixty-eight (rights enforceable notwithstanding transmission of interest);
- section sixty-nine (relief in respect of contributions on land held for certain charitable purposes) so far as relevant in relation to indemnities;
- section seventy-two, subsections (3) to (5) (provision as to raising of contributions on land belonging to Duchies of Lancaster and Cornwall and to Greenwich Hospital, etc.);
- section seventy-three, subsection (4) (provisions as to raising of contributions in respect of Crown lands); and
- section seventy-six, subsection (2) (provisions as to raising of contributions by the Church Commissioners).

(3) The provisions of section fifty-seven of the principal Act (which provides that a right to indemnity conferred by Part I of that Act shall not be enforceable until the discharge of the liability in respect of which the right arises, with provision as therein mentioned in case of part discharge) shall apply in relation to a right to receive a sum under paragraph 1 or 4 of this Schedule other than the right thereunder of the body entitled to recover in right of the undertaking in question, on the like assumptions as are specified in heads (a) to (d) of sub-paragraph (1) of this paragraph.

*Rights of landlords of public utility undertakings' land against mortgagees.*

8.—(1) Where the owner of a proprietary interest in such land as is mentioned in head (a) of sub-paragraph (1) of paragraph 1 of this Schedule which constituted the whole or a part of a contributory property to which section fifty-one of the principal Act applies incurs, by virtue of that paragraph, a liability to a tenant of the whole or any part of the property, or of the whole or any part thereof together with other land, and the proprietary interest was at the relevant date subject to a mortgage to which the said section fifty-one applies, the owner of the proprietary interest shall be entitled to be indemnified by the mortgagee against his said liability, reduced by the amount of any indemnity in respect thereof which he is entitled under the said paragraph 1 to receive, up to an amount not exceeding the indemnity he would have been entitled to receive from the mortgagee in respect of the property if an instalment of contribution under the principal Act had fallen due in respect of the property in the contribution year

in question and he had discharged his liability in respect of the instalment at the time at which he discharged his liability under the said paragraph 1:

4TH SCH.  
—cont.

Provided that where the liability under the said paragraph 1 arose in respect of a tenancy which comprised both land which formed or was comprised in the contributory property and also other land, the owner of the proprietary interest shall be entitled to be indemnified as aforesaid against so much only of the liability, reduced as aforesaid, as bears to the whole amount thereof so reduced the same proportion as the annual value of the land which formed or was comprised in the property bears to the annual value of the whole of the land comprised in the tenancy.

(2) The provisions of subsection (2) of section fifty-five of the principal Act (as to valuation by the Commissioners of Inland Revenue of interests and other property for the purpose of calculating indemnities under section fifty-one of that Act), of sections fifty-eight, sixty-six, sixty-seven and sixty-eight thereof (as to matters mentioned in the last preceding paragraph), and of section eighty-two thereof (as to expenses of the Public Works Loan Commissioners), shall apply in relation to any indemnity paid or payable under this paragraph and any claim therefor as if it were an indemnity or claim under the said section fifty-one and as if the person entitled to the indemnity or making the claim, as the case may be, were an indirect contributor in respect of the property.

*Definitions for purposes of Part I of this Schedule.*

9. In this Part of this Schedule—

“relevant Schedule A assessment” means an assessment under Schedule A having effect as respects any period in which the relevant date fell and being an assessment which falls to be regarded for the purposes of sections thirty-nine and forty of the principal Act consistently with the provisions of subsection (2) of section twelve of this Act and of regulations made under subsection (2) of section sixteen thereof; and

“relevant rating valuation” means a rating valuation having effect as respects any period in which the relevant date fell and being a valuation which falls to be regarded for the purposes of the said sections thirty-nine and forty consistently with the provisions of subsection (3) of section twelve of this Act and of regulations made as aforesaid.

**PART II.**

**RECOVERY FROM AND BY HOLDERS OF PRIVILEGED SHORT INTERESTS.**

10.—(1) Subject to the provisions of this paragraph, the rights of recovery from tenants and by tenants conferred by sections forty-eight and forty-nine of the principal Act, whether—

(a) as exercisable under those sections and paragraphs 4 and 1 of this Schedule, or

(b) as exercisable under those sections alone,

shall respectively be exercisable in relation to any contribution year against and by a person who was at the relevant date in that year

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4TH SCH.  
—cont.

the tenant or licensee under a short tenancy or licence which was then a privileged short interest, and for the purpose of exercise of the said rights against or by such a person those sections and the said paragraphs 4 and 1 shall apply as if that interest had been a proprietary interest, consisting of a tenancy having to run at that date a period of twenty or more years but less than twenty-five years, and, in the case of a licence, as if any periodical sums payable in respect thereof had been rent:

Provided that—

- (i) in the case of a licence granted for such a period as would have rendered it a proprietary interest if it had been a tenancy, the period to be taken as that which the interest had to run shall, subject to the succeeding proviso, be the residue at that date of the period for which the licence was granted; and
- (ii) if at the relevant date notice had been duly given to the tenant or licensee for the determination of the interest at a specified date falling before the expiration of the period which would be taken under the preceding provisions as that which the interest had to run, or (in the case of a short tenancy or of a licence not granted as aforesaid) that it would not be renewed beyond a specified date so falling, the period to be taken as that which the interest had to run shall be a period equal to that between the relevant date and the date specified.

(2) The right of recovery from tenants conferred by subsection (4) of section forty-eight of the principal Act alone (which is limited to cases where the tenancy is of a part only of a contributory property) shall be exercisable as mentioned in the preceding sub-paragraph not only in such cases but also in cases in which the land comprised in the privileged short interest constituted the whole of the contributory property in question, and for the purpose of exercise of the said right in the latter cases that subsection shall apply (as mentioned in the preceding sub-paragraph) with the modifications set out in paragraph 5 of this Schedule.

(3) Notwithstanding anything in the preceding provisions of this paragraph, a right of recovery from a tenant conferred by section forty-eight or forty-nine of the principal Act, being a right which would apart from this provision be exercisable under that section and paragraph 4 of this Schedule, shall not be exercisable against the tenant or licensee under a privileged short interest if at the relevant date in the contribution year in question the tenant or licensee was the body carrying on a Part II undertaking and the land in which the interest subsisted was such land as is mentioned in head (b) of sub-paragraph (1) of paragraph 4 of this Schedule.

### PART III.

#### RECOVERY BY TENANTS OF MINERAL PROPERTIES.

11.—(1) If, in the case of a property being for any contribution year a mineral property other than a coal-mining property, the body carrying on the relevant Part II undertaking were at the relevant date



in that year tenants of any minerals comprised in the property which were being worked at that date, then, in substitution for any right under sections forty-eight to fifty of the principal Act, that body shall be entitled to be indemnified by their landlord either (if the landlord was their landlord in respect of all such minerals so worked) against one-sixth of the instalment, or (in any other case) against an amount which bears to one-sixth of the instalment the same proportion as the output during the relevant period from the minerals subject to the interest of the landlord bears to the total output during that period from the minerals comprised in the property.

4TH SCH.  
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(2) The Treasury shall have power, exercisable by statutory instrument subject to annulment in pursuance of resolution of either House of Parliament, to make regulations for conferring rights of recovery against superior landlords of minerals in cases in which a person who is by the preceding sub-paragraph or by the regulations subjected to a liability as landlord or superior landlord of any minerals to indemnify his tenant was himself at the relevant rate a tenant of the minerals or of any part thereof.

(3) In this paragraph—

“minerals” includes stone, clay, sand, gravel and other natural deposits, brine, petroleum and any other mineral oil or relative hydrocarbon, and natural gas;

“output” means tonnage of saleable minerals gotten and weighed;

“relevant period” means the period (being a period for which the amounts of payments in respect of minerals fell to be computed under the tenancy of the person carrying on the undertaking in question) which comprised the relevant date;

and references to a tenant and to a landlord of minerals include respectively references to the licensee and to the licensor under a licence that conferred a right to work and carry away minerals, and references to a tenancy shall be construed accordingly.

#### PART IV.

#### PROVISIONS SUPPLEMENTARY TO THE PRECEDING PROVISIONS OF THIS SCHEDULE.

12. A payment made under this Schedule shall be treated for all purposes as an outgoing of a capital nature.

13. Any liability to make a payment under this Schedule shall be enforceable notwithstanding any agreement to the contrary, whether made before or after the time at which, apart from the agreement, the payment would be due.

14. Any sum recovered under this Schedule by a general lighthouse authority shall be paid into the General Lighthouse Fund.

Sections 11, 15,  
16, 35, 36.

### FIFTH SCHEDULE.

PROVISIONS AS TO PROPERTIES TO WHICH PART II OF THIS ACT IS TO APPLY, AND SUBJECTS OF REGULATIONS.

*Purposes of occupation relevant for application of Part II of this Act.*

1. The purposes of occupation relevant under subsection (2) of section eleven of this Act for rendering Part II of this Act applicable to a property are—

- (a) the purposes of the provision of railway, light railway, tramway, trolley-vehicle, aerial ropeway, canal, inland navigation, dock (not including dry dock), harbour, quay, pier, lighthouse, sewerage or sewage disposal services or facilities in the United Kingdom, and the purposes of the supply in the United Kingdom of gas, electricity or water (otherwise, in each case, than in portable containers) or of hydraulic power;
- (b) the purposes of providing, under express licence granted by the Postmaster-General under the provisions of the Telegraph Acts, 1863 to 1943, a service in the provision of which use is made of apparatus connecting the curtilage of any buildings or works with the curtilage of any other buildings or works for the maintenance of telegraphic or telephonic communication, being apparatus supplied wholly or partly by the person providing the service;
- (c) the purposes of the getting of minerals in the United Kingdom or from workings reached from a place therein, whether from underground workings or from the surface, and the subjecting of the raw products of so getting minerals, by the body carrying on the undertaking in the course of which they were gotten, to any process designed for preparing them for use as such raw products.

In this paragraph—

- “ gas ” means gas of a kind used (whether unmixed or mixed with other gas) for heating, lighting or power purposes;
- “ hydraulic power ” means motive power afforded by hydraulic pressure;
- “ minerals ” includes stone, clay, sand, gravel and other natural deposits, brine, petroleum and any other mineral oil or relative hydrocarbon, and natural gas;
- “ ropeway ” includes cableway, transporter and runway;
- “ sewerage ” means the drainage of any locality by means of sewers as defined by the Public Health Act, 1936, and “ sewage disposal ” means the purification and disposal of the contents of sewers as defined by that Act;
- “ supply ” includes, in relation to any property, provision for use at a place outside the property by the person by whom the provision was made.

*Properties to which Part II of this Act is not to apply.*5TH SCH.  
—cont.

2. Part II of this Act shall not apply, for any given contribution year, to a property to which it would apply for that year under the provisions of subsection (2) of section eleven of this Act apart from the proviso thereto, in a case in which any of the following conditions is satisfied, that is to say—

- (a) that the property consisted at the relevant date in that year mainly or exclusively of premises used or suitable for use for residential or office purposes, or, if the property sustained war damage on or after the third day of September nineteen hundred and thirty-nine and was at the relevant date unfit within the meaning of section sixty-four of the principal Act by reason of the damage, that the property consisted immediately before the occurrence of the damage mainly or exclusively of such premises; or
- (b) that the property consisted at the relevant date mainly or exclusively of agricultural land or agricultural buildings, or of such land and such buildings; or
- (c) that it was by reason only of use of the property for advertising purposes as mentioned in paragraph (a) of subsection (2) of section thirty-nine of the principal Act that the property was the subject of the rating valuation by virtue whereof Part II of this Act would apply thereto for that contribution year apart from the said proviso.

*Subjects of regulations.*

3. The matters and purposes as to and for which regulations may be made under subsection (2) of section sixteen of this Act are the following, that is to say—

- (a) as to such a property falling within paragraph (a) of subsection (1) of section thirty-nine of the principal Act as is mentioned in subsection (2) of section twelve of this Act which was partly (but not wholly) comprised within a property to which Part II of this Act applies, or as to such a subject of a rating valuation as is mentioned in subsection (3) of section twelve of this Act which comprised a part (but not the whole) of the subject of such a later valuation as is therein mentioned, for rendering applicable thereto provisions corresponding to the said subsection (2) or the said subsection (3), as the case may be, with requisite modifications thereof or of Part I of the Fourth Schedule to this Act;
- (b) as to a property which apart from the regulations would be treated as a property to which Part II of this Act applies by virtue of a body carrying on an undertaking having been rated by reference to a valuation of the property, or as to a property which apart from the regulations would be so treated, or would be treated under the principal Act as a contributory property by virtue of occupation in the

5TH SCH.  
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- course of an undertaking, for providing, on the ground of change or cesser of occupation or use of the property, against the property's being so treated, with power to provide for ascertainment of the facts relating to any such change or cesser by an authority specified in the regulations;
- (c) as to a property maintained, as respects the whole or substantially the whole thereof, with an intention of future use thereof for any purpose, for providing as to the effect of such intention for the purposes of Part II of this Act or of the regulations, with power to provide for ascertainment of the facts relating to such intention by an authority specified in the regulations;
- (d) for authorising the making of adjustments in the assessment or collection of instalments of contributions for any contribution year in respect of mineral properties which have been the subjects of separate rating valuations, so as to equate the aggregate amount of the liability in respect of such instalments, in any case in which it appears to the Commissioners of Inland Revenue to be just and reasonable so to do, to what it appears to them that the liability would have been if the properties had not been the subjects of separate rating valuations (but not so as to increase the aggregate amount of the liability for all contribution years in the case of any such properties), and for making consequential modifications in the application to the properties in question of provisions of the principal Act or this Act or of regulations made thereunder ;
- (e) as to instalments of contributions under Part I of the principal Act paid before the passing of this Act, and indemnities so paid in respect of such instalments, being instalments and indemnities which would not have been payable if Part II of this Act and the regulations had been in force when the instalments fell due, for providing either for their being retained and set off against liabilities subsisting having regard to the provisions of Part II of this Act, or for their being repaid;
- (f) for providing for modifications, consequential on the provisions of Part II of this Act or the regulations, in the application of provisions of the principal Act to properties to which Part II of this Act applies, or to land the subject of a privileged short interest where the landlord or licensor was the body carrying on a Part II undertaking.

Table of Statutes Referred to in this Act.

| Short Title.                                               | Session and Chapter.         |
|------------------------------------------------------------|------------------------------|
| Public Health (Ireland) Act, 1878 ...                      | 41 & 42 Vict. c. 52.         |
| Interpretation Act, 1889 ... ..                            | 52 & 53 Vict. c. 63.         |
| Merchant Shipping Act, 1894 ... ..                         | 57 & 58 Vict. c. 60.         |
| Income Tax Act, 1918 ... ..                                | 9 & 10 Geo. 5. c. 40.        |
| Finance Act, 1922 ... ..                                   | 12 & 13 Geo. 5. c. 17.       |
| Rating and Valuation Act, 1925 ... ..                      | 15 & 16 Geo. 5. c. 90.       |
| Land Drainage Act, 1930 ... ..                             | 20 & 21 Geo. 5. c. 44.       |
| Local Government Act, 1933 ... ..                          | 23 & 24 Geo. 5. c. 51.       |
| Public Health Act, 1936 ... ..                             | 26 Geo. 5 & 1 Edw. 8. c. 49. |
| Harbours, Piers and Ferries (Scotland) Act,<br>1937 ... .. | 1 Edw. 8 & 1 Geo. 6. c. 28.  |
| Limitation Act, 1939 ... ..                                | 2 & 3 Geo. 6. c. 21.         |
| Civil Defence Act, 1939 ... ..                             | 2 & 3 Geo. 6. c. 31.         |
| London Government Act, 1939 ... ..                         | 2 & 3 Geo. 6. c. 40.         |
| War Risks Insurance Act, 1939 ... ..                       | 2 & 3 Geo. 6. c. 57.         |
| Finance (No. 2) Act, 1939 ... ..                           | 2 & 3 Geo. 6. c. 109.        |
| National Loans Act, 1939 ... ..                            | 2 & 3 Geo. 6. c. 117.        |
| War Damage Act, 1941 ... ..                                | 4 & 5 Geo. 6. c. 12.         |
| Finance Act, 1941 ... ..                                   | 4 & 5 Geo. 6. c. 30.         |
| War Damage Act, 1943 ... ..                                | 6 & 7 Geo. 6. c. 21.         |
| Income Tax Act, 1945 ... ..                                | 8 & 9 Geo. 6. c. 32.         |
| Requisitioned Land and War Works Act,<br>1945 ... ..       | 8 & 9 Geo. 6. c. 43.         |
| War Damage (Valuation Appeals) Act, 1945                   | 9 & 10 Geo. 6. c. 8.         |
| Finance (No. 2) Act, 1945 ... ..                           | 9 & 10 Geo. 6. c. 13.        |
| Miscellaneous Financial Provisions Act,<br>1946 ... ..     | 9 & 10 Geo. 6. c. 40.        |
| Borrowing (Control and Guarantees) Act,<br>1946 ... ..     | 9 & 10 Geo. 6. c. 58.        |
| Civil Aviation Act, 1946 ... ..                            | 9 & 10 Geo. 6. c. 70.        |
| Local Government (Scotland) Act, 1947 ...                  | 10 & 11 Geo. 6. c. 43.       |
| Electricity Act, 1947 ... ..                               | 10 & 11 Geo. 6. c. 54.       |
| Local Government Act, 1948 ... ..                          | 11 & 12 Geo. 6. c. 26.       |

## CHAPTER 37

### *Agriculture (Miscellaneous Provisions) Act, 1949*

#### ARRANGEMENT OF SECTIONS.

##### Section.

1. Schemes for subsidy payments in respect of calves.
2. Supplementary provisions as to calf subsidy schemes.
3. Provisions as to imported calves.
4. Payments by Minister in respect of certain artificial insemination services.
5. Power of Ministers to make schemes for subsidising grass and forage crop conservation.
6. Powers of Milk Marketing Boards to conserve grass and forage crops and provide artificial insemination services.
7. Miscellaneous amendments of enactments relating to milk and dairies.

## Section.

8. Provisions as to training for agricultural occupations.
9. Minister's right to certain tenants' compensation on giving up requisitioned land.
10. Amendments with respect to certain smallholdings.
11. Amendments as to penalties under Destructive Insects and Pests Act, 1877.
12. Power to dispose of machinery acquired under Agricultural Development Act, 1939.
13. Winding up of the Diseases of Animals Account.
14. Payment into Exchequer of balance in Cattle Fund.
15. Definition of appropriate Minister.
16. Extension to Northern Ireland.
17. Short title.

## SCHEDULE :

- Part I—Section 4 (1) and part of Section 4 (2) of Food and Drugs (Milk and Dairies) Act, 1944.  
Part II—Section 11 (4) (c) of Agricultural Holdings Act, 1948.

An Act to amend the law relating to agriculture, including certain enactments relating to milk and dairies.  
[31st May 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Schemes for subsidy payments in respect of calves.

1.—(1) The appropriate Minister may, in accordance with a scheme made by him with the approval of the Treasury, make, out of moneys provided by Parliament, payments in respect of calves of such descriptions as may be specified in the scheme, being calves born during the period beginning with the twenty-first day of August, nineteen hundred and forty-seven and ending with the first day of October, nineteen hundred and forty-nine, and reared to such age as may be so specified.

(2) Subject to the provisions of the next following section, any payment falling to be made in accordance with any such scheme as aforesaid in respect of any calf shall be made to the person who is the owner of the calf at the time when it is certified in accordance with the scheme as eligible for such a payment.

(3) The amount that may be paid under any such scheme as aforesaid in respect of a calf shall—

- (a) in the case of a steer calf, be four pounds ; and
- (b) in the case of a heifer calf, be three pounds.

(4) The appropriate Minister may, with the approval of the Treasury, by order provide for extending the powers conferred by the preceding provisions of this section so as to enable

schemes to be made thereunder in respect of calves born during the period beginning with the second day of October, nineteen hundred and forty-nine, and ending with such date not later than the thirtieth day of September, nineteen hundred and fifty-one, as may be specified in the order, and any such order may modify the rates of payment to be made under any such scheme and may provide for fixing different rates in respect of different classes or descriptions of calves.

(5) A scheme made under this section may be a separate scheme for England and Wales or for Scotland or for Northern Ireland, or may be a joint scheme for all three countries or for any two of those countries.

2.—(1) A scheme made under the preceding section may contain provisions—

Supplementary provisions as to calf subsidy schemes.

- (a) for securing that no payment under the scheme shall be made unless application therefor is made at the time and in the manner specified in the scheme;
- (b) providing for the certification and marking of calves in respect of which an application for any such payment is made;
- (c) generally for securing that payments under the scheme are properly made; and
- (d) for prohibiting the assignment of any right to a payment under the scheme;

and may contain such incidental and supplementary provisions as appear to the appropriate Minister to be requisite or expedient for the purposes of the scheme.

(2) If any person, with intent to deceive, alters or defaces a mark placed on a calf in pursuance of any such scheme, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

(3) If any person obstructs any person in the marking, in accordance with any such scheme, of a calf in respect of which an application for a payment under that scheme has been made, he shall be liable on summary conviction to a fine not exceeding five pounds.

(4) The power to make such a scheme and the power to make an order under subsection (4) of the preceding section shall be construed as including power to vary or revoke the scheme or order by a subsequent scheme or order.

(5) The power to make, vary or revoke such a scheme shall be exercisable by statutory instrument, and any such statutory

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instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) The power to make, vary or revoke an order under subsection (4) of the preceding section shall be exercisable by statutory instrument, and no such order shall be made unless a draft thereof has been laid before Parliament and has been approved by a resolution of each House of Parliament.

Provisions as to imported calves.

3.—(1) With a view to ensuring that payments under any scheme made under the preceding provisions of this Act are properly made, the appropriate Minister may by order provide (subject to such exceptions, if any, as may be specified in the order) for the marking of calves imported or brought into the United Kingdom.

(2) If any person—

- (a) contravenes or fails to comply with an order made under the preceding subsection; or
- (b) with intent to deceive alters or defaces a mark placed on a calf in pursuance of an order so made;

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

Payments by Minister in respect of certain artificial insemination services.

4.—(1) Where any centre providing services of artificial insemination for cattle (hereafter in this section referred to as a "cattle insemination centre") in respect of which a licence is or was for the time being in force under section seventeen of the Agriculture (Miscellaneous Provisions) Act, 1943, provides or has provided, during the period beginning with the first day of October, nineteen hundred and forty-seven and ending with the thirty-first day of March, nineteen hundred and fifty-one, a service of artificial insemination from beef bulls of such breeds as may be approved by the appropriate Minister, being a service provided free of charge or for charges lower than the lowest charges made for any such service provided by that centre from any other bulls,—

- (a) the appropriate Minister may, with the consent of the Treasury, make out of moneys provided by Parliament payments to the person maintaining the centre not exceeding, in the case of a service free of charge, the amounts which would have been payable by persons availing themselves of the service if it had been provided for the same charges as the lowest charges aforesaid or, in any other case, the difference between such amounts as aforesaid and the amounts actually paid or payable by such persons as aforesaid; and



(b) if, as respects the whole or any part of the said period, a grant under section two of the Agriculture (Artificial Insemination) Act, 1946, is not or was not payable in respect of the centre providing the service aforesaid, the appropriate Minister may, with the consent of the Treasury, make out of moneys provided by Parliament additional payments to the person maintaining the centre not exceeding the total amount of the expenses which the Minister is satisfied have been reasonably incurred in providing the said service during the said period or, as the case may be, that part thereof, less the amount of any payments made under the preceding paragraph in respect of such provision and, where the service is not free of charge, the amounts paid or payable by persons availing themselves of the service.

(2) Where any such service as aforesaid is or has been provided by any such cattle insemination centre with semen furnished by any other such centre directly, or through another such centre, the appropriate Minister may apportion between the centres concerned the payments that would otherwise have been made under the preceding subsection to the first-mentioned centre.

(3) The appropriate Minister may give to the person maintaining any such cattle insemination centre directions requiring him to provide such a service as aforesaid during any period specified in the directions (being a period in respect of which payments may be made under this section), and the directions may specify the extent and nature of the service to be provided.

(4) Payments made under this section shall be taken into account in calculating, for the purposes of the Agriculture (Artificial Insemination) Act, 1946, the losses incurred in the operation of any cattle insemination centre.

5.—(1) The appropriate Minister may, with the approval of the Treasury, make schemes for the provision, out of moneys provided by Parliament—

Power of Ministers to make schemes for subsidising grass and forage crop conservation.

(i) of financial assistance by way of grant or loan, subject to such conditions as may be specified in the scheme, to the following persons—

(a) any farmer growing grass or forage crops ; or

(b) any farmers' co-operative society or organisation carrying on business for the mutual benefit of the farmers ; or

(c) any board administering any marketing scheme in force under the Agricultural Marketing Acts, 1931 and 1933 ;

in respect of expenses incurred, during the period beginning with the twenty-first day of August, nineteen

hundred and forty-seven, and ending with the thirty-first day of March, nineteen hundred and fifty-two, in the conservation of grass and forage crops ; and

- (ii) of financial assistance by way of loan, subject to such conditions as aforesaid, to any person in respect of expenses incurred during the said period in the acquisition or installation of plant or equipment for the artificial drying of grass or forage crops.

(2) A scheme made under this section may, in particular, provide for assistance to be given in respect of expenses incurred in the establishment or acquisition by any such society, organisation or board as aforesaid of any centre for the artificial drying of grass or forage crops.

(3) A scheme made under this section may be a separate scheme for England and Wales or for Scotland or for Northern Ireland, or may be a joint scheme for all three countries or for any two of those countries.

(4) The power to make such a scheme shall be construed as including power to vary or revoke the scheme by a subsequent scheme.

(5) The power to make, vary or revoke a scheme conferred by this section shall be exercisable by statutory instrument and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Powers of Milk Marketing Boards to conserve grass and forage crops and provide artificial insemination services.**

6.—(1) Notwithstanding anything in the Agricultural Marketing Acts, 1931 and 1933, or in any milk marketing scheme in force under those Acts, the board administering any such scheme shall have power and shall be deemed always to have had power, with the approval of the appropriate Minister, to establish or acquire a centre for the artificial drying of grass and forage crops and to operate and maintain that centre and to carry on any activity reasonably incidental thereto.

(2) Without prejudice to the provisions of the Agricultural Marketing Acts, 1931 and 1933, relating to the powers that may be conferred on agricultural marketing boards by marketing schemes in force under those Acts, section five of the Agriculture (Artificial Insemination) Act, 1946 (which empowers a milk marketing board to provide services of artificial insemination for cattle owned by persons not being registered producers of milk) shall have effect, and shall be deemed always to have had effect, as if the words " owned by persons not being registered producers of milk " were omitted.

(3) There shall be paid out of moneys provided by Parliament any increase attributable to this section in the sums payable, out

of moneys so provided, under section eleven of the Agricultural Marketing Act, 1931, to the Agricultural Marketing Fund and the Agricultural Marketing (Scotland) Fund.

7.—(1) The Minister of Health may, with the approval of the Treasury, repay out of moneys provided by Parliament such part, not exceeding three quarters, as he may with such approval determine, of any sums paid by a local authority (within the meaning of the Food and Drugs Act, 1938) by way of compensation to any person for damage or loss sustained by him by reason of any prohibition or restriction imposed by regulations made under section twenty of the said Act, as amended by the Food and Drugs (Milk and Dairies) Act, 1944, on the sale, supply or use of milk which is infected or suspected of being infected.

Miscellaneous amendments of enactments relating to milk and dairies.

(2) Subsection (1) and paragraph (b) of subsection (2) of section four of the said Food and Drugs (Milk and Dairies) Act, 1944 (which make certain modifications, in relation to dairy farms and the registration of dairy farmers, of provisions of the Food and Drugs Act, 1938, relating to the authorities who are empowered or required to enforce and execute regulations made under that Act) shall each be amended by the insertion after the words "dairy farmer" of the words "except any such regulation as is made for the purposes of paragraph (f) or paragraph (g) of subsection (1) of section twenty of the principal Act", and accordingly the said provisions shall have effect as set out in Part I of the Schedule to this Act.

(3) There shall be paid out of moneys provided by Parliament to the chairman of any such tribunal as is referred to in subsection (3) of section one of the said Food and Drugs (Milk and Dairies) Act, 1944 (which provides for the constitution of a tribunal for the hearing of objections to a refusal or cancellation of registration of a dairy farm or dairy farmer) such remuneration (by way of salary or fees) and such allowances as the Minister of Agriculture and Fisheries may, with the approval of the Treasury, determine.

8.—(1) The appropriate Minister may, with the approval of the Treasury, provide, or make arrangements for the provision by other persons of, facilities for the training in agricultural occupations of persons, whether employed or not, who are above the upper limit of the compulsory school age, for the purpose of assisting those persons to fit themselves for, obtain and retain employment therein suitable to their age and capacity.

Provisions as to training for agricultural occupations.

(2) Where the appropriate Minister makes arrangements for the provision of such facilities by other persons, he may, in such cases and subject to such conditions as he may with the approval of the Treasury determine, defray or contribute towards the cost of the facilities provided.

(3) References in this section to the provision of facilities for such training as aforesaid shall be construed as including references—

- (a) to the making of payments to persons who avail themselves of the facilities, in respect of their maintenance or in respect of their travelling expenses;
- (b) to the provision of residential accommodation, board and facilities for recreation and welfare for such persons; and
- (c) to the provision of any other facilities or services incidental to the purposes of the training.

(4) Expenses incurred by the appropriate Minister under this section shall, subject to the next following subsection, be defrayed out of moneys provided by Parliament.

(5) Subsection (6) of section three of the Employment and Training Act, 1948 (which provides for the payment out of the National Insurance Fund of contributions, not exceeding half a million pounds in any year, towards certain expenses incurred by the Minister of Labour and National Service in providing training courses under that section) shall have effect as if the reference to expenses incurred by that Minister under that section included a reference to expenses incurred by the appropriate Minister under this section, and any sums paid out of the said Fund by virtue of this subsection shall be paid as an appropriation in aid of moneys provided by Parliament for the last-mentioned expenses.

(6) In this section the expression "agricultural occupation" includes horticultural occupation.

Minister's  
right to certain  
tenants'  
compensation  
on giving up  
requisitioned  
land.

9.—(1) Where possession of any land has been taken for agricultural purposes by virtue of powers conferred by any Defence Regulation, whether by the appropriate Minister or any person acting on his authority, the appropriate Minister shall be entitled, and be deemed always to have been entitled, on the giving up of such possession, to obtain from the person to whose possession is or was given up the payments mentioned in the following provisions of this section, in all respects as if the appropriate Minister had, throughout the period of such possession, been in possession by virtue of a contract of tenancy and had given up possession on the termination of that contract.

(2) The payments to which the appropriate Minister is, or is deemed to have been, entitled as aforesaid are, in the case of land in England and Wales, the payments of compensation which a tenant is or was entitled to obtain from his landlord either under section forty-seven of the Agricultural Holdings Act, 1948, or under section twenty-two of the Agriculture Act, 1947, or under any custom, according to the date of the termination of his tenancy, being compensation for the matters specified in Part II of the

Fourth Schedule to the Agricultural Holdings Act, 1948 (which relates to growing crops, produce, seeds sown and cultivations, fallows and acts of husbandry, and pasture laid down):

Provided that proviso (c) to subsection (1) of section forty-seven of the Agricultural Holdings Act, 1948, and paragraph (b) of subsection (2) of section thirty-four of the Agriculture Act, 1947 (each of which provisions enables a tenant in certain circumstances to exclude the provisions of those respective Acts relating to such compensation) shall not apply in relation to any claim for such compensation made by the appropriate Minister.

(3) The payments to which the appropriate Minister is, or is deemed to have been, entitled as aforesaid are, in the case of land in Scotland, such payments in respect of things done by him or on his behalf for the purpose of the cultivation of the land and in respect of seeds, tillage, growing crops and other similar matters as he might reasonably have expected to receive if he had been an outgoing tenant under a lease expiring on the day when possession is or was given up or under custom.

(4) Any sums received by the appropriate Minister under this section shall be paid into the Exchequer.

10.—(1) Subsection (1) of section eleven of the Agricultural Holdings Act, 1948 (which gives a tenant of an agricultural holding full rights of disposal of produce and cropping of arable land notwithstanding any contrary provisions of his contract of tenancy) shall not apply to a tenancy of a smallholding as defined in Part IV of the Agriculture Act, 1947, granted in pursuance of a scheme which provides for the disposal of the produce of such holdings or provides other centralised services for the use of the tenants of such holdings, being in either case a scheme approved by the Minister of Agriculture and Fisheries for the purposes of paragraph (c) of subsection (4) of the said section eleven; and accordingly in the said paragraph, for the word “being” there shall be substituted the words “or a scheme which provides for the disposal of the produce of such holdings or provides other centralised services for the use of the tenants of such holdings, being in any case”, and the said paragraph shall have effect as set out in Part II of the Schedule to this Act.

Amendments  
with respect to  
certain small-  
holdings.

(2) Where it appears to the said Minister that the provisions of any scheme approved by him for the purposes of paragraph (c) of subsection (4) of the said section eleven, as amended by the preceding subsection, are not being satisfactorily carried out, he may serve a notice on the persons responsible for the management of the scheme stating that on such date, not being earlier than one month after the service of the notice, as may be specified therein, the provisions of subsection (1) of the said section eleven will apply to the tenancies granted in pursuance of the scheme, and that his approval to that scheme will then cease to

have effect; and the Minister shall give to the said persons an opportunity of making representations to him and, if the said notice is not withdrawn by the Minister before the said date, the said subsection (1) shall as from that date apply to the said tenancies.

(3) The power of a smallholdings authority under section fifty-one of the Agriculture Act, 1947, to carry out arrangements for the disposal by them of the produce of smallholdings provided by them shall not be limited to the carrying out of such arrangements for the purposes of co-operative schemes for the conduct of such smallholdings, and accordingly paragraph (b) of subsection (3) of the said section fifty-one shall have effect with the omission of the words "for the purposes of such schemes as aforesaid".

Amendments  
as to penalties  
under  
Destructive  
Insects Act,  
1877.

11. An order made under section two of the Destructive Insects Act, 1877, as amended by any subsequent enactment, for preventing the spreading in Great Britain of the colorado beetle may, instead of imposing penalties not exceeding ten pounds, or, in the case of a second or subsequent offence, not exceeding fifty pounds—

- (a) provide that any person who is guilty of any offence under the order relating to the keeping of living specimens of the said insect in any stage of existence, or to the distribution in any manner of such specimens, shall be liable, on summary conviction, to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment;
- (b) provide that any person who is guilty of any other offence under the order shall be liable, on summary conviction, to a fine not exceeding fifty pounds;

and accordingly so much of the said section two as so amended as provides for the imposition, recovery and application of penalties shall cease to have effect in relation to offences under any such order as aforesaid.

Power to  
dispose of  
machinery  
acquired under  
Agricultural  
Development  
Act, 1939.

12.—(1) Stocks of tractors and machinery acquired by the Minister of Agriculture and Fisheries under section thirty-one of the Agricultural Development Act, 1939 (which empowered that Minister to acquire a reserve of agricultural machinery) may be disposed of by him if and so far as he thinks fit, and accordingly so much of subsection (2) of the said section thirty-one as requires that Minister, with certain exceptions, to hold stocks so acquired by him as aforesaid until the disposal thereof is authorised by or under an Act of Parliament shall cease to have effect.

(2) Any sums received by the said Minister representing the net proceeds of any disposal of such stocks shall be paid into

the Exchequer, and accordingly subsection (3) of the said section thirty-one shall cease to have effect.

13. The Diseases of Animals Account (which was opened at the Bank of England under section two of the Contagious Diseases (Animals) (Pleuro-Pneumonia) Act, 1890, and renamed by section eighteen of the Agriculture Act, 1937) shall, in accordance with directions of the Treasury, be wound up as at such date as the Treasury may direct, being a date not later than the end of the financial year next after that in which this Act is passed, and—

Winding up of the Diseases of Animals Account.

(a) any payments which apart from this section would be authorised to be paid out of that Account shall, if falling due after the date so directed for winding up that Account, be defrayed out of moneys provided by Parliament;

(b) any receipts after the said date which apart from this section would be authorised to be paid into that Account shall be paid into the Exchequer.

14. Any sums which at the date of the passing of this Act are standing to the credit of the Cattle Fund (which was established under section one of the Cattle Industry (Emergency Provisions) Act, 1934, and was made the fund for the purposes of the Livestock Industry Act, 1937), shall be paid into the Exchequer.

Payment into Exchequer of balance in Cattle Fund.

15.—(1) In sections one to three of this Act and in section five of this Act the expression “the appropriate Minister” means—

Definition of appropriate Minister.

(a) in relation to a separate scheme made under the said section one or, as the case may be, the said section five for England and Wales or for Northern Ireland, or a joint scheme for England and Wales and Northern Ireland, the Minister of Agriculture and Fisheries;

(b) in relation to any other joint scheme, the Minister of Agriculture and Fisheries and the Secretary of State acting jointly; and

(c) in relation to a separate scheme for Scotland, the Secretary of State.

(2) In section six of this Act the expression “the appropriate Minister” means the Minister or Ministers, as the case may be, by whom the relevant marketing scheme was approved.

(3) In any other section of this Act the expression “the appropriate Minister” means—

(a) in relation to England and Wales, the Minister of Agriculture and Fisheries;

(b) in relation to Scotland, the Secretary of State.

Extension to Northern Ireland.

16.—(1) Sections one to three and section five of this Act shall extend to Northern Ireland but, save as aforesaid and without prejudice to the provisions of section fourteen of this Act, this Act shall not extend to Northern Ireland.

(2) In the application of sections two and three of this Act to Northern Ireland, the expression "summary conviction" means conviction subject to, and in accordance with, the Petty Sessions (Ireland) Act, 1851, and any Act (including any Act of the Parliament of Northern Ireland) amending that Act.

Short title.

17. This Act may be cited as the Agriculture (Miscellaneous Provisions) Act, 1949.

SCHEDULE

PART I

Sections 7 & 10. SECTION 4 (1) AND PART OF SECTION 4 (2) OF FOOD AND DRUGS (MILK AND DAIRIES) ACT, 1944

4.—(1) The power of a county council or local authority under subsection (3) of section sixty-five of the principal Act to institute proceedings under any regulation made under that Act, shall not include power to institute proceedings against any person for contravening or failing to comply with the Milk and Dairies Regulations in respect of a dairy farm or in respect of the registration of persons carrying on or proposing to carry on the trade of a dairy farmer, except any such regulation as is made for the purposes of paragraph (f) or paragraph (g) of subsection (1) of section twenty of the principal Act.

(2) Section ninety-two of the principal Act (which contains supplementary provisions as to Milk and Dairies Regulations and other regulations) shall apply to Milk (Special Designation) Regulations as it applies to Milk and Dairies Regulations, but in its application to Milk (Special Designation) Regulations and Milk and Dairies Regulations, shall have effect subject to the following modifications:

.....

(b) subsection (3) (which requires the Regulations to specify the authorities by whom they are to be enforced and executed) shall not apply to the enforcement or execution of Milk and Dairies Regulations in respect of dairy farms or in respect of the registration of persons carrying on the trade of a dairy farmer, except any such regulation as is made for the purposes of paragraph (f) or paragraph (g) of subsection (1) of section twenty of the principal Act, or to the enforcement or execution of Milk (Special Designation) Regulations in respect of the use of a special designation of raw milk by a producer of such milk.



## PART II

## SECTION 11 (4) (c) OF AGRICULTURAL HOLDINGS ACT, 1948

11.—(4) Subsection one of this section shall not apply,—

.....

.....

(c) to a tenancy of a smallholding as defined in Part IV of the Agriculture Act, 1947, granted in pursuance of a scheme for the farming of such holdings on a co-operative basis or a scheme which provides for the disposal of the produce of such holdings or provides other centralised services for the use of the tenants of such holdings, being in any case a scheme approved by the Minister for the purposes of this paragraph.

*Table of Statutes Referred to in this Act*

| Short Title                                                 | Session and Chapter         |
|-------------------------------------------------------------|-----------------------------|
| Petty Sessions (Ireland) Act, 1851 ... ..                   | 14 & 15 Vict. c. 93.        |
| Destructive Insects Act, 1877 ... ..                        | 40 & 41 Vict. c. 68.        |
| Contagious Diseases (Animals) (Pleuro-Pneumonia) Act, 1890. | 53 & 54 Vict. c. 14.        |
| Agricultural Marketing Act, 1931 ... ..                     | 21 & 22 Geo. 5. c. 42.      |
| Cattle Industry (Emergency Provisions) Act, 1934.           | 24 & 25 Geo. 5. c. 54.      |
| Livestock Industry Act, 1937 ... ..                         | 1 Edw. 8 & 1 Geo. 6. c. 50. |
| Agriculture Act, 1937 ... ..                                | 1 Edw. 8 & 1 Geo. 6. c. 70. |
| Food and Drugs Act, 1938 ... ..                             | 1 & 2 Geo. 6. c. 56.        |
| Agricultural Development Act, 1939 ... ..                   | 2 & 3 Geo. 6. c. 48.        |
| Agriculture (Miscellaneous Provisions) Act, 1943            | 6 & 7 Geo. 6. c. 16.        |
| Food and Drugs (Milk and Dairies) Act, 1944...              | 7 & 8 Geo. 6. c. 29.        |
| Agriculture (Artificial Insemination) Act, 1946             | 9 & 10 Geo. 6. c. 29.       |
| Agriculture Act, 1947 ... ..                                | 10 & 11 Geo. 6. c. 48.      |
| Employment and Training Act, 1948 ... ..                    | 11 & 12 Geo. 6. c. 46.      |
| Agricultural Holdings Act, 1948 ... ..                      | 11 & 12 Geo. 6. c. 63.      |

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## CHAPTER 38

### *Agricultural Marketing Act, 1949*

#### ARRANGEMENT OF SECTIONS.

##### *Composition of Boards.*

##### Section.

1. Composition of marketing boards.

##### *Relations of Boards with Ministers, etc.*

2. Directions by Ministers to boards as respects certain matters.
3. Saving for, and amendments of, s. 9 of the principal Act.
4. Temporary directions by Ministers.

*Imposition of Penalties, etc.*

## Section.

5. The disciplinary committee.
6. Losses sustained by boards to be recoverable in the same way as penalties.
7. Power to postpone imposition of penalty.
8. Enforcement of decisions of disciplinary committee and power to state cases.

*Powers, etc., of Boards.*

9. Extension of powers which may be conferred on marketing boards.
10. Investment of surplus funds of boards.

*Miscellaneous.*

11. Application of principal Act to certain derivative products.
12. Abolition of Market Supply Committee.
13. Repeal of provisions as to development schemes.
14. Repeal of requirements as to consultation with Board of Trade.
15. Provisions as to existing marketing schemes.
16. Saving for Part I of Agriculture Act, 1947.
17. Provisions as to Scotland.
18. Extension of principal Act to Northern Ireland.
19. Supplemental provisions.
20. Short title, construction, citation and repeal.

SCHEDULE.—Enactments repealed.

An Act to amend the Agricultural Marketing Acts, 1931 to 1933, and for purposes connected therewith.

[31st May 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*Composition of Boards*

1.—(1) The composition of the board to administer a scheme under the Agricultural Marketing Act, 1931 (hereinafter referred to as "the principal Act") shall be such as may be prescribed by the scheme, but the scheme shall be so framed as to secure that—

- (a) the total number of members shall not be less than eight nor, unless for special reasons the Minister thinks fit to allow a greater number, more than twenty-four;
- (b) of the members, not less than two and (provided that there are at least two) not more than one-fifth of the total number of members shall be persons appointed by the Minister as being persons who in his opinion are qualified for appointment as having had experience and shown capacity in commerce, finance, administration, public affairs or the organisation of workers, or as being specially conversant with the interests of consumers of the regulated product;

Composition  
of marketing  
boards.

(c) subject to the provisions of the scheme as to the filling of casual vacancies in the board, the remaining members shall—

(i) during such period, not being longer than twelve months from the day on which the scheme comes into force, as may be specified in the scheme, be persons named in the scheme;

(ii) after the expiration of the said period, be persons elected in accordance with the scheme, either by registered producers or by a body or bodies elected by such producers in accordance with the scheme;

(d) the executive committee of the board referred to in section fifteen of the Agricultural Marketing Act, 1933, shall include at least one of the members of the board who are appointed by the Minister.

(2) Notwithstanding anything in this section, provision may be made by a scheme under the principal Act for the board acting notwithstanding any vacancy in the membership thereof.

(3) In this section the expression "consumers of the regulated product" means persons who purchase the product, or commodities produced wholly or partly therefrom, for their own consumption or use and not persons who purchase the product, or such commodities as aforesaid, for the purpose of any trade or industry carried on by them.

#### *Relations of Boards with Ministers, etc.*

2.—(1) This section shall have effect with respect to any powers exercisable by the board administering a scheme under the principal Act by virtue of any provision of the scheme providing for any of the following matters, that is to say—

Directions by Ministers to boards as respects certain matters.

(a) for empowering the board to buy the regulated product, to produce commodities from that product, and to sell the regulated product and any commodity so produced by the board;

(b) for the determination from time to time—

(i) of the quantity of the regulated product, or of any description thereof, which may be sold by any registered producer;

(ii) of the descriptions of the regulated product which may be sold by any registered producer;

(iii) of the price at, below or above which, the terms on which, and the persons to whom, or through the agency of whom, the regulated product, or any description or quantity thereof, may be sold by any registered producer,

and references in the following provisions of this section to acts or omissions of the board shall be construed as references to acts or omissions of the board in the exercise of any of the said powers.

(2) Subject to the provisions of this section, if it appears to the Minister that the result, or one of the results, of any act or omission of the board or intended act or omission of the board is or will be either—

- (a) to restrict the purposes for which the regulated product, or any description thereof, is used, or to limit the quantity of the regulated product, or of any description thereof, which is used for any particular purpose; or
- (b) to limit the quantity of the regulated product, or of any description thereof, or of any commodity produced therefrom, which is produced or sold, whether by registered producers or by other persons; or
- (c) to regulate the price at which the regulated product, or any description or quantity thereof, or any commodity produced therefrom, is sold, whether by registered producers or by other persons; or
- (d) to limit the classes of persons to whom or through the agency of whom the regulated product, or any description or quantity thereof, or any commodity produced therefrom, is sold, whether by registered producers or by other persons,

and that that result is or will be contrary to the public interest, the Minister may by order give to the board such directions as to their acts or omissions as he considers necessary or expedient for the purpose of preventing that result or, as the case may be, preventing or mitigating the damage to the public interest entailed thereby, and it shall be the duty of the board to comply with that order:

Provided that nothing in this subsection shall be construed as authorising or requiring the board to do anything which they have no power to do under the scheme.

(3) Before making an order under subsection (2) of this section, the Minister shall give to the board notice in writing stating the general nature of the action which he proposes to take and of his reasons for taking it, and shall not make any order under that subsection for at least twenty-eight days from the date of the notice, and if, within the said period of twenty-eight days or such longer period as the Minister may allow, the board request that the question whether or not any such act or omission or intended act or omission of the board as is referred to in the notice has or will have any such result as is mentioned in paragraphs (a) to (d) of the said subsection (2), and, if so, whether or not that result is or will be contrary to the public interest, should be referred to a committee of investigation, the Minister shall refer that question to the committee of investigation accordingly and shall not make any order under that subsection until he has considered their report.

(4) Where a question has been referred to a committee of investigation under subsection (3) of this section, it shall be the duty of the committee to consider that question and report to the Minister thereon, and the Minister on receiving their report shall forthwith publish the conclusions of the committee in such manner as he thinks fit, shall proceed to consider the report and may then make such order, if any, under subsection (2) of this section as he thinks fit:

Provided that the Minister shall not make any such order except after consulting the board and shall not in any event make any such order unless either—

- (a) the committee report that the relevant act or omission or intended act or omission of the board has or will have any such result as is specified in paragraphs (a) to (d) of the said subsection (2) and that that result is or will be contrary to the public interest; or
- (b) the relevant act or omission or intended act or omission of the board relates to, or to a commodity produced from, a commodity for the time being specified in the First Schedule to the Agriculture Act, 1947.

(5) The Minister may at any time, after consultation with the board concerned, by order revoke or vary any order in force under the said subsection (2) so as either—

- (a) to withdraw the whole or any part of the directions in force thereunder ; or
- (b) to vary or add to those directions in any manner which he thinks necessary or expedient in order better to attain the purposes for which those directions were given :

Provided that, except with the consent of the board, the Minister shall not vary or add to any directions under paragraph (b) of this subsection where, in his opinion, the need for the variation or addition arose from circumstances not obtaining at the date when the directions were given.

(6) Any order made under any of the provisions of this section shall state the general nature of the reasons for the making thereof and shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) For the purpose of enabling a committee of investigation to consider any question which it is their duty under this section to consider, the board administering the scheme to which the question relates shall furnish the committee with such accounts and other information relating to the functions of the board as the committee may reasonably require, and shall be entitled to

make representations to the committee with respect to that question in such manner as may be prescribed by the regulations made by the Minister under the principal Act with respect to the procedure of the committee.

Saving for,  
and  
amendments  
of, s. 9 of the  
principal Act

3.—(1) The provisions of the last preceding section shall be in addition to and not in derogation of the provisions of section nine of the principal Act (which relates to consumers' committees and committees of investigation and enables the Minister to make certain orders after considering the report of a committee of investigation).

(2) So much of subsection (4) of the last preceding section as requires the Minister to publish the conclusions of a committee of investigation shall apply in relation to reports of a committee of investigation under the said section nine as it applies in relation to reports under the last preceding section.

(3) Subsection (5) of the last preceding section, and, so far as concerns orders under the said subsection (5), subsection (6) of the last preceding section, shall apply in relation to orders under paragraph (c) of subsection (5) of the said section nine as they apply in relation to orders under subsection (2) of the last preceding section.

(4) In paragraph (a) of subsection (3) of the said section nine (which requires that committees of investigation shall consist of a chairman and four other members) for the word "four," there shall be substituted the words "either four or five."

Temporary  
directions by  
Ministers.

4.—(1) Where—

- (a) the Minister serves any such notice as is provided for by subsection (3) of section two of this Act; or
- (b) the Minister, under subsection (3) of section nine of the principal Act, directs a committee of investigation to consider a report made by a consumers' committee or any complaint made to him as to the operation of any scheme,

the Minister, if he considers it necessary to take immediate action for the purpose of preventing injury to the public interest from any change made or intended to be made by the board in their course of action in any matter which is relevant to the subject of the notice or, as the case may be, of the report or complaint, may, at or after the time of the giving of the notice or direction, make a temporary order giving to the board such directions as to their course of action in that matter as he may think necessary for that purpose, and it shall be the duty of the board to comply with the order:

Provided that nothing in this subsection shall be construed as authorising or requiring the board to do anything which they have no power to do under the scheme.

(2) A temporary order under this section made by the Minister in connection with the service of such a notice as is provided for by subsection (3) of section two of this Act shall be limited so as to expire on such date as may be specified in the order, not being later than four months from the date of the making thereof:

Provided that if there is any such reference to a committee of investigation as is provided for by the said section two and, at the date so specified in the order, not more than three months have elapsed since the publication by the Minister of the conclusions of the committee, then, subject to the following provisions of this section, the temporary order shall not expire until the expiration of the said period of three months.

(3) A temporary order under this section made in connection with a direction given by the Minister to a committee of investigation under subsection (3) of section nine of the principal Act shall be limited so as to expire not later than twenty-eight days after the date on which the Minister gives to the board such a notice of the action which he intends to take as is provided for by paragraph (iii) of the proviso to subsection (5) of that section; and where a temporary order is made under this section in connection with such a direction as aforesaid to a committee of investigation, it shall be the duty of the Minister, not later than two months after the publication by the Minister of the conclusions of the committee, either to give such a notice or to revoke the temporary order.

(4) The Minister may by order revoke or vary a temporary order under this section but not so as to extend the duration thereof beyond the periods prescribed by subsections (2) and (3) of this section.

(5) Any order under this section shall state the general nature of the reasons for the making thereof and shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### *Imposition of Penalties, etc.*

5.—(1) Every scheme under the principal Act shall, notwithstanding anything in that Act, be so framed as to secure— The disciplinary committee.

(a) that there is a committee of the board, to be known as the disciplinary committee, constituted, at each sitting thereof, of not less than four nor more than six members of the board and a chairman who is not a member of the board but is an independent person who is a barrister of not less than seven years' standing, an advocate of not less than seven years' standing or a solicitor of not less than seven years' standing and is approved by the Minister;

- (b) that no penalty is imposed on a registered producer for a contravention of any provision of the scheme made in pursuance of section five of the principal Act except after a hearing by the said committee and by the decision thereof, taken in accordance with the opinion of all or the majority of the members thereof;
- (c) that notice of the time and place of every such hearing and a written statement of the charge against the producer in question is served personally or by registered post on that producer at least fourteen days before the hearing;
- (d) that no penalty is imposed for any such contravention which occurred more than six years, or such less time as is specified in the scheme, before the service of the said written statement of the charge;
- (e) that, where such a written statement of a charge against a producer has been sent to or served on him as aforesaid and the charge is withdrawn or is not substantiated before the said committee, the board have the power, and, to such extent as the said committee may decide, the duty, to make payments to the producer in respect of his costs in connection with the charge; and
- (f) that, in such circumstances and subject to such conditions as may be specified in the scheme, the said committee have the power and the duty to reconsider and, if need be, vary their decisions and that effect is given to any such variation.

(2) For the purposes of paragraph (c) of subsection (1) of section six of the principal Act (which requires the board to impose penalties on registered producers and recover them from registered producers) and of any provision contained in a scheme in pursuance of the said paragraph (c), the imposition of a penalty by a decision of the disciplinary committee shall be deemed to be the imposition thereof by the board, and for the purposes of paragraph (d) of that subsection (which relates to arbitration where producers are aggrieved by acts or omissions of boards) and of any provision contained in a scheme in pursuance of the said paragraph (d), acts or omissions of the disciplinary committee shall be deemed to be acts or omissions of the board.

(3) Every hearing by the disciplinary committee of a board shall be held in public unless the committee for special reasons direct that the whole or part thereof shall not be so held.

(4) The chairman of the disciplinary committee of a board may direct that any evidence given at a hearing by the committee shall be given on oath and may for that purpose administer oaths.

(5) If, at any sitting of the disciplinary committee of a board, there is an equal division of opinion on any question, the opinion of the chairman shall prevail, and the reference in paragraph (b)



of subsection (1) of this section to the opinion of the majority of the members of such a committee shall be construed accordingly.

6.—(1) Where a contravention of a provision of a scheme under the principal Act (being a contravention for which the board have the duty to impose and recover a penalty) causes loss to the board, the disciplinary committee may, if the written statement of the charge served on the producer in accordance with the provisions of subsection (1) of the last preceding section embodies an estimate by the board of the amount of the loss, together with a statement of the grounds on which that estimate is based, require by their decision that the producer shall pay to the board, in addition to any penalty imposed, such sum, to be stated in the decision, as the committee may think fit, not exceeding the sum which appears to the committee justly to represent the amount of the loss:

Losses sustained by boards to be recoverable in the same way as penalties.

Provided that the amount so stated in the decision shall not exceed the amount stated in the said estimate.

(2) Where the written statement of the charge served on a producer in accordance with the provisions of subsection (1) of the last preceding section embodies such an estimate of the loss caused to the board as is referred to in subsection (1) of this section, no loss caused to the board by the contravention to which the charge relates shall be recoverable from the producer otherwise than in the manner for which provision is made by subsection (1) of this section; and, whether or not the written statement of the charge embodies such an estimate as aforesaid, the penalty itself shall not be fixed with a view to recovering the whole or any part of any loss caused to the board by the contravention.

(3) Where such a contravention as aforesaid is concerned with the giving of information or returns to the board and as a result of the contravention the board fail to assess on or demand from the producer a contribution or other payment, or the full amount of a contribution or other payment, which they are entitled to receive from him, the contribution or payment, or the amount not assessed or demanded, as the case may be, shall, if the board so elect by including an estimate of the amount thereof in the written statement of the charge served on the producer in accordance with the provisions of subsection (1) of the last preceding section, be treated for the purposes of this section as lost to the board by reason of the contravention.

7. So much of any scheme under the principal Act as, in pursuance of paragraph (c) of subsection (1) of section six of that Act, requires the board to recover penalties from a registered producer shall not be construed as preventing the disciplinary committee, if they find that a contravention has occurred, from postponing the imposition of a penalty for such

Power to postpone imposition of penalty.

period, not exceeding twelve months, as may be specified in the scheme, but save as aforesaid nothing in this or the two last preceding sections shall be construed as derogating from the duty to impose and recover penalties which is required by the said paragraph (c) to be provided for by every such scheme.

Enforcement of decisions of disciplinary committee and power to state cases.

8.—(1) Section twelve of the Arbitration Act, 1889, and section ten of the Arbitration Act, 1934 (which relate to the summary enforcement of awards) and section nine of the Arbitration Act, 1934 (which relates to the statement of cases by arbitrators and umpires) shall apply in relation to the hearing and determining of the matters which by virtue of any of the preceding provisions of this Act are referred to the disciplinary committee of a board, and in relation to the enforcement of the decisions of that committee, as if the proceedings were an arbitration under a submission to which the board and the producer were parties and as if the disciplinary committee were the arbitrator or umpire under the submission.

(2) Subsection (1) of this section shall not apply to Scotland and the following provisions shall have effect in Scotland in lieu thereof—

- (a) the disciplinary committee of a board may, and if so directed by the Court of Session shall, state a case for the opinion of that Court on any question of law arising in the proceedings relating to any matter referred to the committee by virtue of any of the preceding provisions of this Act, and an appeal shall lie with the leave of the Court of Session or of the House of Lords from any decision of the Court of Session under this paragraph and such leave may be given on such terms as to expenses or otherwise as the Court of Session or the House of Lords may determine;
- (b) any decision of a disciplinary committee in any such proceedings as aforesaid may be recorded for execution in the books of council and session, and shall be enforceable accordingly.

#### *Powers, etc., of Boards*

Extension of powers which may be conferred on marketing boards.

9.—(1) The matters for which, subject to the approval of the Minister, a scheme under the principal Act may provide shall include all or any of the following matters, that is to say—

- (a) for empowering the board to manufacture or acquire, and to sell or let for hire to registered producers and other persons, anything required for the production, grading, packing, storing, adaptation for sale, transport or sale of the regulated product;

- (b) for empowering the board to render to registered producers and other persons, on payment or otherwise, any service which is calculated to promote the more efficient production, grading, packing, storing, adaptation for sale, transport or sale of the regulated product;
- (c) for empowering the board to co-operate with any other person in doing anything which the board are or might be empowered to do by virtue of paragraph (a) or paragraph (b) of this subsection, or by virtue of paragraph (a) of section five of the principal Act or of section six of the Agricultural Marketing (No. 2) Act, 1933 (which provide for the conferring on boards of certain powers to buy products, to produce commodities therefrom and to sell, grade, pack, store, adapt for sale, insure, advertise and transport such products and commodities, as agents or otherwise);
- (d) for empowering the board to do anything calculated to procure, promote or facilitate the doing by any other person of anything in the doing of which the board are or might be empowered to co-operate by virtue of paragraph (c) of this subsection :

Provided that a provision included in a scheme by virtue of paragraph (a) or paragraph (b) of this subsection shall be so framed as to secure that the things sold or let for hire, and the services rendered, are sold, let for hire or rendered, either exclusively or primarily, in such circumstances as to be likely to be utilized, either wholly or mainly, by, or in connection with the regulated product produced by, registered producers, and paragraphs (c) and (d) of this subsection shall be construed accordingly.

(2) Any provisions included in a scheme by virtue of this section shall be included among the provisions the operation of which, except in the case of a substitutional scheme, is to be suspended until the expiration of the suspensory period.

**10.** Every scheme under the principal Act shall be so framed as to secure that—

Investment of  
surplus funds  
of boards.

- (a) the moneys of the board not for the time being required by them for the purposes of their functions are not, except with the approval of the Minister, invested otherwise than in securities in which a trustee is authorised, under sections one and two of the Trustee Act, 1925, as extended by any subsequent enactment, to invest trust funds, or in the stocks, funds or securities mentioned in section ten or section eleven of the Trusts (Scotland) Act, 1921, or for the time being approved by the Court of Session under section twenty-seven of the last-mentioned Act; and

- (b) a statement of the manner in which any such moneys as aforesaid are invested is included in an annual report made by the board to the Minister and to registered producers.

*Miscellaneous*

Application of principal Act to certain derivative products.

**11.**—(1) It is hereby declared that, in the definition in subsection (1) of section eighteen of the principal Act of the expression “agricultural product”, the reference to fleeces includes a reference to all kinds of wool, whether from a living animal or from a dead animal or from the skin of a dead animal.

(2) Subsection (2) of section ten of the Agricultural Marketing Act, 1933 (which enables a scheme to provide that sales of agricultural products wholly or partly manufactured or derived from the regulated product shall in certain circumstances be deemed to be sales of the regulated product) shall apply in relation to the sale of all products wholly or partly manufactured or derived from the regulated product, whether they are agricultural products or not, and accordingly, in the said subsection (2), for the words “the sale of any agricultural product” there shall be substituted the words “the sale of any product.”

Abolition of Market Supply Committee.

**12.** The Market Supply Committee directed to be established by section three of the Agricultural Marketing Act, 1933, is hereby abolished, and the said section three, and so much of any enactment or scheme as authorises or requires the Market Supply Committee to be consulted on any matter, are hereby repealed.

Repeal of provisions as to development schemes.

**13.** Part II of the Agricultural Marketing Act, 1933 (which provides for development schemes for organising the production of secondary agricultural products) is hereby repealed.

Repeal of requirements as to consultation with Board of Trade.

**14.** So much of subsection (8) of section one of the principal Act as requires the Minister to consult the Board of Trade before laying a draft scheme before Parliament, so much of subsection (2) of section nine of that Act as requires the Minister to consult the Board of Trade before appointing the members of a consumers’ committee, and so much of subsection (5) of the said section nine as requires the Minister to consult the Board of Trade before making an order as a result of a report from a committee of investigation, are hereby repealed.

Provisions as to existing marketing schemes.

**15.**—(1) Subject to the provisions of this section, the Minister, after consulting the board administering the scheme, shall by order make, in every scheme under the principal Act approved before the passing of this Act, such amendments as appear to him to be necessary to bring the scheme into accordance with any provisions of this Act which require schemes to be framed

so as to secure particular results, and such further amendments, if any, being amendments consequential on or incidental to the amendments aforesaid, as he thinks expedient, and any such order may contain any such transitional provisions as the Minister thinks expedient.

(2) The provisions of this section, and the preceding provisions of this Act, shall have effect subject to the provisions of any Defence Regulations, and of any order or other instrument made, whether before or after the passing of this Act, under powers conferred by Defence Regulations, and subsection (1) of this section shall not be construed as requiring the Minister to make any amendment in any scheme if, having regard to the extent to which that scheme is modified or suspended by any Defence Regulations or any such order or instrument as aforesaid, it is not in his opinion for the time being necessary or expedient that that amendment should be made in that scheme.

(3) Where the operation of any scheme under the principal Act approved before the passing of this Act has been suspended or modified in whole or in part by any Defence Regulation or any order or other instrument made, whether before or after the passing of this Act, under powers conferred by any Defence Regulation, the Minister may by order make such transitional provision as he may think necessary or expedient for removing any difficulty which would otherwise arise when that suspension or modification ceases to have effect, and in particular for removing any difficulty which would otherwise arise in relation to the composition of the board.

(4) Any order under any of the preceding provisions of this section may be revoked or varied by a subsequent order of the Minister.

(5) Any order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

16. The provisions of this Act shall be without prejudice to the powers and duties of the Ministers under Part I of the Agriculture Act, 1947. Saving for  
Part I of  
Agriculture  
Act, 1947.

17.—(1) Paragraphs (3), (4) and (5) of section nineteen of the principal Act (which enable a scheme under the principal Act to provide that the governing body of an agricultural society shall in certain circumstances be the board for the purposes of the scheme and render legal certain contracts of agricultural societies in Scotland with their members) shall cease to have effect except as regards schemes and contracts in force at the passing of this Act. Provisions.  
as to  
Scotland.

(2) Where in any scheme made by the Minister of Food under Defence Regulations and in force at the passing of this Act for the regulation of the marketing of milk in any area in Scotland

provision is made for the administration of the scheme by the board administering a scheme made under the principal Act for some other area, the Secretary of State may, if he is satisfied that that board and at least two-thirds of the registered producers in the first mentioned area assent, by order provide that the scheme made under the principal Act shall, subject to such modifications as may be specified in the order, apply to the first mentioned area as if that area had been comprised in the scheme under the principal Act.

(3) Before any order is made under the last foregoing subsection, a draft thereof shall be laid before each House of Parliament and the order shall not be made until the draft has been approved by resolution of each House. There shall be laid before each House with any draft order a statement of the evidence on which the Secretary of State is satisfied as to the assent of two-thirds of the registered producers.

(4) An order made under subsection (2) of this section may be varied or revoked by a subsequent order made in the like manner and subject to the like consent and conditions as the original order.

Extension of  
principal Act  
to Northern  
Ireland.

**18.**—(1) Subject to the provisions of this section, this Act and the principal Act shall extend to Northern Ireland.

(2) A scheme under the principal Act may be applicable to Great Britain or any part thereof or to Great Britain or any part thereof and also to Northern Ireland or any part thereof but shall not be applicable only to Northern Ireland or a part thereof.

(3) A draft of a scheme under the principal Act which, by the terms of the draft, is to apply to Northern Ireland or any part thereof shall not be laid before either House of Parliament under subsection (8) of section one of the principal Act unless each House of Parliament of Northern Ireland has resolved that it is expedient that a scheme in the terms of the draft should, if approved under the said subsection (8), extend to Northern Ireland.

(4) If the draft of a scheme under the principal Act which, by the terms of the draft, is to be applicable to Northern Ireland or any part thereof has been laid before either House of the Parliament of Northern Ireland and that House has resolved that it is not expedient that the scheme should extend to Northern Ireland, the Minister may thereupon make in the draft of the scheme such modifications as are necessary in order to prevent the scheme applying to any part of Northern Ireland and such other modifications, being modifications consequential on the modifications aforesaid, as he may think fit; and paragraph (c) of subsection (5) of section one of the principal Act (which relates to the notice to be given of modifications and enables schemes to be withdrawn) shall apply in relation to the modifications

and they shall be taken into account by the Minister under subsection (8) of that section before he lays the draft of the scheme before Parliament.

(5) References in this Act or the principal Act to the Minister and the Gazette shall, in relation to any scheme applicable to Northern Ireland or any part thereof, include respectively references to the Secretary of State concerned with agriculture in Northern Ireland and the Belfast Gazette, and the reports which, under section ten of the principal Act, are to be laid yearly before Parliament shall, instead of being reports by the Minister of Agriculture and Fisheries and the Secretary of State for Scotland, be reports by the Minister of Agriculture and Fisheries, the Secretary of State for Scotland, and the Secretary of State concerned with agriculture in Northern Ireland.

(6) The consumers' committees, committees of investigation and Agricultural Marketing Facilities Committees for Great Britain, for England and for Scotland shall operate, and the Agricultural Marketing Fund and the Agricultural Marketing (Scotland) Fund shall be applicable, in relation to schemes applicable to Northern Ireland or any part thereof, in like manner as they operate and are applicable respectively in relation to schemes not applicable to Northern Ireland or any part thereof, but when any such committee is considering any scheme applicable to Northern Ireland or any part thereof there shall be added thereto as additional members thereof such persons as the Minister may appoint for the purpose.

(7) The Minister may constitute one or more Agricultural Marketing Re-organisation Commissions for Great Britain and Northern Ireland, for England and Northern Ireland and for Scotland and Northern Ireland, which shall, if the Minister so directs, be charged with the duty of preparing, in accordance with the provisions of the principal Act, schemes (applicable respectively in England, Scotland and Northern Ireland, in England and Northern Ireland and in Scotland and Northern Ireland) for regulating the marketing of such agricultural products as the Minister may direct, and the provisions of the principal Act relating to Agricultural Marketing Re-organization Commissions shall, with the necessary adaptations, apply in relation to Commissions constituted under this subsection as they apply in relation to the Commissions for which provision is made by subsection (1) of section fifteen of the principal Act.

(8) In the two last preceding subsections and in the provisions of the principal Act relating to Agricultural Marketing Re-organization Commissions, as applied by the last preceding subsection, references to the Minister include references to the Secretary of State concerned with agriculture in Northern Ireland.

(9) The reference in subsection (3) of section four of the principal Act to the Agricultural Returns Act, 1925, shall be deemed

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to include a reference to the Agricultural Returns Act (Northern Ireland), 1939, as amended by any subsequent enactment of the Parliament of Northern Ireland.

(10) For the purposes of the extension of the principal Act to Northern Ireland, subsection (4) of section eight thereof shall have effect as if—

- (a) for the words “ within the district of which ” there were substituted the words “ having jurisdiction in the area in which ”;
- (b) references therein to the High Court were construed as references to the High Court of Justice in Northern Ireland;
- (c) for the reference in paragraph (b) thereof to section one hundred and twenty-six of the County Courts Act 1888, there were substituted a reference to section thirty-five and fifty-seven of the County Officers and Courts (Ireland) Act, 1877.

(11) Section eight of this Act shall have effect in Northern Ireland as if—

- (a) for the reference therein to section twelve of the Arbitration Act, 1889, and section ten of the Arbitration Act 1934, there were substituted a reference to section sixteen of the Arbitration Act (Northern Ireland) 1937 and
- (b) for the reference therein to section nine of the Arbitration Act, 1934, there were substituted a reference to section twenty-two of the Arbitration Act (Northern Ireland), 1937.

(12) An Act of the Parliament of Northern Ireland may provide that the principal Act and this Act shall cease to have effect in Northern Ireland except in relation to schemes already approved before the passing of the first-mentioned Act, and in that event the principal Act and this Act shall cease to have effect accordingly except in relation to schemes already approved as aforesaid.

**Supplemental provisions.**

**19.—**(1) Any power conferred on the Minister or the Secretary of State by any of the preceding provisions of this Act to make an order shall be exercisable by statutory instrument.

(2) Any reference in this Act to any enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended or extended by or under any other enactment, including this Act.

(3) There shall be paid out of moneys provided by Parliament—

- (a) any increase in the sums payable, out of moneys so provided, under section eleven of the principal Act to the Agricultural Marketing Fund and the Agricultural Marketing (Scotland) Fund, being an increase



attributable to so much of this Act as provides for extending the functions of boards or the areas to which schemes apply, extends the definition of the expression "agricultural product" or enables schemes to be made applicable to Northern Ireland or any part of Northern Ireland ;

- (b) any increase in the sums payable, out of moneys so provided, under subsection (5) of section sixteen of the principal Act in respect of remuneration of the chairman or other members of, or of the secretary, officers, agents or servants of, or in respect of other expenses of, commissions or committees, being an increase attributable to so much of this Act as applies the said section sixteen to Agricultural Marketing Re-organization Commissions for Great Britain and Northern Ireland, for England and Northern Ireland and for Scotland and Northern Ireland, extends the functions of consumers committees, committees of investigation and Agricultural Marketing Facilities Committees, enables committees of investigation to consist of a chairman and five members or requires that when consumers committees, committees of investigation or Agricultural Marketing Facilities committees are considering schemes applicable to Northern Ireland or any part of Northern Ireland there shall be additional members thereof.

(4) For the avoidance of doubt, it is hereby declared that section sixteen of the principal Act (which contains general provisions as to commissions and committees constituted or appointed under that Act) does not apply to any committee of board.

20.—(1) This Act may be cited as the Agricultural Marketing Act, 1949, and, except so far as it relates to the Market Supply Committee or to development schemes under Part II of the Agricultural Marketing Act, 1933, shall be construed as one with the principal Act, and the Agricultural Marketing Acts, 1931 to 1933 and this Act may be cited together as the Agricultural Marketing Acts, 1931 to 1949.

Short title,  
construction,  
citation and  
repeal.

(2) The enactments specified in the Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule :

Provided that, without prejudice to the powers and duties of the Minister under this Act as to the making of orders amending schemes, and without prejudice also to the provisions of this Act relating to the Market Supply Committee, the repeal by this subsection of any enactment or part of an enactment authorising the inclusion of any provision in any scheme shall not invalidate any provision of any scheme under the principal Act approved before the passing of this Act.

## SCHEDULE

## Section 20.

## ENACTMENTS REPEALED

| Session and Chapter       | Short Title                           | Extent of Repeal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|---------------------------|---------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 21 & 22 Geo. 5.<br>c. 42. | The Agricultural Marketing Act, 1931. | <p>In subsection (8) of section one, the words " after consultation with the Board of Trade ".</p> <p>Paragraph (c) of section five.</p> <p>In section nine, in subsection (2), the words " with the Board of Trade and " and in subsection (5), the words " and consulting the Board of Trade ".</p> <p>In section nineteen, paragraphs (3) to (5), except as regards schemes and contracts in force at the passing of this Act.</p> <p>Subsection (2) of section twenty.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 23 & 24 Geo. 5.<br>c. 31. | The Agricultural Marketing Act, 1933. | <p>In paragraph (a) of subsection (1) of section one, the words " or schemes under this Act ".</p> <p>In subsection (3) of section two, the words " and the Market Supply Committee ".</p> <p>Sections three to nine.</p> <p>In subsection (2) of section ten, the word " agricultural ".</p> <p>Section fourteen.</p> <p>In section fifteen, from the words " and (b) for securing " to the end of subsection (1).</p> <p>Section eighteen.</p> <p>In section twenty-two, in subsection (1) the words " or a development scheme " and the words " or to the appropriate Minister, as the case may be ", in subsection (4) the words " or a development scheme " and in subsection (5) the words " or by the appropriate Minister " and the words from " but in determining " to the end of the subsection.</p> <p>In section twenty-six, in subsection (3) the words " not being a provision contained in Part II of this Act ".</p> |

| Session and Chapter                 | Short Title                                        | Extent of Repeal                                                                                                                                                                                                                                    |
|-------------------------------------|----------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 23 & 24 Geo. 5. c. 31— <i>cont.</i> | The Agricultural Marketing Act, 1933— <i>cont.</i> | Subsection (2) of section twenty-seven.<br>In section twenty-nine, in subsection (1) the definitions of "the appropriate Minister", "constituent marketing board", "the development board", "related marketing scheme" and "the secondary product". |
| 1 & 2 Geo. 6. c. 71.                | The Bacon Industry Act, 1938.                      | In section thirty, the words "or development schemes" and the words "and a development scheme under that Act organising the production of bacon".                                                                                                   |

*Table of Statutes referred to in this Act*

| Short Title                                    | Session and Chapter    |
|------------------------------------------------|------------------------|
| County Officers and Courts (Ireland) Act, 1877 | 40 & 41 Vict. c. 56.   |
| County Courts Act, 1888                        | 51 & 52 Vict. c. 43.   |
| Arbitration Act, 1889                          | 52 & 53 Vict. c. 49.   |
| Trusts (Scotland) Act, 1921                    | 11 & 12 Geo. 5. c. 58. |
| Trustee Act, 1925                              | 15 & 16 Geo. 5. c. 19. |
| Agricultural Returns Act, 1925...              | 15 & 16 Geo. 5. c. 39. |
| Agricultural Marketing Act, 1931               | 21 & 22 Geo. 5. c. 42. |
| Agricultural Marketing Act, 1933               | 23 & 24 Geo. 5. c. 31. |
| Agricultural Marketing (No. 2) Act, 1933       | 24 & 25 Geo. 5. c. 1.  |
| Arbitration Act, 1934                          | 24 & 25 Geo. 5. c. 14. |
| Agriculture Act, 1947                          | 10 & 11 Geo. 6. c. 48. |

**CHAPTER 39**

*Commonwealth Telegraphs Act, 1949*

**ARRANGEMENT OF SECTIONS**

*The Commonwealth Telecommunications Board*

Section

1. Establishment of Commonwealth Telecommunications Board.
2. Power to amend First Schedule to this Act.
3. United Kingdom's contributions towards the Board's expenses.

*Provisions relating to Transfer of the Operating Company's Assets to the Postmaster General*

4. Vesting in the Postmaster General of operating company's interests in land.
5. Financial provisions.

*Pension Rights of, and Compensation to, Employees of the  
Operating Company and certain other Persons*

Section

6. Provisions as to pensions of employees of the operating company and certain other persons.
7. Compensation to employees of the operating company.
8. Provisions as to referees appointed by the Minister of Labour and National Service.

*Extension of System of pooling Telegraph Revenue*

9. Extension of power of Postmaster General to make pooling arrangements.

*Short Title*

10. Short title.

SCHEDULES :

First Schedule.—The Commonwealth Telecommunications Board.

Second Schedule.—Land wherein Estates and Interests of the Operating Company are excepted from vesting.

An Act to give effect to certain provisions of an agreement for promoting and co-ordinating the efficiency and development of the external telegraph services of the Commonwealth, and to make provision for certain matters incidental thereto and for extending the system, heretofore embodied in the arrangement made by the Postmaster General with Cable and Wireless, Limited, in pursuance of subsection (4) of section one of the Imperial Telegraphs Act, 1938, for the sharing of revenue derived from telegrams transmitted to or from places outside the United Kingdom.

[31st May 1949]

**W**HEREAS a conference of representatives of His Majesty's Government in the United Kingdom, His Majesty's Government in Canada, His Majesty's Government in the Commonwealth of Australia, His Majesty's Government in the Dominion of New Zealand, His Majesty's Government in the Union of South Africa, the Governor General of India in Council and the Government of Southern Rhodesia was held in London in July, nineteen hundred and forty-five, for the purpose of considering the future organisation of the external telegraph services of the Commonwealth:

And whereas the Cable and Wireless Act, 1946, carried into effect the recommendation made by the said conference that the shares of Cable and Wireless Limited (hereafter in this Act referred to as "the operating company") held by the African Direct Telegraph Company Limited, the Eastern Telegraph Company Limited, the Eastern Extension, Australasia and

China Telegraph Company Limited, the Eastern and South African Telegraph Company Limited, the Europe and Azores Telegraph Company Limited, Marconi's Wireless Telegraph Company Limited, the West African Telegraph Company Limited, the West Coast of America Telegraph Company Limited and the Western Telegraph Company Limited should be acquired by His Majesty's Government in the United Kingdom:

And whereas for the purpose of giving full effect to the recommendations made by the said conference an agreement (hereafter in this Act referred to as "the Commonwealth telegraphs agreement") was entered into between His Majesty's Government in the United Kingdom, His Majesty's Government in Canada, His Majesty's Government in the Commonwealth of Australia, His Majesty's Government in the Dominion of New Zealand, His Majesty's Government in the Union of South Africa, His Majesty's Government in India and the Government of Southern Rhodesia, and signed in London on their behalf on the eleventh day of May, nineteen hundred and forty-eight:

And whereas the Commonwealth telegraphs agreement provides, by clause 3 thereof, for the establishment of a body to be known as the Commonwealth Telecommunications Board (in the Commonwealth telegraphs agreement and hereafter in this Act referred to as "the Board") having the functions and constitution set out in the Second Schedule to the Commonwealth telegraphs agreement (which Schedule is set out in Part I of the First Schedule to this Act), and, by clause 5 thereof, for the nomination or establishment by each Government for the time being a party to the Commonwealth telegraphs agreement of a department, body or public corporation (in the Commonwealth telegraphs agreement referred to as a "National Body") for the purpose of acquiring assets of the operating company and of operating and maintaining the external telecommunication services of that Government:

And whereas it is intended that, in relation to His Majesty's Government in the United Kingdom, the Post Office should be the National Body for the purposes of the Commonwealth telegraphs agreement:

And whereas by virtue of subsection (4) of section one of the Imperial Telegraphs Act, 1938, the Postmaster General made an arrangement with the operating company for sharing the benefit of certain sums which, under the International Telegraph Regulations, fall to be received and retained by them in respect of telegrams within the European telegraph system:

And whereas it is expedient to give effect to certain provisions of the Commonwealth telegraphs agreement and to make provision for certain matters incidental thereto and for extending

the system, heretofore embodied in the said arrangement, for the sharing of revenue derived from telegrams transmitted to or from places outside the United Kingdom:

Be it, therefore, enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*The Commonwealth Telecommunications Board*

Establishment of Commonwealth Telecommunications Board.

1.—(1) The provisions of Part I of the First Schedule to this Act shall have effect with respect to the Board.

(2) The provisions of Part II of that Schedule shall have effect for the purpose of supplementing the provisions of Part I thereof.

Power to amend First Schedule to this Act.

2. The Postmaster General shall have power, exercisable by statutory instrument which shall be laid before Parliament after being made, to make regulations amending the provisions of the First Schedule to this Act in such manner as appears to him requisite for giving effect to any modification of the provisions of the Commonwealth telegraphs agreement agreed upon between the Governments for the time being parties thereto.

United Kingdom's contributions towards the Board's expenses.

3. Any sums payable by the Postmaster General by way of contribution towards the expenses of the Board shall be defrayed out of moneys provided by Parliament.

*Provisions relating to Transfer of the Operating Company's Assets to the Postmaster General*

Vesting in the Postmaster General of operating company's interests in land.

4.—(1) If an agreement is entered into between the Postmaster General and the operating company for the purchase, on the first day of April, nineteen hundred and fifty, by the Postmaster General of the estates and interests of the operating company to which this section applies, those estates and interests shall, by virtue of this section and without further assurance, vest in the Postmaster General on that day.

(2) The Postmaster General shall cause to be published in the London and Edinburgh Gazettes notice of the making of any such agreement as is mentioned in the foregoing subsection.

(3) The estates and interests to which this section applies are all the estates and interests of the operating company subsisting immediately before the said first day of April in land in Great Britain other than land specified in the Second Schedule to this Act.

5.—(1) The Treasury may issue out of the Consolidated Fund <sup>Financial</sup> of the United Kingdom or the growing produce thereof (in this <sup>provisions.</sup> section referred to as “ the Consolidated Fund ”) such sums, not exceeding in the whole the sum of four million pounds, as may be required by the Postmaster General for the purpose of making to the operating company payments in consideration of the transfer to him (whether by virtue of this Act or otherwise) of property owned by the operating company.

(2) For the purpose of providing money for sums issued out of the Consolidated Fund under the foregoing subsection or repaying to the Consolidated Fund all or any part of sums so issued, the Treasury may borrow by means of terminable annuities for a term not exceeding twenty years, and all sums so borrowed shall be paid into the Exchequer.

(3) The said terminable annuities shall be paid out of moneys provided by Parliament for the service of the Post Office, and if those moneys are insufficient shall be charged on and paid out of the Consolidated Fund.

(4) Section five of the Telephone Transfer Act, 1911 (which relates to audit), shall have effect as if this section were included amongst the Acts therein mentioned.

*Pension Rights of, and Compensation to, Employees of the Operating Company and certain other Persons*

6.—(1) The Postmaster General shall by statutory instrument <sup>Provisions as</sup> which shall be subject to annulment in pursuance of a resolution <sup>to pensions of</sup> of either House of Parliament make, with the consent of the <sup>employees of</sup> Treasury, such regulations with respect to the payment of <sup>the operating</sup> pensions to or in respect of— <sup>company and</sup> <sup>certain other</sup> <sup>persons.</sup>

(a) persons who have pension rights under any of the existing pension schemes; and

(b) persons other than as aforesaid who are or have been in the employment of the operating company;

as appear to him to be requisite or expedient in consequence of the giving of effect to clause 5 of the Commonwealth telegraphs agreement, whether by His Majesty's Government in the United Kingdom or by any other Government for the time being a party to that agreement.

(2) Without prejudice to the generality of the foregoing subsection, regulations made thereunder may provide—

(a) for the establishment and administration of pension schemes and pension funds in addition to, or in substitution (whether in whole or in part) for, all or any of the existing pension schemes and pension funds held

for the purposes thereof, for the continuance, amendment, repeal or revocation of any of the existing pension schemes and of enactments relating thereto and of trust deeds, rules or other instruments made for the purposes thereof, for the transfer, in whole or in part, or for the extinguishment, of liabilities under any of the existing pension schemes, and for the transfer, in whole or in part, or winding up, of pension funds held for the purposes of any of those schemes;

- (b) for the making by the trustees of, or other the persons administering, any of the existing pension schemes of payments (whether by way of transfer values, return of contributions or otherwise) in cases where persons cease to have pension rights under the scheme, and the making of payments by persons who, on ceasing to have pension rights under any of those schemes, acquire pension rights under another pension scheme;
- (c) for the payment by the Postmaster General, out of moneys provided by Parliament, of sums for making good, in whole or in part, a deficiency arising in a pension fund held for the purposes of a pension scheme established under or by virtue of the regulations or any of the existing pension schemes, or for or towards preventing a deficiency from so arising;
- (d) in the case of any such persons as are mentioned in subsection (1) of this section who enter the Civil Service of the State or any class of such persons,—
- (i) for securing that they become entitled to benefits under the Superannuation Acts, 1834 to 1946, notwithstanding that, although their appointments are not held directly from the Crown, they are admitted without certificates of the Civil Service Commissioners;
- (ii) for the reckoning of all or any part of service of theirs which may be reckoned for the purposes of any of the existing pension schemes or, as the case may be, all or any part of service of theirs in the employment of the operating company, as service for all or any of the purposes of those Acts and, in such cases as may be specified in the regulations, for treating, for all or any of the purposes of those Acts, the length of any service that is to be reckoned as service for all or any of the purposes thereof as being so much more or less than its actual length as may be so specified;
- (iii) for the exclusion in whole or in part of the operation of those Acts in cases where they are



entitled to pensions by virtue of a pension scheme established under or by virtue of the regulations or any of the existing pension schemes;

(iv) for the payment by the Postmaster General, out of moneys provided by Parliament, of the whole or specified proportions of any contributions payable in respect of them under any such pension scheme as aforesaid;

(v) for empowering the Postmaster General, in such cases as may be specified in the regulations, to make, out of moneys provided by Parliament, for the purpose of supplementing pensions payable to or in respect of them by virtue of any such pension scheme as aforesaid, grants of such amounts as may be determined by or under regulations; and

(vi) for empowering the Postmaster General, in cases where it appears to him appropriate so to do, to make, out of moneys provided by Parliament, payments to or in respect of any of them who, though not entitled as aforesaid, had expectations of the accrual of pensions to or in respect of them in accordance with customary practices of their previous employers;

(e) for the manner in which questions arising under the regulations are to be determined; and

(f) for any supplemental or consequential matters for which it appears to the Postmaster General to be requisite or expedient to provide.

(3) Where provision is made by regulations under this section for the amendment, repeal or revocation of any of the existing pension schemes or of any enactment relating thereto or any trust deed, rules or other instrument made for the purposes thereof or for the transfer or extinguishment of any liability under any of those schemes or for the transfer or winding up of a pension fund held for the purposes of any of those schemes, the regulations shall be so framed as to secure that persons having pension rights under the scheme are not placed in a worse position by reason of the amendment, repeal, revocation, transfer, extinguishment or winding up.

(4) Regulations made under this section shall not be invalid by reason that in fact they do not secure that persons having pension rights are not placed in a worse position by reason of any such amendment, repeal, revocation, transfer, extinguishment or winding up as is mentioned in the last foregoing subsection, but if the Postmaster General is satisfied or it is determined as hereinafter mentioned that any such regulations have failed to secure that result, the Postmaster General shall as soon as possible make the necessary amending regulations.

Any dispute whether or not the said result has been secured by any regulations made under this section shall be referred to and determined by a referee or board of referees appointed by the Minister of Labour and National Service after consultation—

- (a) where the proceedings are to be held in England, with the Lord Chancellor; .
- (b) where the proceedings are to be held in Scotland, with the Lord President of the Court of Session; and
- (c) where the proceedings are to be held in Northern Ireland, with the Secretary of State;

and the decision of that referee or board shall be final.

(5) Nothing in paragraph (a) of subsection (2) of this section shall be construed as authorising the diversion of a pension fund held for the purposes of any of the existing pension schemes (apart from any surplus remaining upon a winding up thereof) to purposes other than the payment of pensions to or in respect of such persons as are mentioned in subsection (1) of this section, or, the application of any such surplus otherwise than in accordance with the provisions of that scheme.

(6) Nothing in this section, and in particular nothing in subsection (3) thereof, shall be taken to derogate from the power conferred by subsection (4) of section sixty-nine of the National Insurance Act, 1946, to make regulations providing for the modifying or winding up of pension schemes in connection with the passing of that Act.

(7) Regulations made under this section may be made so as to have effect from a date earlier than that on which they are made, not being earlier than the first day of January, nineteen hundred and forty-seven, so however that so much of any regulations as provides that any provision thereof is to have effect from a date prior to the making thereof shall not place any person in a worse position than he would have been in if the regulations had been made to have effect only as from the date of the making thereof.

(8) In this section the following expressions have the meanings hereby respectively assigned to them, that is to say,—

“ the existing pension schemes ” means—

(a) the scheme for the payment of pensions out of the fund registered under the Superannuation and other Trust Funds (Validation) Act, 1927, by the name of the Eastern and Associated Telegraph Companies' Pension Fund ;

(b) the scheme for the payment of pensions out of the fund registered under that Act by the name of the Cable and Wireless Widows Fund ;

(c) any scheme for the payment of pensions out of a fund to which section three of the Pacific Cable Board (Pension and Provident Funds) Act, 1929, applies;

(d) the scheme for the payment of pensions commonly known as the Eastern and Associated Telegraph Companies' Superannuation Fund, being a scheme subsisting by virtue of deeds whereof the principal one is a deed dated the thirtieth day of June, eighteen hundred and ninety-three, whereto the parties were the Eastern Telegraph Company Limited, the Eastern Extension, Australasia and China Telegraph Company Limited, the Eastern and South African Telegraph Company Limited, the Brazilian Submarine Telegraph Company Limited, Sir John Pender, John Denison-Pender and Lord Sackville Arthur Cecil;

(e) the scheme for the payment of pensions commonly known as the Post Office Transferees Pension Fund, being a scheme subsisting by virtue of a deed dated the first day of July, nineteen hundred and thirty-two, whereto the parties were the operating company (therein called by its then name of Imperial and International Communications Limited), Cable and Wireless (Holding) Limited (therein called by its then name of Cables and Wireless Limited), John Cuthbert Denison-Pender, Henry William Grant, C.B., Francis Alexander Johnston, Edward Wilshaw, Frederick William Atkins Frost, John Jocelyn Denison-Pender and Cables and Wireless Pension Fund Trustee;

(f) the scheme commonly known as the Communications Superannuation Fund, being a scheme for the payment of pensions out of the fund maintained for the purposes of a deed dated the fourteenth day of December, nineteen hundred and thirty-two, whereto the parties were those mentioned in the last foregoing paragraph;

(g) the scheme for the payment of pensions commonly known as the Indo-European Retirement Fund, being a scheme subsisting by virtue of a deed dated the tenth day of June, nineteen hundred and thirty-six, whereto the parties were the Indo-European Telegraph Company Limited, Sir Alan Rae Smith, the operating company, Harold Fitch Kemp, Thomas Oswald Stevens Perry, John Cuthbert Denison-Pender, Henry William Grant, C.B., Francis Alexander

Johnston, Edward Wilshaw, John Jocelyn Denison-Pender, Frederick William Atkins Frost, John Emilius Payton, Richard Edmund Relfe Luff and Cables and Wireless Pension Fund Trustee; and

(h) the two schemes together commonly known as the Marconi Companies' Staff Superannuation Fund, being schemes for the payment of pensions each of which subsists by virtue of a deed dated the first day of April, nineteen hundred and fourteen, to the one of which the parties were Marconi's Wireless Telegraph Company Limited and the North British and Mercantile Insurance Company and to the other of which the parties were the Marconi International Marine Communication Company Limited and the North British and Mercantile Insurance Company;

“pension”, in relation to any person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes a gratuity so payable and a return of contributions to a pension fund with or without interest thereon or any other addition thereto;

“pension fund” means a fund established for the purpose of paying pensions;

“pension rights” includes, in relation to any person, all forms of right to or eligibility for the present or future payment of a pension to or in respect of him, and any expectation of the accruer of a pension to or in respect of him under a customary practice, and includes a right of allocation in respect of a present or future payment of pension;

“pension scheme” includes any form of arrangements for the payment of pensions, whether subsisting by virtue of trust, contract or otherwise.

Compensation to employees of the operating company.

7.—(1) The Postmaster General shall have power, exercisable by statutory instrument, to make, with the consent of the Treasury, regulations providing for the payment by him out of moneys provided by Parliament, in such cases and to such extent as may be specified in the regulations, of compensation to persons who, on such date before the passing of this Act as may be specified in the regulations, were employed whole-time as officers or servants of the operating company, being—

(a) persons who suffer loss of employment in consequence of the giving of effect to clause 5 of the Commonwealth telegraphs agreement by His Majesty's Government in the United Kingdom; or

- (b) persons who suffer diminution of emoluments or pension rights in consequence of their entering the Civil Service of the State as a result of effect's being given as aforesaid to that clause;

and any such regulations may make different provision (including the specification of a different date) in relation to different classes of persons.

(2) Regulations made under this section—

- (a) shall prescribe the procedure to be followed in making claims for compensation and the manner in which and the person by whom the question whether any or what compensation is payable is to be determined; and
- (b) shall in particular contain provisions enabling appeals from determinations of any such questions as aforesaid to be brought, in such cases and subject to such conditions as may be prescribed by the regulations, before a referee or board of referees appointed by the Minister of Labour and National Service after consultation—

- (i) where the proceedings are to be held in England, with the Lord Chancellor;
- (ii) where the proceedings are to be held in Scotland, with the Lord President of the Court of Session; and
- (iii) where the proceedings are to be held in Northern Ireland, with the Secretary of State;

and, upon a reference under a provision of regulations having effect by virtue of paragraph (b) of this subsection, the decision of the referee or board of referees shall be final.

(3) No regulations shall be made under this section unless a draft thereof has been laid before Parliament and has been approved by resolution of each House of Parliament.

(4) In this section,—

- (a) the expression “ emoluments ” includes any allowances, privileges or benefits, whether obtaining legally or by customary practice;
- (b) the expression “ officers or servants ” does not include directors; and
- (c) the expression “ pension rights ” has the same meaning as in the last foregoing section.

8.—(1) The Minister of Labour and National Service may, with the approval of the Treasury, pay out of moneys provided by Parliament—

- (a) to any referee or to the members of any board of referees appointed by him under this Act, such fees and allowances as he may, with the consent of the Treasury, determine; and

Provisions as to referees appointed by the Minister of Labour and National Service.

- (b) to persons giving evidence before any such referee or board, such allowances as he may, with the consent of the Treasury, determine.

(2) Nothing in the Arbitration Acts, 1889 to 1934, or the Arbitration Act (Northern Ireland), 1937, shall be construed as applying to any proceedings before a referee or board of referees appointed under this Act by the Minister of Labour and National Service.

*Extension of System of pooling Telegraph Revenue*

Extension of  
power of  
Postmaster  
General to  
make pooling  
arrangements.

9.—(1) The arrangement made, by virtue of subsection (4) of section one of the Imperial Telegraphs Act, 1938, by the Postmaster General with the operating company may be wound up on such date as may be agreed between the Postmaster General and the operating company, and the Postmaster General may from time to time make with the operating company, or with the operating company and its subsidiaries or any of them, arrangements whereby—

- (a) an account is from time to time prepared of sums received and paid by the parties to the arrangements in respect of telegrams transmitted to or from places outside the United Kingdom or any class of such telegrams; and
- (b) such payments are from time to time made by those parties as are necessary to secure that the excess of the aggregate of the sums received by them in respect of such telegrams as aforesaid or that class thereof, as the case may be, over the aggregate of the sums paid by them in respect thereof is shared between them in such proportions as may be specified by or under the arrangements.

(2) Payments made by virtue of the foregoing subsection by the Postmaster General shall be treated as payments which may be deducted from the gross revenue of the Post Office before that revenue is paid into the Exchequer.

(3) In this section the expression “subsidiaries”, in relation to the operating company, means bodies corporate which are subsidiaries thereof within the meaning of section one hundred and fifty-four of the Companies Act, 1948, and the expression “telegram” has the same meaning as in the Telegraph Act, 1869.

*Short Title*

Short title.

10. This Act may be cited as the Commonwealth Telegraphs Act, 1949.

## SCHEDULES

## FIRST SCHEDULE

Sections 1, 2.

## THE COMMONWEALTH TELECOMMUNICATIONS BOARD

## PART I

THE PROVISIONS OF THE SECOND SCHEDULE TO THE COMMONWEALTH  
TELEGRAPHS AGREEMENT WITH RESPECT TO THE COMMONWEALTH  
TELECOMMUNICATIONS BOARD*Constitution*

1. There shall be established a body to be known as the Commonwealth Telecommunications Board.
2. The Board shall consist of members to be appointed as follows:—
  - (a) As to one (who shall be the Chairman of the Board), jointly by the Partner Governments
  - (b) As to one, by each of the Partner Governments separately
  - (c) As to one, by His Majesty's Government in the United Kingdom to represent British Commonwealth and Empire territories not directly represented by other members
3. The Commonwealth Telecommunications Board shall be a body corporate by that name, with perpetual succession and a common seal, and with power to purchase take hold and dispose of lands and other property

*Functions*

4. The functions of the Board shall be
  - (1) To make recommendations to the Partner Governments and to National Bodies on the following matters relating to their external telecommunication systems:—
    - (a) The formulation and execution of the joint telecommunication policy of the Partner Governments, including the fixing of rates (terminal transit and parcours proportions)
    - (b) Co-ordination of the development of the cable and wireless systems of the British Commonwealth and Empire
    - (c) Extensions to and alterations of the telecommunication systems of the British Commonwealth and Empire
    - (d) The provision and, where appropriate, the apportionment among National Bodies, of capital expenditure on projects
    - (e) Co-ordination with the appropriate authorities on telecommunication matters affecting the defence of the British Commonwealth and Empire or any part thereof
    - (f) Co-ordination of research in telecommunication matters conducted by National Bodies
    - (g) The exchange of personnel between the Board and National Bodies

1ST SCH.  
—cont.

(h) Any other telecommunication matter which may be referred to the Board by any of the Partner Governments or by any National Body

(2) At the request of the Partner Governments or National Bodies to conduct negotiations with foreign telecommunication interests on their behalf

(3) To promote and conduct research in telecommunication matters

(4) To purchase or otherwise acquire and turn to account in any manner that may be thought fit any Letters Patent or patent rights or any interest in any Letters Patent or patent rights brevets d'invention, licences concessions and the like conferring an exclusive or non-exclusive or limited right to use any secret or other information as to any invention in relation to any device or machine serving or calculated to serve any useful purpose in connection with any of the functions of the Board or with the business of any National Body

(5) To set up and administer a Central Fund for the receipt of the net revenues of the National Bodies

(6) To establish and support or aid in the establishment and support of associations institutions funds trusts and conveniences calculated to benefit employees or ex-employees of the Board or the dependants or connections of such persons and to grant pensions and allowances and to make payments towards insurances and to subscribe or guarantee money for charitable or benevolent or educational objects or for any exhibition or for any public general or useful object

(7) To borrow money temporarily in anticipation of revenue

(8) To sell improve manage exchange lease mortgage enfranchise dispose of turn to account or otherwise deal with all or any part of the property and rights of the Board

(9) To enter into make and perform contracts of guarantee and indemnity of whatsoever kind which may be necessary or convenient for the purpose of the Board's functions

(10) To do all or any of the above things in any part of the world and either as principals agents trustees contractors or otherwise and either alone or in conjunction with others and either by or through agents sub-contractors trustees or otherwise

(11) To do all such other things as the Board may deem incidental or conducive to the discharge of any of their functions

#### *Organisation*

5.—(1) The Chairman of the Board shall be entitled to preside at the meetings thereof

(2) There shall be a Vice-Chairman of the Board who shall be appointed by the Board and shall be entitled to preside at meetings of the Board in the absence of the Chairman

(3) The Chairman or other officers authorised by him shall subject to such regulations as may be made by the Board as hereinafter provided summon all meetings of the Board for the despatch of business

6.—(1) The Board shall meet for the despatch of business and shall from time to time make such regulations with respect to the summoning notice place quorum management and adjournment of such



meetings and generally with respect to the transaction and management of their business as they may think fit subject to the following conditions:—

1ST SCH.  
—cont.

- (a) Meetings shall normally be held in London in the United Kingdom but from time to time as may be found convenient meetings shall also be held in the territories of the other Partner Governments or elsewhere as the Board may determine
- (b) A quorum for a meeting of the Board shall be not less than two-thirds of the members for the time being
- (c) Every question shall be decided by a majority of votes of the members present and voting on that question and in case of an equality of votes at any meeting the person presiding at such meeting shall have a second or casting vote Provided that if the question to be decided is claimed by a member either before or at the meeting to be one of Governmental policy and unanimity cannot be obtained the Chairman shall refer the question to the Partner Governments together with his report and recommendations respecting the same and a decision on the question shall be suspended until the views of the Partner Governments have been ascertained

(2) Where a member through illness or absence from the country in which the meeting is to be held is unable to attend a meeting the Partner Government by whom that member was appointed shall have the right to nominate a person to act as alternate member in his place for the purposes of that meeting and on such nomination being made the alternate member shall (except in regard to remuneration) be subject in all respects to the terms and conditions existing with reference to the other members and whilst acting as an alternate member shall exercise and discharge all the functions powers and duties of the member whom he represents

7. The Board may at any time appoint a Committee or Committees of their own members for such purpose and on such conditions as the Board may decide but the conclusions of any such Committee shall be subject to ratification by the Board

8.—(1) The Board shall appoint a chief executive officer who shall be called the Director General

(2) The Board shall appoint such other officers and staff as they may think necessary for the efficient transaction of their business and shall fix such rates of remuneration including that of the Director-General as they shall think proper Subject to the provisions of any contract between the Board and any officer the Board may remove any officer (other than a member) however appointed

(3) No member shall be appointed to any executive office of the Board

#### *Power to Appoint Advisory Committees*

9. The Board may appoint persons or Committees to advise them with regard to all or any matters connected with telecommunication services and the business operations and affairs of the Board Committees shall have power to appoint Advisory Sub-Committees

1ST SCH.  
—cont.

Committees shall be appointed for such purposes and on such conditions as the Board may decide. The Board may from time to time make regulations with regard to the meetings and proceedings of any such Committees or Sub-Committees. The Board may pay the expenses of any such Committees or Sub-Committees including the expenses of the members in attending them.

#### Members

10.—(1) Members of the Board shall subject to the provisions as to disqualification hereinafter contained be entitled to remain in office for such period as may be fixed at the time of their appointment which shall not exceed a period of five years.

(2) A retiring member shall be eligible for reappointment.

11. A member shall *ipso facto* cease to be a member

- (a) in the case of the Chairman if his appointment be terminated at the joint request of the Partner Governments or
- (b) in the case of any other member if his appointment be terminated by that one of the Partner Governments which appointed him or
- (c) if he becomes of unsound mind or bankrupt or compounds with his creditors or
- (d) if he sends in a written resignation of his office to the Board or
- (e) if the Government which appointed him ceases to be a Partner Government.

12.—(1) The members shall receive by way of remuneration for their services as Chairman Vice-Chairman or members as the case may be the sums following (to be deemed to accrue from day to day) that is to say:—

|                                  | <i>Per annum</i><br>£ |
|----------------------------------|-----------------------|
| The Chairman ... ..              | 3,500                 |
| The Vice-Chairman ... ..         | 1,500                 |
| Each of the other members ... .. | 1,000                 |

In addition members appointed by Partner Governments (other than the United Kingdom) may be paid such subsistence allowance (not exceeding £500 per annum) as the Board consider reasonable.

Members may also be reimbursed for expenses properly incurred by them in the due performance of their office.

(2) Except as in this clause expressly provided no moneys of the Board derived from any source shall in any event be divided by way of profit or otherwise amongst the members.

#### Financial

13.—(1) Prior to the beginning of each financial year the Board shall prepare and approve a budget setting forth the estimates of their expenditure for that year. Estimates of current expenses (which may include a reasonable sum in order to provide a working balance for the year) and capital expenditure shall be shown separately in the budget and shall be sub-divided under appropriate headings.

(2) The Board shall forward a copy of the budget so prepared and approved to each of the National Bodies and the Partner Governments

1ST SCH.  
—cont.

(3) The current expenses of the Board shall be defrayed out of the Central Fund in accordance with the budget

(4) The adoption of the budget in so far as it provides for capital expenditure shall be subject to the approval of the Partner Governments. On giving their approval the Partner Governments shall make provision of the requisite funds through the National Bodies

#### *Annual Report and Statement of Accounts*

14.—(1) The accounts of the Board shall be audited annually by an auditor or auditors who shall be appointed by the Board after obtaining the approval of the Partner Governments

(2) The Board shall as soon as may be after the end of every year prepare a General Report of their proceedings for that year and attach thereto a Statement of Accounts

(3) The Chairman shall on the completion of every such annual General Report and Statement of Accounts and the Auditors' Report thereon forthwith submit the same to the Partner Governments and arrange for the same to be published in the territories of the Partner Governments

#### *General*

15. The Board shall at all times observe the provisions of any International Conventions relating to telecommunications to which the Partner Governments have subscribed

16. The Board shall treat persons domiciled in any of the territories of the Partner Governments as equally eligible for appointment to the Board's staff

17.—(1) No act or proceeding of the Board or of any Committee established by the Board shall be questioned on account of any vacancy or vacancies in the Board or any such Committees

(2) No defect in the appointment of any person acting as Chairman, Vice-Chairman or member or as a member of any Committee established by the Board shall be deemed to vitiate any proceedings of the Board or of such Committee in which he has taken part in cases where the other parties to such proceedings form the necessary quorum and are duly entitled to act

(3) Any instrument which if made by a private person would be required to be under seal shall be under the seal of the Board and signed by one or more members authorised for that purpose by a resolution of the Board and counter-signed by the proper officer. Any notice, appointment, contract, order or other document made by or proceeding from the Board which is not required to be under seal shall be signed by such members or officers as the Board may direct

(4) The proper officer of the Board shall be the Director-General or any other officer duly authorised by the Board

1ST SCH.  
—cont.

## PART II

## PROVISIONS SUPPLEMENTARY TO PART I OF THIS SCHEDULE

## In Part I of this Schedule—

- (a) the expression “Partner Government” means the Government of a part of the Commonwealth which is for the time being a party to the Commonwealth telegraphs agreement;
- (b) the expression “National Body” means a department, body or corporation nominated or established by such a Government as aforesaid in pursuance of clause 5 of the Commonwealth telegraphs agreement;
- (c) the expression “territory”—
- (i) in relation to His Majesty’s Government in the United Kingdom, includes every territory (other than the territory of another Government which is for the time being a party to the Commonwealth telegraphs agreement) whose foreign relations are conducted by His Majesty’s Government in the United Kingdom; and
- (ii) in relation to another such Government as aforesaid, includes every territory whose foreign relations are conducted by that Government.

Section 4.

## SECOND SCHEDULE

LAND WHEREIN ESTATES AND INTERESTS OF THE OPERATING COMPANY  
ARE EXCEPTED FROM VESTING

1. Land in the parish of St. Levan in the county of Cornwall.
2. Land in the City of Plymouth.
3. Premises known as “Meadowbank”, being premises situate in the parish of Twickenham in the county of Middlesex and described in the schedule to a conveyance dated the thirtieth day of July, nineteen hundred and thirty, whereto the parties were the Eastern Telegraph Company Limited of the one part and the operating company (therein called by its then name of Imperial and International Communications Limited) of the other part, being a conveyance whereof a memorial was registered on the thirteenth day of August in that year in the Middlesex Deeds Department of His Majesty’s Land Registry and there numbered eight hundred and twenty in book number thirty-six.

*Table of Statutes referred to in this Act.*

| Short Title                                                           | Session and Chapter         |
|-----------------------------------------------------------------------|-----------------------------|
| Telegraph Act, 1869 ... ..                                            | 32 & 33 Vict. c. 73.        |
| Telephone Transfer Act, 1911 ... ..                                   | 1 & 2 Geo. 5. c. 26.        |
| Superannuation and Other Trust Funds<br>(Validation) Act, 1927 ... .. | 17 & 18 Geo. 5. c. 41.      |
| Pacific Cable Board (Pension and Provident<br>Funds) Act, 1929 ... .. | 19 & 20 Geo. 5. c. xxxviii. |
| Imperial Telegraphs Act, 1938 ... ..                                  | 1 & 2 Geo. 6. c. 57.        |
| National Insurance Act, 1946 ... ..                                   | 9 & 10 Geo. 6. c. 67.       |
| Cable and Wireless Act, 1946 ... ..                                   | 9 & 10 Geo. 6. c. 82.       |
| Companies Act, 1948 ... ..                                            | 11 & 12 Geo. 6. c. 38.      |

**CHAPTER 40***Landlord and Tenant (Rent Control) Act, 1949***ARRANGEMENT OF SECTIONS****Section.**

1. Variation of standard rents fixed by reference to new lettings.
2. Prohibition of premiums on grant or assignment of tenancy.
3. Excessive prices for furniture, &c., to be treated as premiums.
4. Provisions as to apportionment where s. 1 applies.
5. Register of determinations of Tribunal.
6. Tribunal for purposes of s. 1.
7. Provisions where tenant shares accommodation with landlord.
8. Provisions where tenant shares accommodation with other persons but not with landlord.
9. Certain sublettings not to exclude operation of principal Acts.
10. Application of three last foregoing sections.
11. Power of tribunal under Act of 1946 to extend security of tenure.
12. Prohibition of premiums on grant or assignment of furnished lettings.
13. Jurisdiction of county court.
14. Division of areas constituted under Act of 1946.
15. Expenses.
16. Orders and regulations.
17. Application to Scotland.
18. Short title, interpretation and extent.

**SCHEDULES :**

First Schedule.—Transitional provisions as to premiums.

Second Schedule.—Minor Amendments.

An Act to provide in certain cases for the determination by a Tribunal of standard rents for the purposes of the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939 ; further to restrict the requiring of premiums in connection with tenancies to which those Acts apply ; to make further provision for the purposes of those Acts where the tenant shares part of his accommodation with his landlord or other persons or sublets part of his dwelling-house furnished ; to amend the Rent of Furnished Houses Control (Scotland) Act, 1943, and the Furnished Houses (Rent Control) Act, 1946, as respects security of tenure and the requiring of premiums and as respects the districts for which Tribunals are constituted ; to make certain minor amendments of the said Acts in so far as they apply to Scotland ; and for purposes connected with the matters aforesaid.

[2nd June 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Variation of  
standard rents  
fixed by  
reference to  
new lettings.

1.—(1) Where apart from this section the standard rent of a dwelling-house would be—

- (a) the rent at which it was let on a letting beginning after the first day of September, nineteen hundred and thirty-nine, or
- (b) an amount ascertainable by apportionment of the rent at which a property of which it formed part was let on such a letting as aforesaid (whether such an apportionment has been made or not),

then, subject to the provisions of this section, the landlord or the tenant may make application to the Tribunal to determine what rent is reasonable for that dwelling-house, and on any such application the Tribunal shall determine that rent and shall notify the parties of their determination:

Provided that an application shall not be made in respect of a dwelling-house if a previous application in respect thereof has been made under this subsection.

(2) Subject to the provisions of the next following subsection, if the rent so determined by the Tribunal as aforesaid is less than what would be the standard rent apart from this section, it shall, as from the date of the determination thereof, be the standard rent of the dwelling-house.

(3) If on the hearing of the application it appears to the Tribunal that the limit imposed by the principal Acts on the rent recoverable in respect of the dwelling-house exceeds what would be the standard rent apart from this section, the Tribunal shall determine the amount of the excess; and if the rent determined in accordance with subsection (1) of this section, reduced by the amount of the excess, is less than what would be the standard rent apart from this section, the rent so determined and reduced shall as from the date of the Tribunal's determination be the standard rent of the dwelling-house.

(4) Subject to the provisions of this section, the rent which is reasonable for a dwelling-house shall, for the purposes of this section, be the rent which is in all the circumstances reasonable on a letting of that dwelling-house on the terms and conditions, other than terms and conditions fixing the amount of rent, on which the dwelling-house is let at the time of the application.

(5) In determining under this section what rent is reasonable for a dwelling-house, no regard shall be had to the fact that any premium has been paid in respect of the grant, continuance or

renewal of a tenancy; but the provisions of Part I of the First Schedule to this Act shall have effect in relation to such premiums paid before the commencement of this Act.

(6) In determining under this section what rent is reasonable for a dwelling-house forming part of another dwelling-house to which the principal Acts apply, regard shall not be had to the rent of the said other dwelling-house or any part thereof if no determination in respect of the dwelling-house or part has been made under this section.

(7) No application shall be made under this section in respect of any house—

- (a) while it is under the management of a housing association within the meaning of the Housing Act, 1936 (including a development corporation established under the New Towns Act, 1946), or
- (b) while any limitation of the rent is in force, being a limitation imposed by or under any enactment not contained in the principal Acts or this Act.

(8) In relation to a dwelling-house or property let at a progressive rent, subsection (1) of this section shall have effect with the substitution, for references to the rent at which the dwelling-house or property was let, of references to the maximum rent under the letting.

2.—(1) A person shall not, as a condition of the grant, renewal or continuance of a tenancy to which this section applies, require the payment of any premium in addition to the rent.

Prohibition of premiums on grant or assignment of tenancy.

(2) Subject to the provisions of Part II of the First Schedule to this Act, a person shall not, as a condition of the assignment of a tenancy to which this section applies, require the payment of any premium.

(3) This section applies to any tenancy of a dwelling-house, being a tenancy to which the principal Acts apply, such that when the dwelling-house is let under the tenancy it is a dwelling-house to which the principal Acts apply.

(4) Notwithstanding anything in subsection (2) of this section, an assignor may, if apart from this section he would be entitled so to do, require the payment by the assignee—

- (a) of so much of any outgoings discharged by the assignor as is referable to any period after the assignment takes effect;
- (b) of a sum not exceeding the amount of any expenditure reasonably incurred by the assignor in carrying out any structural alteration of the dwelling-house or in providing or improving fixtures therein, being fixtures which as against the landlord he is not entitled to remove;

- (c) where the assignor became a tenant of the dwelling-house by virtue of an assignment of the tenancy thereof, of a sum not exceeding any reasonable amount paid by him to his assignor in respect of expenditure incurred by that assignor, or by any previous assignor of the tenancy, in carrying out any such alteration or in providing or improving any such fixtures as are mentioned in the last foregoing paragraph; or
- (d) where part of the dwelling-house is used as a shop or office, or for business, trade or professional purposes, of a reasonable amount in respect of any goodwill of the business, trade or profession, being goodwill transferred to the assignee in connection with the assignment or accruing to him in consequence thereof.

(5) Where, under an agreement made after the twenty-fifth day of March, nineteen hundred and forty-nine, any premium has been paid which, or the whole of which, could not lawfully be required under the foregoing provisions of this section (or, if the premium was required before the commencement of this Act, which could not lawfully have been required if this Act had then been in force), the amount of the premium, or so much thereof as could not lawfully be required or have been required, as the case may be, shall be recoverable by the person by whom it was paid:

Provided that where an agreement has been made since the said twenty-fifth day of March and before the commencement of this Act, and the agreement includes provision for the payment of a premium which could lawfully be required under the enactments hereby repealed but which, if paid in pursuance of the agreement, would be recoverable, wholly or in part, by virtue of the foregoing provisions of this subsection, the agreement shall, without prejudice to the operation of this section, be voidable at the option of either party thereto.

(6) A person requiring any premium in contravention of this section shall be liable on summary conviction to a fine not exceeding one hundred pounds, and the court by which he is convicted may order the amount of the premium, or so much thereof as cannot lawfully be required under this section, to be repaid to the person by whom it was paid.

(7) Section eight of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, is hereby repealed; but, without prejudice to the operation of section thirty-eight of the Interpretation Act, 1889, nothing in this section shall be construed as affecting the operation of the said section eight as respects anything done before the commencement of this Act.

(8) For the avoidance of doubt it is hereby declared that nothing in this section shall render any amount recoverable more than once.



## 3.—(1) Where—

- (a) whether before or after the commencement of this Act the purchase of any furniture, fittings or other articles has been required as a condition of the grant, renewal, continuance or assignment of a tenancy to which the last foregoing section applies, and

Excessive prices for furniture, &c., to be treated as premiums.

(b) the price exceeds the reasonable price of the articles, the excess shall be treated, for the purposes of the foregoing provisions of this Act and, so far as they continue to have effect, of the provisions of section eight of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, as if it were a premium required to be paid as a condition of the grant, renewal, continuance or assignment of the tenancy.

(2) Where after the commencement of this Act any such purchase as is mentioned in paragraph (a) of the last foregoing subsection is required as therein mentioned, the price demanded shall, at the request of the person on whom the demand is made, be stated in writing; and if, without reasonable excuse, a person required to give such a statement in writing fails within fourteen days to do so, or knowingly gives a statement which is false in any material particular, he shall be liable on summary conviction to a fine not exceeding ten pounds.

(3) Subsection (1) of section nine of the Rent and Mortgage Interest Restrictions Act, 1923, is hereby repealed, but without prejudice to the effect of any statement of the price of articles given under that subsection before the commencement of this Act.

4.—(1) Where, in the case of a property being a dwelling-house to which the principal Acts apply, the standard rent of the property is a rent determined under section one of this Act, then—

Provisions as to apportionment where s. 1 applies.

- (a) for the purpose of any apportionment under the principal Acts which is necessary for determining the standard rent of a dwelling-house comprised in that property, the property shall be deemed, at the date in relation to which the standard rent of the dwelling-house is to be fixed, to have been let at the rent determined under subsection (1) of section one of this Act or, where the Tribunal determine the excess mentioned in subsection (3) of that section, the said rent reduced by the amount of the excess;

- (b) any such apportionment made before the determination under section one of this Act, whether it was made before or after the commencement of this Act, may be varied accordingly:

Provided that nothing in this subsection shall affect rent in respect of any period before the determination under section one of this Act.

(2) Where the standard rent of a dwelling-house, being part of a property which is a dwelling-house to which the principal Acts apply, has been determined under section one of this Act, then, in making any apportionment under the principal Acts for the purpose of ascertaining the standard rent of any other part of the property, no regard shall be had to the determination under section one of this Act.

**Register of  
determinations  
of Tribunal.**

5.—(1) The local authority shall prepare and keep up to date a register for the purposes of section one of this Act, and shall make the register available for inspection in such place or places and in such manner as the Minister may direct.

(2) The register shall be so prepared and kept up to date as to contain, with regard to any dwelling-house in respect of which a determination has been made under section one of this Act, being a dwelling-house in the area of the local authority,—

- (a) a specification of the dwelling-house to which the determination relates;
- (b) the prescribed particulars with regard to the terms and conditions of the tenancy;
- (c) the reasonable rent determined under subsection (1) of the said section one and any determination of the Tribunal under subsection (3) of that section; and
- (d) the matters required to be contained in the register by the provisions in that behalf of the First Schedule to this Act.

(3) It shall be the duty of the Tribunal, on their coming to a determination on an application under section one of this Act, to notify their determination to the local authority and to furnish to them such particulars as are requisite for enabling the local authority to discharge their functions under the foregoing provisions of this section.

(4) Section eleven of the Act of 1946 (which provides for proving the contents of a register under that Act in any proceedings) shall apply to a register under this section.

(5) For the purposes of this section, the local authority shall be—

- (a) elsewhere than in the administrative county of London, the council of the borough, urban district or rural district,
- (b) in the administrative county of London outside the City of London, the council of the metropolitan borough,
- (c) in the City of London, the common council.

(6) Any expenses incurred under this section by the common council of the City of London shall be defrayed out of the general rate.

(7) In this section the expression “prescribed” means prescribed by regulations made by the Minister.

6.—(1) For the purposes of section one of this Act, the Tribunal shall, for any district in which the Act of 1946 is in force, be the Tribunal constituted under section one of that Act. Tribunal for purposes of s. 1.

(2) Where the Act of 1946 is not in force, the Minister shall by order constitute such districts, of which each shall be the whole or part of the area of a local authority for the purposes of the last foregoing section, as after consultation with such authorities appear to him expedient, and for each such district the Tribunal for the purposes of section one of this Act shall be a Tribunal constituted in accordance with the Schedule to the Act of 1946 and the provisions of that Schedule shall apply thereto:

Provided that if the Minister so directs the same Tribunal may act for more than one district constituted under this subsection.

(3) Where the whole or any part of a district constituted under the last foregoing subsection becomes comprised in a district in which the Act of 1946 is in force, that subsection and any order made thereunder shall cease to apply thereto.

(4) Any order under subsection (2) of this section may be varied by a subsequent order thereunder made in the like manner and subject to the like provisions.

(5) Paragraphs (a) and (b) of section eight of the Act of 1946 (which empower the Minister to make regulations with regard to the tenure of office of members of Tribunals under that Act and with regard to proceedings before such Tribunals) shall apply for the purposes of this section.

7. Where under any contract—

(a) a tenant has the exclusive occupation of any accommodation,

(b) the terms on which he holds the accommodation include the use of other accommodation in common with his landlord or with his landlord and other persons, and

(c) by reason only of the circumstances mentioned in paragraph (b) of this section, the accommodation referred to in paragraph (a) thereof is not a dwelling-house to which the principal Acts apply,

the Act of 1946 shall apply to the contract notwithstanding that the rent does not include payment for the use of furniture or for services.

Provisions where tenant shares accommodation with landlord.

8.—(1) Where—

(a) a tenant has the exclusive occupation of any accommodation (in this section referred to as “the separate accommodation”),

(b) the terms as between the tenant and his landlord on which he holds the separate accommodation include the

Provisions where tenant shares accommodation with other persons but not with landlord.

use of other accommodation (in this section referred to as "the shared accommodation") in common with another person or other persons, not being or including the landlord, and

- (c) by reason only of the circumstances mentioned in paragraph (b) of this subsection, the separate accommodation would not apart from this section be a dwelling-house to which the principal Acts apply,

the separate accommodation shall be deemed to be a dwelling-house to which those Acts apply, and the following provisions of this section shall have effect.

(2) For the avoidance of doubt it is hereby declared that where for the purpose of determining the standard rent or rateable value of the separate accommodation it is necessary to make an apportionment under the principal Acts, regard is to be had to the circumstances mentioned in paragraph (b) of the last foregoing subsection.

(3) For the purpose of ascertaining the standard rent, a previous letting of the separate accommodation shall not be deemed not to be a letting of the same dwelling-house by reason only of any such change of circumstances as the following, that is to say, any increase or diminution of the rights of the tenant to use accommodation in common with others, or any improvement or worsening of accommodation so used by the tenant.

(4) For the purposes of any provisions of the principal Acts relating to increases of rent, or to the transfer to tenants of burdens or liabilities previously borne by landlords,—

- (a) any such change of circumstances as is mentioned in the last foregoing subsection, being a change affecting so much of the shared accommodation as is living accommodation, shall be deemed to be an alteration of rent;
- (b) where, as the result of any such change as is mentioned in the last foregoing paragraph, the terms on which the separate accommodation is held are on the whole less favourable to the tenant than the previous terms, the rent shall be deemed to be increased, whether or not the sum periodically payable by way of rent is increased;
- (c) any increase of rent in respect of any such change as is mentioned in paragraph (a) of this subsection where, as a result of the change and of the increase of rent, the terms on which the separate accommodation is held are on the whole not less favourable to the tenant than the previous terms, shall be deemed not to be an increase of rent.

(5) In this section the expression "living accommodation" means accommodation of such a nature that the fact that it constitutes or is included in the shared accommodation is sufficient to bring the tenancy within paragraph (c) of subsection (1) of this section.

(6) While the tenant is in possession of the separate accommodation by virtue either of the contract of tenancy or of the provisions of the principal Acts, any term or condition of the contract of tenancy terminating or modifying, or providing for the termination or modification of, his right to the use of any of the shared accommodation which is living accommodation shall be of no effect:

Provided that where the terms and conditions of the contract of tenancy are such that at any time during the tenancy the persons in common with whom the tenant is entitled to the use of the shared accommodation could be varied, or their number could be increased, nothing in this subsection shall prevent those terms and conditions from having effect so far as they relate to such variation or increase as aforesaid.

(7) Subject to the provisions of the next following subsection and without prejudice to the enforcement of any order made thereunder, while the tenant is in possession as aforesaid of the separate accommodation no order or judgment for the recovery of any of the shared accommodation or for the ejection of the tenant therefrom shall be made or given, whether on the application of the immediate landlord of the tenant or on the application of any person under whom the said landlord derives title, unless a like order or judgment has been made or given, or is made or given at the same time, in respect of the separate accommodation; and section three of the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933 (which restricts the landlord's right to possession of a dwelling-house to which the principal Acts apply) shall apply accordingly.

(8) Without prejudice to the provisions of subsection (4) of this section, the county court upon the application of the landlord may make such order, either terminating the right of the tenant to use the whole or any part of the shared accommodation other than living accommodation, or modifying his right to use the whole or any part of the shared accommodation, whether by varying the persons or increasing the number of persons entitled to the use of that accommodation, or otherwise, as to the court seems just:

Provided that no order shall be made under this subsection so as to effect any termination or modification of rights of the tenant which, apart from subsection (6) of this section, could not be effected by or under the terms of the contract of tenancy.

(9) Any question arising under subsection (4) of this section shall be determined on the application either of the landlord or of the tenant by the county court, and the decision of the court shall be final and conclusive.

Certain sublettings not to exclude operation of principal Acts.

9. Where the tenant of any premises, being a house or part of a house, has sublet a part, but not the whole, of the premises, then as against his landlord or any superior landlord (but without prejudice to the rights against and liabilities to each other of the tenant and any person claiming under him, or of any two such persons) no part of the premises shall be treated as not being a dwelling-house to which the principal Acts apply by reason only—

- (a) that the terms on which any person claiming under the tenant holds any part of the premises include the use of accommodation in common with other persons, or
- (b) that part of the premises is let to any such person at such a rent as is mentioned in proviso (i) to subsection (2) of section twelve of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (which relates to furnished lettings).

Application of three last foregoing sections.

10. The three last foregoing sections shall apply whether the letting in question began before or after the commencement of this Act, but not so as to affect rent in respect of any period before the commencement thereof or anything done or omitted during any such period.

Power of Tribunal under Act of 1946 to extend security of tenure.

11.—(1) Where a contract to which the Act of 1946 applies has been referred to a Tribunal under that Act, and the reference has not been withdrawn, the lessee may, at any time when a notice to quit has been served and the period at the end of which the notice takes effect (whether by virtue of the contract, of the Act of 1946 or of this section) has not expired, apply to the Tribunal for the extension of that period:

Provided that an application shall not be made under this section where the Tribunal have directed, under paragraph (a) of the proviso to section five of the Act of 1946, that a shorter period shall be substituted for the period of three months specified in that section as the period before the end of which a notice to quit shall not have effect.

- (2) On an application being made under this section—
  - (a) the notice to quit to which the application relates shall not, unless the application is withdrawn, have effect before the determination of the application;
  - (b) the Tribunal, after making such inquiry as they think fit, and giving to each party an opportunity of being heard, or, at his option, of submitting representations in writing,

may direct that the notice to quit shall not have effect until the end of such period, not exceeding three months from the date at which the notice to quit would have effect apart from the direction, as may be specified in the direction;

(c) if the Tribunal refuse a direction under this section, the notice to quit shall not have effect before the expiration of seven days from the determination of the application.

(3) On coming to a determination on an application under this section the Tribunal shall notify the parties of their determination.

(4) Where on an application under this section the Tribunal have refused a direction under subsection (2) thereof, no subsequent application under this section shall be made in relation to the same notice to quit.

(5) This section shall be construed as one with the Act of 1946, and references in this section to that Act shall be construed as references to that Act as extended by section seven of this Act.

12.—(1) Where the rent payable for any premises is entered in the register under the provisions of the Act of 1946, and, in a case in which the approval, reduction or increase made by the Tribunal is limited to rent payable in respect of a particular period, that period has not expired, the following provisions of this section shall apply in relation to the premises.

Prohibition of premiums on grant or assignment of furnished lettings.

(2) Save as hereinafter provided, a person shall not, as a condition of the grant, renewal, continuance or assignment of rights under a contract to which the Act of 1946 applies, require the payment of any premium:

Provided that this subsection shall not prevent—

(a) a requirement that there shall be paid so much of any outgoings discharged by a grantor or assignor as is referable to any period after the grant or assignment takes effect;

(b) a requirement that there shall be paid a reasonable amount in respect of goodwill of a business, trade or profession, being goodwill transferred to a grantee or assignee in connection with the grant or assignment or accruing to him in consequence thereof.

(3) Subsections (5), (6) and (8) of section two, and section three, of this Act shall with the necessary modifications apply for the purposes of this section as they apply for the purposes of the said section two.

(4) The following provisions of the Act of 1946, that is to say—

(a) paragraph (b) of subsection (1) of section four (which prohibits the requiring of premiums on a grant, continuance or renewal of a letting where the rent payable is registered under the Act of 1946);

- (b) in subsection (2) of that section, the words “ or consideration,” “ or value ” and “ or given ”;
- (c) in subsection (1) of section nine of the Act of 1946, the words “ or any consideration,” “ or the value of the consideration given,” and “ or the consideration given,”

are hereby repealed:

Provided that, without prejudice to the operation of section thirty-eight of the Interpretation Act, 1889, nothing in this section shall be construed as affecting the operation of the said provisions of the Act of 1946 as respects anything done before the commencement of this Act.

**Jurisdiction of  
county court.**

**13.** Subsection (2) of section seventeen of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (which extends the jurisdiction of county courts in respect of proceedings under that Act) shall have effect in relation to any claim or proceedings for the recovery of any sum which is recoverable by virtue of this Act as it applies to the claims and proceedings mentioned in that subsection.

**Division  
of areas  
constituted  
under Act  
of 1946.**

**14.** Where the Minister has made an order directing that the provisions of the Act of 1946 shall have effect in any district, he may by subsequent order direct that such part of the district as may be specified in the order shall be excepted therefrom and be a separate district in which that Act has effect.

**Expenses.**

**15.** Any increase attributable to the provisions of this Act in the sums payable out of moneys provided by Parliament under paragraph 5 of the Schedule to the Act of 1946 (which provides for the remuneration and expenses of Tribunals) shall be defrayed out of moneys so provided.

**Orders and  
regulations.**

**16.** Any power to make regulations or an order conferred on the Minister by this Act shall be exercisable by statutory instrument.

**Application  
to Scotland.**

**17.—(1)** The provisions of this section shall have effect for the purpose of the application of this Act to Scotland.

(2) For any reference to the Minister of Health there shall be substituted a reference to the Secretary of State; for references to the Furnished Houses (Rent Control) Act, 1946, to sections four, eight and nine thereof and to paragraph 5 of the Schedule thereto there shall be respectively substituted references to the Rent of Furnished Houses Control (Scotland) Act, 1943, to sections three, six and seven and to subsection (3) of section one thereof; for any reference to the Housing Act, 1936, there shall be substituted a reference to the Housing (Scotland) Act, 1935; for any reference to the county court, there shall be



substituted a reference to the sheriff; for any reference to the grant, continuance or renewal of a term there shall be substituted a reference to the grant, continuance or renewal of a tenancy, and for any reference to a term in relation to a tenancy there shall be substituted a reference to the period for which a tenancy is granted, continued or renewed; and for any reference to a district in relation to a Tribunal there shall be substituted a reference to an area.

(3) Section five of this Act shall have effect as if

- (i) for any reference to a local authority there were substituted a reference to a Tribunal;
- (ii) subsections (3), (4), (5) and (6) were omitted; and
- (iii) there were inserted after subsection (2) the following subsection—

“(3) Section eight of the Rent of Furnished Houses Control (Scotland) Act, 1943 (which relates to certificates as to premises entered in the register kept under subsection (4) of section two of that Act), shall have effect as if the reference to that register included a reference to the register kept under this section”.

(4) Section six of this Act shall have effect as if for the reference to the local authorities therein mentioned there were substituted a reference to county and town councils.

(5) The First Schedule to this Act shall have effect as if in paragraph 8 thereof for the definition of the expression “reversion” there were substituted the following definition:—

“reversion”, in relation to the grant, continuance or renewal of a tenancy of a dwelling-house, means the estate or interest in the dwelling-house which immediately after the grant, continuance or renewal of the tenancy belonged to the immediate landlord of the tenant under the tenancy.

(6) If, after a contract to which the Rent of Furnished Houses Control (Scotland) Act, 1943, applies has been referred to a Tribunal by the lessee or by the local authority (either originally or for reconsideration), a notice to quit the premises to which the contract relates is served by the lessor on the lessee at any time before the decision of the Tribunal is given or within three months thereafter, the notice shall not take effect before the expiration of the said three months:

Provided that—

- (a) the Tribunal may, if they think fit, direct that a shorter period shall be substituted for the said three months in the application of this subsection to the contract that is the subject of the reference; and

- (b) if the reference is withdrawn the period during which the notice is not to take effect shall end on the expiry of seven days from the withdrawal of the reference.
- (7) Section eleven of this Act shall have effect as if—
- (i) the last foregoing subsection were contained in the Rent of Furnished Houses Control (Scotland) Act, 1943; and
  - (ii) for the reference to paragraph (a) of the proviso to section five of the Furnished Houses (Rent Control) Act, 1946, there were substituted a reference to paragraph (a) of the proviso to the last foregoing subsection.
- (8) The amendments specified in the second column of the Second Schedule to this Act, being amendments relating to minor matters, shall be made in the enactments specified in the first column of that Schedule.

Short title,  
interpretation  
and extent.

18.—(1) This Act may be cited as the Landlord and Tenant (Rent Control) Act, 1949.

- (2) In this Act—
- the expression “the Minister” means the Minister of Health,
- the expression “premium” includes any fine or other like sum and any other pecuniary consideration in addition to rent,
- the expression “the principal Acts” means the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939,
- the expression “the Act of 1946” means the Furnished Houses (Rent Control) Act, 1946,
- and other expressions have the same meanings as in the principal Acts.

(3) This Act shall not extend to Northern Ireland.

## SCHEDULES

### FIRST SCHEDULE

#### TRANSITIONAL PROVISIONS AS TO PREMIUMS

##### PART I

*Adjustments, where s. 1 applies, for premiums paid before commencement of Act*

1. Where on an application under section one of this Act made within twelve months from the date of the commencement of this Act it appears to the Tribunal that before the commencement of this Act any premium has been paid (whether lawfully required or not) in respect of the grant, continuance or renewal of a tenancy of the

Sections 1, 2, 5,  
17.

dwelling-house to which the application relates, whether by the tenant or by a previous tenant of the dwelling-house, and has not been fully repaid or recovered, the Tribunal shall, if the tenant so requires, certify that this Part of this Schedule applies, and thereupon—

1ST SCH.  
—cont.

- (a) except in a case falling within the next following sub-paragraph, the rent payable shall be limited in accordance with paragraph 2 of this Schedule;
- (b) where the Tribunal are satisfied that since the premium was paid and before the twenty-fifth day of March, nineteen hundred and forty-nine, the reversion had been conveyed or assigned for a consideration in money or money's worth, and so certify, the tenant of the dwelling-house at the time of the Tribunal's determination shall be entitled to recover from the person to whom the premium was paid such amount, if any, as is provided by paragraph 3 of this Schedule:

Provided that this paragraph shall not have effect where the Tribunal are satisfied that since the said grant, continuance or renewal the landlord has granted a tenancy of the dwelling-house under which, as against the landlord, a person became entitled to possession other than the person who was so entitled to possession of the dwelling-house immediately before that tenancy began.

2.—(1) Subject to the provisions of this paragraph, where sub-paragraph (a) of the last foregoing paragraph has effect, the rent payable by the tenant, or by any subsequent tenant, for any rent-period beginning after the Tribunal have issued their certificate and before the relevant date shall not, save as hereinafter provided, exceed the reasonable rent less the rental equivalent of the premium.

(2) Where under the principal Acts the landlord is permitted to increase the rent by reason of any circumstances arising after the determination by the Tribunal of the reasonable rent, then if the landlord has power so to do consistently with the contract of tenancy and the principal Acts he may recover the amount of the increase in addition to the amount, if any, which he may recover under the last foregoing sub-paragraph.

(3) Nothing in the foregoing provisions of this paragraph shall affect the rent payable for any rent-period after the landlord has granted a tenancy of the dwelling-house under which, as against the landlord, a person became entitled to possession other than the person who was so entitled to possession of the dwelling-house immediately before that tenancy began.

3.—(1) Where, in a case in which the Tribunal issue a certificate under sub-paragraph (b) of paragraph 1 of this Schedule, the existing rent is equal to or greater than the reasonable rent, the tenant shall be entitled to recover as mentioned in the said sub-paragraph (b) an amount equal to the product of—

- (a) the rental equivalent of the premium, and
- (b) the number of complete rent-periods in the period beginning with the date of the Tribunal's determination under section one of this Act and ending with the relevant date.

1st Sch.  
—cont.

(2) Where, in any such case as aforesaid, the existing rent is less than the reasonable rent, but the difference between them is less than the rental equivalent of the premium, the tenant shall be entitled to recover as mentioned in the said sub-paragraph (b) an amount equal to the product of—

- (a) the amount by which the rental equivalent of the premium exceeds the difference between the reasonable rent and the existing rent, and
- (b) the number of complete rent-periods mentioned in head (b) of the last foregoing sub-paragraph.

(3) Where the rent payable under the tenancy is a progressive rent, the foregoing provisions of this paragraph shall have effect as if for the references therein to the existing rent there were substituted references to the average rent payable under the tenancy over the period beginning with the commencement of the term, or of the continuance or renewal of a term, in respect of which the premium was paid and ending with the relevant date.

(4) In this paragraph the expression “existing rent” means the rent which would be payable by the tenant, apart from the provisions of section one of this Act and of this Schedule, for the rent-period comprising the date of the Tribunal’s determination of the reasonable rent.

4.—(1) Notwithstanding anything contained in the principal Acts, where the Tribunal issue a certificate under paragraph 1 of this Schedule with respect to any premium, so much of that premium as at the time when the certificate is issued has not been repaid or recovered shall not thereafter be recoverable otherwise than under the foregoing provisions of this Schedule.

(2) Save as provided in the last foregoing sub-paragraph, nothing in this Part of this Schedule shall prejudice any criminal proceedings against a person for having required any payment or the giving of any consideration in contravention of section eight of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.

## PART II

*Premiums allowed on assignment where before commencement of Act premium paid on grant of tenancy*

5.—(1) Where—

- (a) before the commencement of this Act a premium has been lawfully required, and paid, in respect of the grant, continuance or renewal of a tenancy to which section two of this Act applies, and
- (b) since the said grant, continuance or renewal the landlord has not granted a tenancy of the dwelling-house under which, as against the landlord, a person became entitled to possession other than the person who was so entitled to possession of the dwelling-house immediately before that tenancy began,

then, subject to the provisions of this paragraph, subsection (2) of the said section two shall not prevent the requiring, on any assignment

of the first-mentioned tenancy or of any subsequent tenancy of the same dwelling-house, of a premium not exceeding the amount hereinafter specified.

(2) Subject to the provisions of the next following sub-paragraph, the said amount is the amount which bears to the premium paid on the said grant, continuance or renewal the same proportion as the period beginning with the date at which the assignment takes effect and ending with the relevant date bears to the period beginning with the said grant, continuance or renewal and ending with the relevant date.

(3) Where before the assignment in question the Tribunal have issued a certificate under sub-paragraph (b) of paragraph 1 of this Schedule, then if the case falls within the following provisions of this sub-paragraph the foregoing provisions of this paragraph shall have effect subject to the following provisions, that is to say:—

- (a) if the existing rent is equal to or greater than the reasonable rent, the foregoing provisions of this paragraph shall not apply;
- (b) if the existing rent is less than the reasonable rent, but the difference between them is less than the rental equivalent of the premium therein mentioned, the last foregoing sub-paragraph shall apply as if the said premium were reduced by the product of—
  - (i) the amount by which the rental equivalent of that premium exceeds the difference between the reasonable rent and the existing rent, and
  - (ii) the number of complete rent-periods in the period beginning with the grant, continuance or renewal in respect of which the premium was paid and ending with the relevant date.

In this sub-paragraph the expression “existing rent” means the rent which would be payable by the tenant, apart from the provisions of section one of this Act and of this Schedule, for the rent-period comprising the date of the Tribunal’s determination of the reasonable rent.

### PART III

#### *Supplementary*

6.—(1) For the purposes of paragraphs 2, 3 and 5 of this Schedule the relevant date, in the case of an application to the Tribunal on which they issue a certificate under paragraph 1 of this Schedule as respects a premium paid in respect of the grant, continuance or renewal of any term, shall be ascertained as follows.

(2) Where the term is a term of years certain current when the application to the Tribunal is made, being a term exceeding seven years, or the continuance or renewal was for such a term of years certain, the relevant date shall be the date of the expiration of that term of years certain.

1ST SCH.  
—cont.

(3) In any case not falling within the last foregoing sub-paragraph, the relevant date shall be the date of the expiration of seven years from the commencement of the term, or of the continuance or renewal of a term, in respect of which the premium was paid.

(4) For the purposes of the two last foregoing sub-paragraphs, a term of years shall be deemed to be certain notwithstanding that it is liable to determination by re-entry or on the happening of any event other than the giving of notice by the landlord to determine the term; and a term of years determinable by the giving of such a notice as aforesaid by the landlord shall be deemed to be a term of years certain expiring on the earliest date on which such a notice given after the issuing of the certificate of the Tribunal would be capable of taking effect.

7. For the purposes of sub-paragraph (2) of paragraph 5 of this Schedule, the relevant date, in relation to an assignment taking effect where no such application has been made to the Tribunal as is mentioned in the last foregoing paragraph, shall be the date which would be the relevant date under the last foregoing paragraph in the case of such an application made at the date when the assignment takes effect.

8. In this Schedule the following expressions have the meanings hereby assigned to them respectively, that is to say:—

“ reasonable rent ” means the reasonable rent determined by the Tribunal under subsection (1) of section one of this Act;

“ rent-period ” means the period (whether weekly, monthly, annual or other) for which payments of rent are made;

“ rental equivalent ” means, in relation to any premium, the amount of the premium, or so much thereof as at the time of the issue of a certificate of the Tribunal under paragraph 1 of this Schedule has not been repaid or recovered, divided by the number of rent-periods between the commencement of the term, or of the continuance or renewal of a term, in respect of which the premium was paid and the relevant date;

“ reversion ”, in relation to the grant, continuance or renewal of a tenancy of a dwelling-house, means the estate or interest in the dwelling-house which, immediately after the grant, continuance or renewal of the tenancy, was expectant upon the determination of the term granted, continued or renewed.

9. Where, on an application to the Tribunal on which they issue a certificate under paragraph 1 of this Schedule, the rental equivalent of the premium exceeds the reasonable rent,—

(a) there shall be determined the date, being a date coinciding with the end of a rent-period, such that if that date were the relevant date the rental equivalent of the premium would be reduced so as to be as nearly as may be equal to, but not greater than, the reasonable rent; and

(b) paragraphs 2 to 7 of this Schedule shall have effect, in relation to that application, as if the date determined under the last foregoing sub-paragraph were the relevant date and the rental equivalent of the premium were reduced accordingly.

1st Sch.  
—cont.

10.—(1) It shall be the duty of the Tribunal, on any application to them on which they issue a certificate under paragraph 1 of this Schedule, to determine such of the following matters as are required to be determined for the purposes of the application, that is to say—

- (a) the rental equivalent of a premium;
- (b) the relevant date; and
- (c) the date referred to in sub-paragraph (a) of the last foregoing paragraph, and the amount which would be the amount of the rental equivalent of a premium if that date were the relevant date;

and the determination by the Tribunal of any of the said matters shall be conclusive for all purposes.

(2) The matters required to be contained in the register kept under section five of this Act shall include, in relation to any dwelling-house as respects which a certificate has been issued under paragraph 1 of this Schedule,—

- (a) that certificate and any other certificate issued under this Schedule as respects that dwelling-house;
- (b) any determination of the Tribunal made as respects that dwelling-house under any of the provisions of this Schedule.

## SECOND SCHEDULE

Section 17.

### MINOR AMENDMENTS

*Section*

*Amendment*

*Rent and Mortgage Interest Restrictions Act, 1939*  
2 & 3 Geo. 6. c. 71

Section eight ... For paragraph (d) there shall be substituted the following paragraph:—

“(d) for references to sections one hundred and twenty-eight and one hundred and twenty-nine of the Housing Act, 1936, there shall be respectively substituted references to sections thirty-nine and forty of the Housing (Scotland) Act, 1935, and for any reference to Part V of the Housing Act, 1936, there shall be substituted a reference to Part III of the Housing (Scotland) Act, 1925”.

M\*

2ND SCH.  
—cont.

## Section

## Amendment

*Rent of Furnished Houses Control (Scotland) Act, 1943  
6 & 7 Geo. 6. c. 44*

Section two ... In subsection (1) for the words from “ it shall be the duty ” to the end of the subsection there shall be substituted the words “ they may by a notice in writing served on the lessor require him to give to them within such period (which shall not be less than seven days from the date of the service of the notice) as may be specified in the notice such information as they may reasonably require regarding such of the prescribed particulars relating to the contract as are specified in the notice ”; in subsection (2) after the word “ Tribunal ” where it first occurs there shall be inserted the words “ then, unless at any time before the Tribunal have entered upon consideration of the reference it is withdrawn by the party or authority by whom it was made ”, and after the word “ reasonable ” there shall be inserted the words “ or may if they think fit in all the circumstances dismiss the reference ”; after subsection (3) there shall be inserted the following subsections:—

“ (3A) Notwithstanding anything in the foregoing provisions of this section, a Tribunal shall not be required to entertain a reference made otherwise than by the local authority if they are satisfied having regard to the length of time elapsing since a previous reference made by the same party or to other circumstances that the reference is frivolous or vexatious.”

“ (3B) An approval, reduction or increase under this section may be limited to rent payable in respect of a particular period ”; and for subsection (4) there shall be substituted the following subsection:—

“ (4) The Tribunal shall keep a register and shall cause to be entered therein with regard to any contract under which a rent is payable that has been approved, reduced or increased under this section,—

(a) the prescribed particulars with regard to the contract, including a specification of the premises to which the contract relates, and the rent, as approved, reduced or increased under this section, and



## Section

## Amendment

2ND SCH.

—cont.

*Rent of Furnished Houses Control (Scotland) Act, 1943*  
6 & 7 Geo. 6. c. 44—continued

Section two—cont.

(b) in a case in which the approval, reduction or increase is limited to rent payable in respect of a particular period, a specification of that period.

The Tribunal shall make the register available for inspection in such place or places and in such manner as the Secretary of State may direct."

Section three ... In subsection (1), after the words "such entry" there shall be inserted the words "(or in a case in which a particular period is specified, in respect of that period)".

Section seven ... In subsection (2) for the words from "to comply with" to "under this Act" there shall be substituted the words "within the time limited in that behalf to comply with the provisions of any notice served under subsection (1) of section two of this Act".

*Table of Statutes referred to in this Act*

| Short Title                                                            | Session and Chapter              |
|------------------------------------------------------------------------|----------------------------------|
| Interpretation Act, 1889 ... ..                                        | 52 & 53 Vict. c. 63.             |
| Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 ... .. | 10 & 11 Geo. 5. c. 17.           |
| Rent and Mortgage Interest Restrictions Act, 1923                      | 13 & 14 Geo. 5. c. 32.           |
| Housing (Scotland) Act, 1925 ... ..                                    | 15 & 16 Geo. 5. c. 15.           |
| Rent and Mortgage Interest Restrictions (Amendment) Act, 1933 ... ..   | 23 & 24 Geo. 5. c. 32.           |
| Housing (Scotland) Act, 1935 ... ..                                    | 25 & 26 Geo. 5. c. 41.           |
| Housing Act, 1936 ... ..                                               | 26 Geo. 5. & 1 Edw. 8.<br>c. 51. |
| Rent of Furnished Houses Control (Scotland) Act, 1943 ... ..           | 6 & 7 Geo. 6. c. 44.             |
| Furnished Houses (Rent Control) Act, 1946 ...                          | 9 & 10 Geo. 6. c. 34.            |
| New Towns Act, 1946 ... ..                                             | 9 & 10 Geo. 6. c. 68.            |

## CHAPTER 41

An Act to recognise and declare the constitutional position as to the part of Ireland heretofore known as Eire, and to make provision as to the name by which it may be known and the manner in which the law is to apply in relation to it; to declare and affirm the constitutional position and the territorial integrity of Northern Ireland and to amend, as respects the Parliament of the United Kingdom, the law relating to the qualifications of electors in constituencies in Northern Ireland; and for purposes connected with the matters aforesaid.

[2nd June 1949]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**Constitutional provisions.**

1.—(1) It is hereby recognized and declared that the part of Ireland heretofore known as Eire ceased, as from the eighteenth day of April, nineteen hundred and forty-nine, to be part of His Majesty's dominions.

(2) It is hereby declared that Northern Ireland remains part of His Majesty's dominions and of the United Kingdom and it is hereby affirmed that in no event will Northern Ireland or any part thereof cease to be part of His Majesty's dominions and of the United Kingdom without the consent of the Parliament of Northern Ireland.

(3) The part of Ireland referred to in subsection (1) of this section is hereafter in this Act referred to, and may in any Act, enactment or instrument passed or made after the passing of this Act be referred to, by the name attributed thereto by the law thereof, that is to say, as the Republic of Ireland.

**Republic of Ireland not a foreign country.**

2.—(1) It is hereby declared that, notwithstanding that the Republic of Ireland is not part of His Majesty's dominions, the Republic of Ireland is not a foreign country for the purposes of any law in force in any part of the United Kingdom or in any colony, protectorate or United Kingdom trust territory, whether by virtue of a rule of law or of an Act of Parliament or any other enactment or instrument whatsoever, whether passed or made before or after the passing of this Act, and references in any Act of Parliament, other enactment or instrument whatsoever, whether passed or made before or after the passing of this Act, to foreigners, aliens, foreign countries, and foreign or foreign-built ships or aircraft shall be construed accordingly.

(2) The person who, in the United Kingdom, is the chief representative of the Republic of Ireland or of the Government thereof shall, whatever the style of his office, have the same privileges and exemptions as to taxation and otherwise as fall to be accorded under the law for the time being in force to High Commissioners and Agents General within the meaning of section nineteen of the Finance Act, 1923, and his staff shall have the same privileges and exemptions as to taxation and otherwise as fall to be accorded under the law for the time being in force to their staffs. 13 & 14 Geo. 5. c. 14.

3.—(1) It is hereby declared that—

(a) the operation of the following statutory provisions, that is to say—

(i) the British Nationality Act, 1948 (and in particular, and without prejudice to the generality of the preceding words, sections two, three and six thereof);

(ii) so much of any Act, or of any Act of the Parliament of Northern Ireland, as gives effect, or enables effect to be given, to agreements or arrangements made at any time after the coming into operation of the original constitution of the Irish Free State, being agreements or arrangements made with the Government of, or otherwise affecting, the part of Ireland which now forms the Republic of Ireland, including agreements or arrangements made after the commencement of this Act; and

(iii) the Orders in Council made under sections five and six of the Irish Free State (Consequential Provisions) Act, 1922 (Session 2),

is not affected by the fact that the Republic of Ireland is not part of His Majesty's dominions; and

(b) that, in the said provisions, and in any Act of Parliament or other enactment or instrument whatsoever, so far as it operates as part of the law of, or of any part of, the United Kingdom or any colony, protectorate or United Kingdom trust territory, references to citizens of Eire include, on their true construction, references to citizens of the Republic of Ireland.

(2) Until provision to the contrary is made by Parliament or by some other authority having power in that behalf, the following provisions shall have effect as respects any Act of Parliament or other enactment or instrument whatsoever passed or made before the passing of this Act, so far as it operates as part of the law of, or of any part of, the United Kingdom or any

Other provisions as to operation of United Kingdom and colonial laws in relation to Republic of Ireland. 11 & 12 Geo. 6. c. 65.

13 Geo. 5. (Sess. 2) c. 1.

colony, protectorate or United Kingdom trust territory, that is to say—

- (a) if it contains a reference to His Majesty's dominions, or to any parts thereof, which would have extended so as in any way to include the Republic of Ireland had that part of Ireland remained part of His Majesty's dominions, it shall have effect, with any necessary adaptations, as if that reference did extend so as in that way to include the Republic of Ireland, notwithstanding that that part of Ireland is no longer part of His Majesty's dominions ; and
- (b) in particular and without prejudice to the generality of the preceding paragraph, if it contains a reference to all, or to any classes or descriptions of, British or British-built ships or aircraft which would have extended so as in any way to include all, or any classes or descriptions of, the ships or aircraft of or built in the Republic of Ireland had that part of Ireland remained part of His Majesty's dominions, it shall have effect, with any necessary adaptations, as if that reference did extend so as in that way to include all, or that class or description of, the ships or aircraft of or built in the Republic of Ireland, as the case may be, notwithstanding that that part of Ireland is no longer part of His Majesty's dominions.

1 Edw. 8 & 1 Geo. 6. c. 16. (3) The last preceding subsection shall not apply to so much of section two of the Regency Act, 1937, as requires that a declaration under that section of the incapacity or unavailability of the Sovereign should be communicated to the Governments of His Majesty's dominions, and nothing in this section shall be construed as implying that any alteration in the law touching the Succession to the Throne or the Royal Style and Titles requires the assent of the Parliament of the Republic of Ireland.

Transitional provisions as to references in Acts, etc. 11 & 12 Geo. 6. c. 56. 4.—(1) Subject to the provisions of subsection (4) of this section, subsection (2) of section three of the British Nationality Act, 1948 (which relates to the effect of existing Acts of Parliament and other enactments and instruments) shall have effect in relation to Acts, enactments or instruments passed or made before the end of the year nineteen hundred and forty-nine as it has effect in relation to Acts, enactments or instruments in force at the date of the commencement of that Act.

(2) Subject to the provisions of subsection (4) of this section, subsection (2) of the last preceding section shall have effect in relation to Acts, enactments or instruments passed or made before the end of the year nineteen hundred and forty-nine as it has effect in relation to Acts, enactments or instruments passed or made before the passing of this Act.

(3) Where, whether by virtue of the preceding provisions of this section or otherwise, subsection (2) of section three of the British Nationality Act, 1948, or subsection (2) of the last preceding section has effect in relation to any Act, enactment or instrument, it shall, subject to the provisions of subsection (4) of this section, have effect also in relation to any other Act, enactment or instrument which, whether expressly or by implication, is required to be construed in the same way as that Act, enactment or instrument.

(4) The preceding provisions of this section have effect in relation to any Act, enactment or instrument only in so far as a contrary intention does not appear in that Act, enactment or instrument:

Provided that the fact that an Act, enactment or instrument refers to a British subject, or to, or to any part of, His Majesty's dominions, or to a British or British-built ship or aircraft, without referring to a citizen of the Republic of Ireland, to the Republic of Ireland or to a ship or aircraft of or built in the Republic of Ireland shall not of itself be taken as indicating a contrary intention for the purposes of this subsection, and the same principle of construction shall be applied to other similar expressions.

5.—(1) A person who—

- (a) was born before the sixth day of December, nineteen hundred and twenty-two, in the part of Ireland which now forms the Republic of Ireland ; and
- (b) was a British subject immediately before the date of the commencement of the British Nationality Act, 1948,

Provisions as to operation of British Nationality Act, 1948.

shall not be deemed to have ceased to be a British subject on the coming into force of that Act unless either—

- (i) he was, on the said sixth day of December, domiciled in the part of Ireland which now forms the Republic of Ireland ; or
- (ii) he was, on or after the tenth day of April nineteen hundred and thirty-five, and before the date of the commencement of that Act, permanently resident in that part of Ireland ; or
- (iii) he had, before the date of the commencement of that Act, been registered as a citizen of Eire under the laws of that part of Ireland relating to citizenship.

(2) In relation to persons born before the said sixth day of December in the part of Ireland which now forms the Republic of Ireland, being persons who do not satisfy any of the conditions specified in paragraphs (i), (ii) and (iii) of subsection (1) of this section, sections twelve and thirteen of the said Act (which relate to citizenship of the United Kingdom and Colonies and to British subjects without citizenship) shall have effect and be deemed always to have had effect as if, in paragraph (a) of

subsection (4) of the said section twelve, the words " or a citizen of Eire " and in subsection (1) of the said section thirteen, the words " or of Eire " were omitted.

(3) So much of the said Act as has the effect of providing that a person is, in specified circumstances, to be treated for the purposes of that Act as having been a British subject immediately before the commencement thereof shall apply also for the purposes of this section.

(4) Nothing in this section affects the position of any person who, on the coming into force of the British Nationality Act, 1948, became a citizen of the United Kingdom and Colonies or a British subject without citizenship apart from the provisions of this section.

Residence  
qualification  
for electors in  
constituencies  
in Northern  
Ireland.

6.—(1) Notwithstanding anything in the Representation of the People Act, 1948, a person shall not be entitled to vote as an elector at an election of a person to serve as a Member of the Parliament of the United Kingdom for a constituency in Northern Ireland unless he was resident in Northern Ireland during the whole of the period of three months ending on the qualifying date for that election.

(2) Subsection (2) of section two of the Representation of the People Act, 1948 (which specifies the cases where a person's residence is not to be deemed to be interrupted) and subsection (3) of that section (which provides that a person detained in a mental hospital or prison is not to be treated as resident there) shall apply for the purposes of the preceding subsection as they apply for the purposes of section one of that Act.

(3) The preceding provisions of this section shall not affect the right to vote of any service voter, and a person ceasing to have a service qualification shall be treated for the purposes of subsection (1) of this section as if he were resident in Northern Ireland during the period during which he had a service qualification.

(4) The register of parliamentary electors shall, for the purposes of Part I of the Representation of the People Act, 1948, be conclusive on the question whether or not a person registered as an elector in a constituency in Northern Ireland was resident in Northern Ireland during the whole of the period of three months ending on the qualifying date.

(5) This section shall be construed as if enacted in Part I of the Representation of the People Act, 1948:

Provided that this section shall not have effect with respect to the first register to be prepared under that Act or the elections, if any, for which that register is used.

- 7.—(1) This Act may be cited as the Ireland Act, 1949. Short title,  
interpretation  
and com-  
mencement.
- (2) References in this Act to colonies, protectorates and United Kingdom trust territories shall be construed as if they were references contained in the British Nationality Act, 1948.
- (3) Save as otherwise expressly provided, this Act shall be deemed to have had effect as from the eighteenth day of April, nineteen hundred and forty-nine.

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## CHAPTER 42

### *Lands Tribunal Act, 1949*

#### ARRANGEMENT OF SECTIONS

Section

1. Establishment and jurisdiction of Lands Tribunal.
2. Members, officers and expenses of Lands Tribunal.
3. Procedure, appeals, costs and fees.
4. Power to add to jurisdiction of Lands Tribunal.
5. Failure to deliver notice of claim.
6. Compensation for loss of office.
7. Savings, etc.
8. Interpretation.
9. Application to Northern Ireland.
10. Short title, commencement, transitional provisions and repeal.

SCHEDULES :

First Schedule.—Procedural Provisions of Acquisition of Land Act Amended and Applied.

Part I.—Amendments.

Part II.—Provisions Reprinted as Amended.

Second Schedule.—Repeals.

An Act to establish new tribunals to determine in place of official arbitrators and others certain questions relating to compensation for the compulsory acquisition of land and other matters, to amend the Acquisition of Land (Assessment of Compensation) Act, 1919, with respect to the failure to deliver a notice of claim, and for purposes connected therewith. [14th July 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

- 1.—(1) There shall be set up, to exercise the jurisdiction hereafter mentioned in this Act, the following tribunals, namely—
- (a) a tribunal for Scotland, to be called “the Lands Tribunal for Scotland”; and
- Establishment  
and  
jurisdiction  
of Lands  
Tribunal.

(b) a tribunal for the remainder of the United Kingdom, to be called "the Lands Tribunal."

(2) Except in so far as the context otherwise requires, references in this Act to the Lands Tribunal shall be taken, in relation to Scotland, as references to the Lands Tribunal for Scotland

(3) There shall be referred to and determined by the Lands Tribunal—

(a) any question which is by any Act (including a local or private Act) directed, in whatever terms, to be determined by a person or one or more persons selected from either of the following panels, that is to say,—

(i) the panel of official arbitrators appointed under the Acquisition of Land Act; and

(ii) the panel of referees appointed under Part I of the Finance (1909-10) Act, 1910; or which is so directed to be determined in the absence of agreement to the contrary;

(b) any other question of disputed compensation under the Lands Clauses Acts, where the claim is for the injurious affection of any land and is against an authority to whom the Acquisition of Land Act applies;

(c) any question arising on an acquisition by any such authority as to the apportionment mentioned in section one hundred and sixteen of the Lands Clauses Consolidation Act, 1845, of any rent charge or other matter to which that section applies;

(d) any dispute arising in relation to the determination of the development values of interests in land by the Central Land Board or other authority prescribed under section sixty of the Town and Country Planning Act, 1947;

(e) any question on which, but for this provision, an appeal or reference to the county court would or might be made by virtue of section forty-nine, sixty-two or eighty-seven of the Local Government Act, 1948.

(4) The Lands Tribunal shall also exercise—

(a) the jurisdiction conferred on the Authority under section eighty-four of the Law of Property Act, 1925 (which relates to the discharge and modification of restrictive covenants); and

(b) any other jurisdiction conferred by any Act (including a local or private Act), or instrument made under any such Act, on a person or one or more persons selected as mentioned in paragraph (a) of the last foregoing subsection (including the power to give a certificate of value conferred by section nine of the Acquisition of Land Act).



(5) The Lands Tribunal may also act as arbitrator under a reference by consent, and any agreement entered into before the commencement of this Act which provides for referring any matter to arbitration by a person or one or more persons selected as aforesaid shall, subject to any subsequent agreement, have effect as if it provided for referring the matter to arbitration by the Lands Tribunal.

(6) Where an authority to whom the Acquisition of Land Act applies is or may be liable for any compensation falling to be determined under section fifty-eight or one hundred and six of the Lands Clauses Consolidation Act, 1845 (which sections relate to the procedure in default of a claimant), the surveyor referred to in those sections, instead of being appointed in accordance therewith, shall be selected as hereinafter mentioned from the members of the Lands Tribunal.

(7) References in this section to an authority to whom the Acquisition of Land Act applies include any body of persons which is, or is directed by any enactment to be treated as, a local or public authority within the meaning of that Act.

(8) In relation to the Lands Tribunal for Scotland this section shall have effect with the substitution—

(a) of references to sections fifty-seven, ninety-seven and one hundred and nine of the Lands Clauses Consolidation (Scotland) Act, 1845, for the references to sections fifty-eight, one hundred and six and one hundred and sixteen respectively of the Lands Clauses Consolidation Act, 1845; and

(b) of a reference to section fifty-seven of the Town and Country Planning (Scotland) Act, 1947, for the reference to section sixty of the Town and Country Planning Act, 1947.

2.—(1) The Lands Tribunal shall consist of a President and such number of other members as the Lord Chancellor may determine, to be appointed by the Lord Chancellor.

Members,  
officers and  
expenses of  
Lands  
Tribunal.

(2) The President shall be either a person who has held judicial office under the Crown (whether in the United Kingdom or not) or a barrister-at-law of at least seven years' standing, and of the other members of the Lands Tribunal such number as the Lord Chancellor may determine shall be barristers-at-law or solicitors of the like standing and the others shall be persons who have had experience in the valuation of land appointed after consultation with the president of the Royal Institution of Chartered Surveyors.

(3) In the case of the temporary absence or inability to act of the President, the Lord Chancellor may appoint another member

of the Lands Tribunal to act as deputy for the President, and a member so appointed shall, when so acting, have all the functions of the President.

(4) If a member of the Lands Tribunal becomes, in the opinion of the Lord Chancellor, unfit to continue in office or incapable of performing his duties, the Lord Chancellor shall forthwith declare his office to be vacant and shall notify the fact in such manner as he thinks fit, and thereupon the office shall become vacant.

(5) Subject to the last foregoing subsection, the appointment of a member of the Lands Tribunal shall be for such term as may be determined by the Lord Chancellor, with the approval of the Treasury, before his appointment, and shall be subject to such conditions as may be so determined, and a person who ceases to hold office as a member of the Lands Tribunal shall be eligible for re-appointment thereto.

(6) There may be paid to the members of the Lands Tribunal such remuneration, and such travelling and subsistence allowances, and to persons who have been members thereof such superannuation allowances, as the Lord Chancellor may, with the approval of the Treasury, determine.

(7) The Lord Chancellor may appoint such officers and servants of the Lands Tribunal as he may, with the approval of the Treasury as to numbers and remuneration, determine.

(8) The remuneration and allowances of members and superannuation allowances of past members of the Lands Tribunal, the remuneration of the officers and servants appointed by the Lord Chancellor, and such other expenses of the Lands Tribunal as the Treasury may determine, shall be defrayed out of moneys provided by Parliament.

(9) In relation to the Lands Tribunal for Scotland this section shall have effect with the substitution—

- (a) of references to the Lord President of the Court of Session or, in subsections (5) to (8), to the Secretary of State for references to the Lord Chancellor ;
- (b) of a reference to the chairman of the Scottish Branch of the Royal Institution of Chartered Surveyors for the reference to the President of that institution ;
- (c) of references to an advocate for references to a barrister-at-law.

Procedure,  
appeals,  
costs and  
fees.

3.—(1) Subject to the provisions of this Act, the jurisdiction of the Lands Tribunal may be exercised by any one or more of its members, and references in this Act to the Lands Tribunal shall be construed accordingly.

(2) The member or members who is or are to deal with any case shall be selected as follows:—

- (a) the President may select a member or members to deal with a particular case or class or group of cases; or
- (b) the President may select for a class or group of cases members from amongst whom a member or members to deal with any particular case shall be selected, and the selection from amongst those members of a member or members to deal with a particular case shall then be made either by the President or, if he so directs, by one of those members appointed by the President to be their chairman.

This subsection shall apply to the selection of a member of the Lands Tribunal for the purposes of subsection (6) of section one of this Act as if the case were one to be dealt with by the Lands Tribunal.

(3) Where a case is dealt with by two or more members of the Tribunal—

- (a) if the President is one of them he shall preside at the hearing and, if he is not, one of them shall be nominated to preside at the hearing by the person selecting them to deal with the case;
- (b) a decision shall be taken, in the event of a difference between the members dealing with the case, by the votes of the majority and, in the event of an equality of votes, the person presiding at the hearing shall be entitled to a second or casting vote.

(4) A decision of the Lands Tribunal shall be final:

Provided that any person aggrieved by the decision as being erroneous in point of law may, within such time as may be limited by rules of court, require the tribunal to state and sign a case for the decision of the court and, where the decision of the Lands Tribunal is given on a review by way of appeal of the previous decision of another person, that person if dissatisfied with the decision of the Lands Tribunal shall be treated for this purpose as a person aggrieved thereby.

(5) Subject to the following provisions of this section, the Lands Tribunal may order that the costs of any proceedings before it incurred by any party shall be paid by any other party and may tax or settle the amount of any costs to be paid under any such order or direct in what manner they are to be taxed.

(6) Subject to the provisions of this Act, rules may be made for regulating proceedings before the Lands Tribunal and, subject to the approval of the Treasury, the fees chargeable in respect of those proceedings, and may in particular—

(a) make provision—

- (i) as to the form in which any decision of the Tribunal is to be given, and as to the amendment

of any such decision in pursuance of any directions which may be given by the court dealing with an appeal under this section ;

(ii) as to the time within which any proceedings before the Tribunal are to be instituted ;

(iii) as to the evidence which may be required or admitted in any such proceedings ;

(b) provide for the Tribunal to sit with assessors when dealing with cases calling for special knowledge and, subject to the approval of the Treasury, for making payments to the assessors as part of the expenses of the Tribunal ;

(c) apply in relation to the Tribunal any of the provisions of the Arbitration Acts, 1889 to 1934.

(7) Sections three to five of the Acquisition of Land Act (so far as they are not made inapplicable by the foregoing provisions of this section) shall be amended as directed by Part I of the First Schedule to this Act and shall accordingly apply in relation to proceedings before the Lands Tribunal as set out in Part II of that Schedule :

Provided that (subject to any rules made under this section) the said sections shall apply in relation to any proceedings under an Act passed before this Act only in so far as they would have applied in relation to such proceedings if this Act had not been passed.

(8) Where the Lands Tribunal acts as arbitrator, the Arbitration Acts, 1889 to 1934, shall apply only in so far as they are applied by rules made under this section.

(9) Subject to this Act, any rules made by the Reference Committee under the Acquisition of Land Act, or by the Reference Committee under the Finance (1909-10) Act, 1910, which are in force immediately before the commencement of this Act shall, so far as they relate to matters with respect to which there is power to make rules under this section, have effect with any necessary modifications as if made in the exercise of that power ; and any instrument prescribing the fees chargeable under either of the said Acts which is then in force shall also have effect as aforesaid.

Subject to this Act any reference to rules made by either of the said Committees or to any such instrument as aforesaid shall, unless the context otherwise requires, include a reference to the rules made or having effect under this section.

(10) Rules made under this section shall provide for preserving, so far as appears to the rule-making authority to be practicable, the effect of things done before the commencement of this Act in or for the purposes of the exercise of any jurisdiction

transferred by this Act to the Lands Tribunal, and those rules may exclude the operation of this Act, in whole or in part, in relation to any proceedings pending at the commencement of this Act.

(11) Subject to the following subsection—

- (a) the court referred to in subsection (4) of this section shall be the Court of Appeal ;
- (b) the rule-making authority for the purposes of this Act shall be the Lord Chancellor.

(12) In relation to the Lands Tribunal for Scotland, the following provisions shall have effect :—

- (a) the court referred to in subsection (4) of this section shall be the Court of Session, and no appeal shall lie from a decision of the Court of Session on a case stated under that subsection except with the leave of that court ;
- (b) the rule-making authority for the purposes of this Act shall be the Lord President of the Court of Session ;
- (c) paragraph (c) of subsection (6) of this section shall not apply but the Lands Tribunal for Scotland shall have the like powers for securing the attendance of witnesses and the production of documents, and with regard to the examination of witnesses on oath, as if the Tribunal were an arbiter under a submission, and any order of the Tribunal may be recorded for execution in the Books of Council and Session and shall be enforceable accordingly.

4.—(1) His Majesty may by Order in Council direct that questions which are required or authorised by any Act (including a local or private Act), or instrument made under any such Act, to be determined by any statutory tribunal shall or may be determined instead by the Lands Tribunal if it appears to His Majesty—

- (a) that the questions are appropriate for the Lands Tribunal as involving valuation of land or for other reasons ; and
- (b) that it is desirable to transfer the jurisdiction to determine those questions from the first-mentioned tribunal to the Lands Tribunal either—
  - (i) to promote uniformity of decision ; or
  - (ii) to use economically the services of those having experience in the valuation of land or other special qualifications ; or
  - (iii) to make possible the winding up of a statutory tribunal having little work to do.

(2) The foregoing subsection shall authorise a transfer of the jurisdiction conferred on a statutory tribunal by or under an Act passed after this Act unless that Act contains a direction to the contrary :

Provided that where the jurisdiction is first conferred on the tribunal by or under an Act so passed sub-paragraphs (i) and (ii) of paragraph (b) of the foregoing subsection shall not apply.

(3) An Order in Council under this section may contain such supplementary and consequential provisions as appear to His Majesty to be expedient, and any such provisions may be revoked or varied by a subsequent Order in Council or, if the Order in Council so provides, by rules made under this Act.

(4) Without prejudice to the generality of the last foregoing subsection, the provisions thereby authorised to be contained in an Order in Council shall include provisions for the following purposes, that is to say—

- (a) making decisions of the Lands Tribunal in the exercise of the jurisdiction transferred enforceable in the same way as those of the statutory tribunal from which the jurisdiction is transferred ;
- (b) making special provision as to the selection of members to deal with a case and as to their sitting with assessors ;
- (c) applying with or without modifications to the exercise of that jurisdiction by the Lands Tribunal, or repealing, any provisions as to procedure which governed its exercise by the said statutory tribunal ;
- (d) preserving the effect of things done in or for the purpose of the exercise of that jurisdiction by the said statutory tribunal.

(5) Where the Lands Tribunal is exercising a jurisdiction transferred to it by virtue of this section, section three of this Act shall have effect subject to the provisions of any Order in Council under this section with respect to that jurisdiction.

(6) Any Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section the expression “ statutory tribunal ” means any Government department, authority or person entrusted with the judicial determination as arbitrator or otherwise of questions arising under an Act of Parliament, except that the expression does not include—

- (a) any of the ordinary courts of law or a tribunal consisting of one or more judges of any of those courts ; or
- (b) an arbitrator unless the person to act as arbitrator is designated, or is to be selected from a class or group of persons designated, by the Act or instrument requiring or authorising arbitration.

5.—(1) Where a claimant is required by subsection (2) of section five of the Acquisition of Land Act to deliver a notice of claim and fails to comply with the provisions of that subsection with respect to that notice, the provisions thereof with respect to the withdrawal of notices to treat shall apply subject to the modifications hereafter provided for by this section.

(2) Where this section applies—

(a) the power to withdraw notices to treat, instead of being exercisable within six weeks after the delivery by the claimant of a notice of claim, shall be exercisable at any time after the decision of the Lands Tribunal on the claim not exceeding six weeks from the final determination thereof;

(b) the claimant shall not be entitled to any compensation under the said subsection (2) in respect of any loss or expenses incurred after the time when, in the opinion of the Lands Tribunal, a proper notice of claim should have been delivered.

(3) Notwithstanding anything in the last foregoing subsection the acquiring authority shall not be entitled under this section to withdraw a notice to treat after the authority has entered into possession of the land by virtue of the notice.

(4) So long as the acquiring authority is entitled to withdraw a notice to treat under this section, the authority shall not be compellable to take the lands to which the notice relates or to pay any compensation awarded in respect of the taking.

(5) For the purposes of this section, a claim shall not be deemed to be finally determined so long as the time for requiring the Lands Tribunal to state a case with respect thereto, or for appealing from any decision on the points raised by a case so stated, has not expired.

(6) This section shall not be taken to confer any power to withdraw a notice to treat where the power conferred by subsection (2) of section five of the Acquisition of Land Act is excluded by any enactment, nor to prejudice any enactment conferring power to withdraw a notice to treat apart from the said subsection (2).

6.—(1) The Treasury may by regulations provide for the payment of compensation to persons suffering loss of office or employment, or loss or diminution of emoluments, which is attributable to the transfer of any jurisdiction to the Lands Tribunal by or under this Act.

(2) The regulations may include provision as to the manner in which, and the persons to whom, any claim for compensation thereunder is to be made and for the determination of questions arising thereunder.

(3) Any compensation under this section shall be paid out of moneys provided by Parliament.

**Savings, etc.**

7.—(1) The transfer of any jurisdiction to the Lands Tribunal by or under this Act shall not affect the principles on which any question is to be determined or the persons on whom the determination is binding, or any provision which requires particular matters to be expressly dealt with or embodied in the determination, or which relates to evidence and is not contained in the Acquisition of Land Act.

(2) The transfer to the Lands Tribunal by subsection (4) of section one of this Act, or by an Order in Council under section four thereof, of any jurisdiction conferred on some other tribunal or person by an instrument made under any Act shall not be taken as affecting the power by virtue of which that instrument was made, and the provision conferring that power shall accordingly have effect as from the transfer as if it directed the jurisdiction to be exercised by the Lands Tribunal as provided by or under this Act, except in so far as provision to the contrary is thereafter made in pursuance of the said power.

(3) Nothing in this Act shall affect the operation of any enactment applying or giving power to apply the Acquisition of Land Act or any provision thereof in relation to the exercise of a jurisdiction not transferred by or under this Act, except that any enactment applying or giving power to apply subsection (2) of section five of that Act as aforesaid shall have the like operation in relation to section five of this Act.

**Interpretation.**

8.—(1) In this Act—

“the Acquisition of Land Act” means the Acquisition of Land (Assessment of Compensation) Act, 1919;

“arbitrator”, in relation to Scotland, means arbiter;

“barrister-at-law” means a member of the bar whether of England or Northern Ireland or both.

(2) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as referring to that enactment as amended, extended or applied by any other enactment.

(3) Any power under this Act to make rules shall be exercisable by statutory instrument, and the Statutory Instruments Act, 1946, shall apply to a statutory instrument containing rules made under this Act by the Lord President of the Court of Session in like manner as if the rules had been made by a Minister of the Crown.



9.—(1) This Act shall not affect the law in force in Northern Ireland, except in relation to the transfer of any jurisdiction to the Lands Tribunal under section four thereof and in relation to any jurisdiction so transferred. Application to Northern Ireland.

(2) The said section four in its application to Northern Ireland shall not authorise the transfer of any jurisdiction to the Lands Tribunal if it appears to His Majesty that the jurisdiction relates exclusively to matters with respect to which the Parliament of Northern Ireland has power to make laws.

(3) The supplementary and consequential provisions authorised by subsection (3) of the said section four to be contained in an Order in Council under that section shall include provisions for the following purposes, that is to say, for the hearing by His Majesty's Court of Appeal in Northern Ireland of cases stated under subsection (4) of section three of this Act, for the taxation by an officer of the Supreme Court of Judicature of Northern Ireland of any such costs as are referred to in subsection (5) of the said section three and for the application and adaptation of enactments of the Parliament of Northern Ireland.

10.—(1) This Act may be cited as the Lands Tribunal Act, 1949. Short title, commencement, transitional provisions and repeal.

(2) Sections one to four of this Act shall come into force on such day as His Majesty may by Order in Council appoint, and different days may be appointed for Scotland and for the remainder of the United Kingdom.

(3) References in this Act to the commencement thereof refer, in relation to any part of the United Kingdom, to the beginning of the day so appointed for that part, and the following provisions shall have effect as respects proceedings begun before the commencement of this Act, namely:—

- (a) subsection (2) of section six of the Acquisition of Land Act shall not apply to any decision of the High Court or of either division of the Court of Session giving the opinion of that court or division on a case stated under that section except a decision given before the date of the passing of this Act, and there shall be the same right of appeal against any such decision given on or after that date as against the final decision of an action in that court or division:

Provided that an appeal to the House of Lords from a decision of a division of the Court of Session shall lie only with the leave of the division;

- (b) section five of this Act shall have effect with the modifications necessary to adapt it to proceedings before an official arbitrator instead of the Lands Tribunal.

(4) The enactments specified in the Second Schedule to this Act are hereby repealed, as from the commencement of this Act, to the extent specified in the third column of that Schedule:

Provided that (without prejudice to the operation either of any provision of the Interpretation Act, 1889, as to the effect of repeals or of any provision of this Act giving power to make rules as to pending proceedings) the repeal of any enactment by this section shall not affect its operation in cases where a decision has been given before the commencement of this Act, so far as relates to appeals, cases stated, costs or fees.

## SCHEDULES

Section 3.

### FIRST SCHEDULE

#### PROCEDURAL PROVISIONS OF ACQUISITION OF LAND ACT AMENDED AND APPLIED

##### PART I

##### AMENDMENTS

1.—(1) Subject to the following sub-paragraph, in subsections (1), (3) and (5) of section three and in subsections (1) to (4) and (6) of section five, for the words “an official arbitrator,” the words “the official arbitrator,” and the word “he” where referring to an official arbitrator, there shall be substituted the words “the Lands Tribunal.”

(2) In subsection (4) of the said section five the words from the beginning to the word “and” where last occurring shall be omitted.

2. In subsection (2) of the said section three for the words “an official arbitrator” there shall be substituted the words “a member of the Lands Tribunal” and at the end of the subsection there shall be added the words “or to him and other members”.

3. In subsection (4) of the said section three for the words “The official arbitrator” there shall be substituted the words “A member of the Lands Tribunal” and at the end of the subsection there shall be added the words “or before him and other members.”

4. In section four for the words “official arbitrator” there shall be substituted the words “member or members of the Lands Tribunal” and for the words “Reference Committee,” there shall be substituted the words “rule-making authority”.

## PART II

## PROVISIONS REPRINTED AS AMENDED

3.—(1) In any proceedings before the Lands Tribunal, not more than one expert witness on either side shall be heard unless the Lands Tribunal otherwise directs:

Provided that, where the claim includes a claim for compensation in respect of minerals, or disturbance of business, as well as in respect of land, one additional expert witness on either side on the value of the minerals or, as the case may be, on the damage suffered by reason of the disturbance may be allowed.

(2) It shall not be necessary for a member of the Lands Tribunal to make any declaration before entering into the consideration of any matter referred to him or to him and other members.

(3) The Lands Tribunal shall, on the application of either party, specify the amount awarded in respect of any particular matter the subject of the award.

(4) A member of the Lands Tribunal shall be entitled to enter on and inspect any land which is the subject of proceedings before him or before him and other members.

(5) Proceedings under this Act shall be heard by the Lands Tribunal sitting in public.

4. Where notices to treat have been served for the acquisition of the several interests in the land to be acquired, the claims of the persons entitled to such interests shall, so far as practicable, and so far as not agreed and if the acquiring authority so desire, be heard and determined by the same member or members of the Lands Tribunal, and the rule-making authority may make rules providing that such claims shall be heard together, but the value of the several interests in the land having a market value shall be separately assessed.

5.—(1) Where the acquiring authority has made an unconditional offer in writing of any sum as compensation to any claimant and the sum awarded by the Lands Tribunal to that claimant does not exceed the sum offered, the Lands Tribunal shall, unless for special reasons the Lands Tribunal thinks proper not to do so, order the claimant to bear his own costs and to pay the costs of the acquiring authority so far as such costs were incurred after the offer was made.

(2) If the Lands Tribunal is satisfied that a claimant has failed to deliver to the acquiring authority a notice in writing of the amount claimed by him giving sufficient particulars and in sufficient time to enable the acquiring authority to make a proper offer, the foregoing provisions of this section shall apply as if an unconditional offer had been made by the acquiring authority at the time when in the opinion of the Lands Tribunal sufficient particulars should have been furnished and the claimant had been awarded a sum not exceeding the amount of such offer.

The notice of claim shall state the exact nature of the interest in respect of which compensation is claimed, and give details of the compensation claimed, distinguishing the amounts under separate heads

1ST SCH.  
—cont.

and showing how the amount claimed under each head is calculated, and when such a notice of claim has been delivered the acquiring authority may, at any time within six weeks after the delivery thereof, withdraw any notice to treat which has been served on the claimant or on any other person interested in the land authorised to be acquired, but shall be liable to pay compensation to any such claimant or other person for any loss or expenses occasioned by the notice to treat having been given to him and withdrawn and the amount of such compensation shall, in default of agreement, be determined by the Lands Tribunal.

(3) Where a claimant has made an unconditional offer in writing to accept any sum as compensation and has complied with the provisions of the last preceding subsection, and the sum awarded is equal to or exceeds that sum, the Lands Tribunal shall, unless for special reasons the Lands Tribunal thinks proper not to do so, order the acquiring authority to bear their own costs and to pay the costs of the claimant so far as such costs were incurred after the offer was made.

(4) The Lands Tribunal may in any case disallow the cost of counsel.

(6) Where the Lands Tribunal orders the claimant to pay the costs or any part of the costs, of the acquiring authority, the acquiring authority may deduct the amount so payable by the claimant from the amount of the compensation payable to him.

(7) Without prejudice to any other method of recovery, the amount of costs ordered to be paid by a claimant, or such part thereof as is not covered by such deduction as aforesaid shall be recoverable from him by the acquiring authority summarily as a civil debt.

Section 10.

SECOND SCHEDULE  
REPEALS

| Session and Chapter         | Short Title                                                     | Extent of Repeal                                                                                                                                                                                                                                                      |
|-----------------------------|-----------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 8 Edw. 7. c. 36             | The Small Holdings and Allotments Act, 1908.                    | In Part I of the First Schedule, in paragraph (5) the words "counsel or" except in their application to a public inquiry, and paragraph (6).                                                                                                                          |
| 10 Edw. 7 & 1 Geo. 5. c. 8. | The Finance (1909-10) Act, 1910.                                | In section thirty-three, subsection (2) from the first "and" onwards and subsections (3) to (5); section thirty-four.                                                                                                                                                 |
| 1 & 2 Geo. 5. c. 2.         | The Revenue Act, 1911 ...                                       | Section seven.                                                                                                                                                                                                                                                        |
| 9 & 10 Geo. 5. c. 57.       | The Acquisition of Land (Assessment of Compensation) Act, 1919. | Subsections (2) to (5) of section one; in section two the words from "For the purposes of this section" onwards; subsections (6) and (7) of section three; in section five, subsection (4) to the last "and" and subsections (5) and (8); section six; section eight. |

2ND SCH.  
—cont.

| Session and Chapter                | Short Title                                                                | Extent of Repeal                                                                                                                                                                                                                                   |
|------------------------------------|----------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 15 & 16 Geo. 5.<br>c. 20.          | The Law of Property Act, 1925.                                             | In section eighty-four, subsection (4), subsection (5) from "but" onwards and subsection (10).                                                                                                                                                     |
| 16 & 17 Geo. 5.<br>c. 52.          | The Small Holdings and Allotments Act, 1926.                               | In paragraph (b) of subsection (3) of section seventeen the words "counsel or", the words "and of fixing scales of costs" and the words "and scales so fixed".                                                                                     |
| 21 & 22 Geo. 5.<br>c. 11.          | The Acquisition of Land (Assessment of Compensation) (Scotland) Act, 1931. | The whole Act.                                                                                                                                                                                                                                     |
| 22 & 23 Geo. 5.<br>c. 55.          | The Administration of Justice Act, 1932.                                   | Section six.                                                                                                                                                                                                                                       |
| 25 & 26 Geo. 5.<br>c. 15.          | The Post Office (Amendment) Act, 1935.                                     | Subsection (2) of section five except as respects the Isle of Man.                                                                                                                                                                                 |
| 25 & 26 Geo. 5.<br>c. 41.          | The Housing (Scotland) Act, 1935.                                          | In paragraph (a) of subsection (6) of section eighty-two the words "unless the authority and the undertakers otherwise agree" and the words from "who" onwards.                                                                                    |
| 26 Geo. 5 &<br>1 Edw. 8.<br>c. 51. | The Housing Act, 1936...                                                   | In paragraph (a) of subsection (6) of section forty-nine the words "unless the authority and the undertakers otherwise agree" and the words from "who" onwards; in subsection (1) of section fifty-five the words from "by arbitration" to "1919". |
| 2 & 3 Geo. 6.<br>c. 31.            | The Civil Defence Act, 1939.                                               | In section seventy-four subsections (2), (4) and (5).                                                                                                                                                                                              |
| 7 & 8 Geo. 6.<br>c. 47.            | The Town and Country Planning Act, 1944.                                   | Sub-paragraph (2) of paragraph 9 of the Sixth Schedule.                                                                                                                                                                                            |
| 8 & 9 Geo. 6.<br>c. 33.            | The Town and Country Planning (Scotland) Act, 1945.                        | Sub-paragraph (2) of paragraph 9 of the Sixth Schedule.                                                                                                                                                                                            |
| 9 & 10 Geo. 6.<br>c. 70.           | The Civil Aviation Act, 1946.                                              | In subsection (4) of section twenty-seven, in subsection (3) of section thirty-one and in paragraph 12 of the Fourth Schedule, the words from "and rules" onwards.                                                                                 |
| 9 & 10 Geo. 6.<br>c. 80.           | The Atomic Energy Act, 1946.                                               | In the First Schedule, paragraph 9 from "and rules" onwards.                                                                                                                                                                                       |
| 10 & 11 Geo. 6.<br>c. 51.          | The Town and Country Planning Act, 1947.                                   | Paragraph (a) of subsection (2) of section sixty from the second "and" onwards; in subsection (1) of section one hundred and ten the word "one" and the words "six                                                                                 |

2ND SCH.  
—cont.

| Session and Chapter       | Short Title                                              | Extent of Repeal                                                                                                                                                                                                                                                                                                                                                                              |
|---------------------------|----------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10 & 11 Geo. 6.<br>c. 51. | The Town and Country Planning Act, 1947—<br><i>cont.</i> | and eight”; in the Eleventh Schedule, sub-paragraph (2) of paragraph 9 of the Sixth Schedule to the Town and Country Planning Act, 1944.                                                                                                                                                                                                                                                      |
| 10 & 11 Geo. 6.<br>c. 53. | The Town and Country Planning (Scotland) Act, 1947.      | Paragraph (a) of subsection (2) of section fifty-seven from the second “and” onwards; in subsection (1) of section one hundred and five the word “one” and the words “six and eight”; section one hundred and six; in the Eleventh Schedule, sub-paragraph (2) of paragraph 9 of the Sixth Schedule to the Town and Country Planning (Scotland) Act, 1945.                                    |
| 11 & 12 Geo. 6.<br>c. 26. | The Local Government Act, 1948.                          | Subsections (2), (3) and (4) of section forty-nine; in section fifty, in subsection (1) the words “or any county court” and the words “or county court” and in subsection (3) the words “or county court”; subsection (2) of section sixty-two; in subsection (2) of section sixty-seven the words “or as the judge on any appeal to a county court”; subsection (3) of section eighty-seven. |

Table of Statutes referred to in this Act.

| Short Title.                                                | Session and Chapter         |
|-------------------------------------------------------------|-----------------------------|
| Lands Clauses Consolidation Act, 1845 ...                   | 8 & 9 Vict. c. 18.          |
| Lands Clauses Consolidation (Scotland) Act, 1845.           | 8 & 9 Vict. c. 19.          |
| Interpretation Act, 1889 ... ..                             | 52 & 53 Vict. c. 63.        |
| Finance (1909–10) Act, 1910 ... ..                          | 10 Edw. 7 & 1 Geo. 5. c. 8. |
| Acquisition of Land (Assessment of Compensation) Act, 1919. | 9 & 10 Geo. 5. c. 57.       |
| Law of Property Act, 1925 ... ..                            | 15 & 16 Geo. 5. c. 20.      |
| Statutory Instruments Act, 1946 ... ..                      | 9 & 10 Geo. 6. c. 36.       |
| Town and Country Planning Act, 1947 ...                     | 10 & 11 Geo. 6. c. 51.      |
| Town and Country Planning (Scotland) Act, 1947.             | 10 & 11 Geo. 6. c. 53.      |
| Local Government Act, 1948 ... ..                           | 11 & 12 Geo. 6. c. 26.      |

## CHAPTER 43

### *Merchant Shipping (Safety Convention) Act, 1949*

#### ARRANGEMENT OF SECTIONS

##### *Construction and Equipment*

###### Section

1. Construction rules.
2. Rules for life-saving appliances.
3. Radio rules.
4. Radio surveyors.
5. Rules for direction-finders.
6. Further provisions as to radio navigational aids.

##### *Certificates*

7. Issue for passenger steamers of safety certificates and exemption certificates.
8. Issue for cargo ships of safety-equipment certificates and exemption certificates.
9. Issue for cargo ships of radio certificates and exemption certificates.
10. Issue of general safety certificates, etc., on partial compliance with rules.
11. Notice of alterations and additional surveys.
12. Prohibition on proceeding to sea without appropriate certificates.
13. Miscellaneous provisions as to surveys and certificates.

##### *Safety Convention Ships not registered in the United Kingdom*

14. Certificates of Convention ships not registered in United Kingdom.
15. Modified survey of passenger steamers holding Convention certificates.
16. Miscellaneous privileges of ships holding Convention certificates.
17. Further provisions as to the production of Convention certificates.

##### *Miscellaneous Provisions for furthering Safety of Life at Sea*

18. Information about ship's stability.
19. Openings in passenger steamers' hulls and watertight bulkheads.
20. Amendment of s. 23 of Merchant Shipping (Safety and Load Line Conventions) Act, 1932, relating to loading of passenger steamers.
21. Signals of distress.
22. Obligation to assist vessels, etc., in distress.
23. Carriage of dangerous goods.
24. Carriage of grain.
25. Contribution towards a North Atlantic ice service.

##### *Supplemental*

26. Definition of "passenger" and "passenger steamer."
27. Removing persons in case of danger.
28. Power of Minister to exempt from safety requirements.
29. Exemption of certain ships from certain provisions of this Act.

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## Section

30. Application to colonies etc.
31. Countries to which Safety Convention applies.
32. Transitional provisions.
33. Provision as to certain fees and fines under the Merchant Shipping Acts.
34. Rules and regulations.
35. Consequential amendments of Merchant Shipping Acts.
36. Interpretation.
37. Commencement, construction, citation and repeal.

## SCHEDULES :

First Schedule.—Transitional Provisions.

Second Schedule.—Enactments fixing the amount of fees.

Third Schedule.—Enactments Repealed.

An Act to enable effect to be given to an International Convention for the Safety of Life at Sea, signed in London on the tenth day of June, nineteen hundred and forty-eight ; to amend the provisions of the Merchant Shipping Acts, 1894 to 1948, relating to the construction of passenger steamers, to life-saving appliances, wireless and radio navigational aids and to other matters affected by the said Convention, and to amend the provisions of those Acts relating to fees.

[14th July 1949.]

**W**HEREAS a Convention (in this Act referred to as “ the Safety Convention ”) was signed on behalf of the government of the United Kingdom in London on the tenth day of June, nineteen hundred and forty-eight, for promoting safety of life at sea by establishing in common agreement uniform principles and rules directed thereto :

And whereas it is intended that the Safety Convention shall replace the International Convention for the Safety of Life at Sea, 1929, which is set out in the First Schedule to the Merchant Shipping (Safety and Load Line Conventions) Act, 1932 :

And whereas it is expedient to enable effect to be given to the Safety Convention, and to amend the provisions of the Merchant Shipping Acts, 1894 to 1948, relating to the construction of passenger steamers, to life-saving appliances, wireless and radio navigational aids and to other matters affected by the Safety Convention, and to amend the provisions of those Acts relating to fees :

Be it therefore enacted by the King’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and



Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Construction and Equipment*

1.—(1) The Minister may make rules (in this Act called “**Construction rules**”) prescribing the requirements that the hull, equipments and machinery of British passenger steamers registered in the United Kingdom shall comply with; and the rules shall include such requirements as appear to the Minister to implement the provisions of the Safety Convention prescribing the requirements that the hull, equipments and machinery of passenger steamers shall comply with, except so far as those provisions are implemented by the rules for life-saving appliances, the radio rules, the rules for direction-finders or the collision regulations.

(2) The powers conferred on the Minister by this section shall be in addition to the powers conferred by any other enactment enabling him to prescribe the requirements that passenger steamers shall comply with.

2.—(1) For section four hundred and twenty-seven of the Merchant Shipping Act, 1894 (in this Act referred to as “**the principal Act**”), there shall be substituted the following section:— **Rules for life-saving appliances.**

“427.—(1) The Minister of Transport may, in relation to any ships to which this section applies, make rules (in this Act called “**rules for life-saving appliances**”) with respect to all or any of the following matters, namely:—

- (a) the arranging of ships into classes, having regard to the services in which they are employed, to the nature and duration of the voyage, and to the number of persons carried;
- (b) the number, description, and mode of construction of the boats, life rafts, line-throwing appliances, life-jackets, and lifebuoys to be carried by ships, according to the classes in which the ships are arranged;
- (c) the equipment to be carried by any such boats and rafts and the methods to be provided to get the boats and other life-saving appliances into the water, including oil for use in stormy weather;
- (d) the provision in ships of a proper supply of lights inextinguishable in water, and fitted for attachment to lifebuoys;
- (e) the quantity, quality and description of buoyant apparatus to be carried on board ships carrying

- passengers, either in addition to or in substitution for boats, life rafts, life-jackets and lifebuoys ;
- (f) the position and means of securing the boats, life rafts, life-jackets, lifebuoys and buoyant apparatus ;
  - (g) the marking of the boats, life rafts and buoyant apparatus so as to show their dimensions and the number of persons authorised to be carried on them ;
  - (h) the manning of the lifeboats and the qualifications and certificates of lifeboat men ;
  - (j) the provision to be made for mustering the persons on board, and for embarking them in the boats (including provision for the lighting of, and the means of ingress to and egress from, different parts of the ship) ;
  - (k) the provision of suitable means situated outside the engine-room whereby any discharge of water into the boats can be prevented ;
  - (l) the assignment of specific duties to each member of the crew in the event of emergency ;
  - (m) the methods to be adopted and the appliances to be carried in ships for the prevention, detection and extinction of fire ;
  - (n) the practice in ships of boat-drills and fire-drills ;
  - (o) the provision in ships of means of making effective distress-signals by day and by night ;
  - (p) the provision, in ships engaged on voyages in which pilots are likely to be embarked, of suitable pilot-ladders, and of ropes, lights and other appliances designed to make the use of such ladders safe, and
  - (q) the examination at intervals to be prescribed by the rules of any appliances or equipment required by the rules to be carried.
- (2) This section applies to—
- (a) British ships, except ships registered in a Dominion within the meaning of the Statute of Westminster, 1931, or in India, Pakistan or Ceylon, or in any territory administered by His Majesty's government in any such Dominion ;
  - (b) other ships while they are within any port in the United Kingdom :

Provided that this section shall not apply to a ship by reason of her being within a port in the United Kingdom

if she would not have been in any such port but for stress of weather or any other circumstance that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled”.

(2) The rules for life-saving appliances shall include such requirements as appear to the Minister to implement the provisions of the Safety Convention relating to the matters mentioned in the said section four hundred and twenty-seven.

(3) For subsection (1) of section nine of the Merchant Shipping Act, 1906, there shall be substituted the following subsection:—

“(1) The master of every ship to which section four hundred and twenty-seven of the principal Act applies as being a British ship shall cause to be entered in the official log-book a statement, or if there is no official log-book cause other record to be kept, of every occasion on which boat-drill or fire-drill is practised on board the ship or on which the appliances and equipment required by the rules for life-saving appliances to be carried are examined to see whether they are fit and ready for use and of the result of any such examination; and if—

- (a) in the case of a passenger steamer, boat-drill or fire-drill is not practised on board the ship in any week;
- (b) in the case of any other ship, boat-drill or fire-drill is not practised on board the ship in any month;
- (c) in the case of any ship, the said appliances and equipment are not examined in any such period as is prescribed by the said rules,

the master shall cause a statement to be entered or other record to be kept as aforesaid of the reasons why the drill was not practised or the appliances and equipment were not examined in that week, month or period”.

3.—(1) The Minister may make rules (in this Act called **Radio rules.** “radio rules”) requiring ships to which this section applies to be provided with a radio installation other than a radio navigational aid of such a nature as may be prescribed by the rules and to maintain such a radio service and to carry such number of radio officers or operators, of such grades and possessing such qualifications, as may be so prescribed; and the rules may contain provisions for preventing so far as practicable electrical interference with the radio installation by other apparatus on board.

(2) This section applies to—

- (a) sea-going British ships registered in the United Kingdom;
- (b) other sea-going ships while they are within any port in the United Kingdom.

(3) The said rules shall include such requirements as appear to the Minister to implement the provisions of the Safety Convention relating to radiotelegraphy and radiotelephony.

(4) The radio installation required under the said rules to be provided for a passenger steamer, or for any other ship of sixteen hundred tons gross tonnage or upwards, shall be a radiotelegraph installation; and that required to be provided for a ship of less than sixteen hundred tons gross tonnage, other than a passenger steamer, shall be either a radiotelephone installation or a radiotelegraph installation, at the option of the owner.

(5) Without prejudice to the generality of the preceding provisions of this section, rules under this section may—

- (a) prescribe the duties of radio officers and operators, including the duty of keeping a radio log-book;
- (b) apply to any radio log-book required to be kept under the rules any of the provisions of section two hundred and forty-two of the principal Act (which provides for the delivery of the official log-book to the superintendent) and of section two hundred and fifty-six of that Act (which provides among other things for the custody of the official log-book);
- (c) require the master of a ship to cause to be entered in the official log-book such particulars relating to the operation of the radio installation, and the maintenance of the radio service, as may be specified in the rules.

(6) If the master of a ship fails to cause an entry to be made in the log-book in contravention of rules made in pursuance of paragraph (c) of the last preceding subsection, or if any radio officer or operator contravenes any rules made in pursuance of paragraph (a) thereof, he shall be liable to a fine not exceeding ten pounds; and if the rules made under this section are contravened in any other respect in relation to any ship, the owner or master of the ship shall be liable on conviction on indictment to a fine not exceeding five hundred pounds, or on summary conviction to a fine not exceeding one hundred pounds.

(7) A surveyor of ships may inspect any ship for the purpose of seeing that she is properly provided with a radio installation and radio officers or operators in conformity with the said rules, and for that purpose shall have all the powers of a Ministry of Transport inspector under the Merchant Shipping Acts; and if he finds that the ship is not provided with a radio installation or radio officers or operators in conformity with the said rules he shall give to the owner or master notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the deficiency.

(8) Every notice given under the last preceding subsection shall be communicated in the manner directed by the Minister to the chief officer of customs of any port at which the ship may seek to obtain a clearance or transire; and the ship shall be detained until a certificate under the hand of a surveyor of ships is produced to the effect that the ship is properly provided with a radio installation and radio officers or operators in conformity with the said rules.

4. Wireless-telegraphy surveyors appointed under section seven hundred and twenty-four of the principal Act as amended by section eight of the Merchant Shipping (Safety and Load Line Conventions) Act, 1932, shall be known as radio surveyors. Radio surveyors.

5.—(1) The Minister may make rules (in this Act called “rules for direction-finders”) requiring ships to which this section applies to be provided with a direction-finder of such a nature as may be prescribed by the rules. Rules for direction-finders.

(2) This section applies to—

- (a) British ships registered in the United Kingdom;
- (b) other ships while they are within any port in the United Kingdom,

being ships of sixteen hundred tons gross tonnage or upwards.

(3) The said rules shall include such requirements as appear to the Minister to implement the provisions of the Safety Convention relating to direction-finders.

(4) Without prejudice to the generality of the preceding provisions of this section, rules under this section may provide for the position of the direction-finder in the ship, for the communication between the direction-finder and the bridge, for testing the direction-finder at intervals and as occasion may require and for recording the result of the tests.

(5) If any of the said rules is not complied with in relation to any ship, the owner or master of the ship shall be liable to a fine not exceeding one hundred pounds.

6.—(1) The Minister may make rules prescribing—

- (a) the requirements that radio navigational aids, other than direction-finders, shall comply with if they are carried on board British ships registered in the United Kingdom, including requirements relating to their position and method of fitting;
- (b) the requirements that apparatus designed for the purpose of transmitting or reflecting signals to or from radio navigational aids shall comply with, being

Further provisions as to radio navigational aids.

apparatus in the United Kingdom, or off the shores of the United Kingdom and maintained from the United Kingdom.

(2) If any British ship registered in the United Kingdom proceeds, or attempts to proceed, to sea carrying radio navigational aids not complying with the rules made under the preceding subsection, the owner or master of the ship shall be liable to a fine not exceeding one hundred pounds.

(3) If any person establishes or operates any such apparatus as is mentioned in paragraph (b) of subsection (1) of this section, being apparatus that does not comply with the said rules, he shall be liable to a fine not exceeding one hundred pounds.

### Certificates

Issue for  
passenger  
steamers of  
safety  
certificates  
and exemption  
certificates.

7.—(1) If the Minister, on receipt of declarations of survey in respect of a British passenger steamer registered in the United Kingdom, is satisfied that the steamer complies with the construction rules, rules for life-saving appliances, radio rules and rules for direction-finders applicable to the steamer and to such international voyages as she is to be engaged on, and that she is properly provided with the lights, shapes and means of making fog-signals required by the collision regulations, he shall, on the application of the owner, issue in respect of the steamer a certificate showing that the steamer complies with the requirements of the Safety Convention applicable as aforesaid; and any certificate issued under this subsection is hereafter in this Act referred to as a “general safety certificate”:

Provided that if the voyages on which the steamer is to be engaged are short international voyages and she complies only with such of those rules as are applicable to those voyages, the certificate shall show that the steamer complies with the requirements of the Safety Convention applicable to her as a steamer plying on short international voyages; and any such certificate is hereafter in this Act referred to as a “short-voyage safety certificate”.

(2) If the Minister, on receipt of declarations of survey in respect of any such passenger steamer as aforesaid is satisfied that the steamer is exempt, by virtue of any exercise by him of a power in that behalf conferred on him by this Act or conferred on him by the rules in question, from any of the requirements of the construction rules, rules for life-saving appliances, radio rules or rules for direction-finders applicable to the steamer and to such international voyages as she is to be engaged on, whether short voyages or otherwise, that she complies with the rest of those requirements and that she is properly provided with the

lights, shapes and means of making fog-signals required by the collision regulations, he shall, on the application of the owner, issue in respect of the steamer—

- (a) an exemption certificate stating which of the requirements of the Safety Convention applicable as aforesaid the steamer is exempt from and that the exemption is conditional on the steamer's plying only on the voyages and being engaged only in the trades and complying with the other conditions (if any) specified in the certificate, and
- (b) a certificate showing that the steamer complies with the rest of those requirements ;

and any certificate issued under paragraph (b) of this subsection is hereafter in this Act referred to as a "qualified safety certificate" or a "qualified short-voyage safety certificate", as the case may be.

8.—(1) If the Minister, on receipt of declarations of survey in respect of a British ship registered in the United Kingdom, not being a passenger steamer, is satisfied that the ship complies with the rules for life-saving appliances applicable to the ship and to such international voyages as she is to be engaged on, and that she is properly provided with the lights, shapes and means of making fog-signals required by the collision regulations, he shall, on the application of the owner, issue in respect of the ship a certificate showing that the ship complies with such of the requirements of the Safety Convention relating to those matters as are applicable as aforesaid ; and any certificate issued under this subsection is hereafter in this Act referred to as a "safety-equipment certificate".

Issue for cargo ships of safety-equipment certificates and exemption certificates.

(2) If the Minister, on the receipt of declarations of survey in respect of any such ship as aforesaid, is satisfied that the ship is exempt, by virtue of any exercise by him of a power in that behalf conferred on him by this Act or conferred on him by the rules for life-saving appliances, from any of the requirements of those rules applicable to the ship and to such international voyages as she is to be engaged on, and that she complies with the rest of those requirements and is properly provided with the lights, shapes and means of making fog-signals required by the collision regulations, he shall, on the application of the owner, issue in respect of the ship—

- (a) an exemption certificate stating which of the requirements of the Safety Convention, being requirements the subject of the rules for life-saving appliances and applicable as aforesaid, the ship is exempt from and that the exemption is conditional on the ship's plying

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only on the voyages and complying with the other conditions (if any) specified in the certificate, and

- (b) a certificate showing that the ship complies with the rest of those requirements ;

and any certificate issued under paragraph (b) of this subsection is hereafter in this Act referred to as a "qualified safety-equipment certificate".

Issue for cargo ships of radio certificates and exemption certificates.

9.—(1) If the Minister, on receipt of declarations of survey in respect of a British ship registered in the United Kingdom not being a passenger steamer, is satisfied that the ship complies with the radio rules and rules for direction-finders applicable to the ship and to such international voyages as she is to be engaged on, he shall, on the application of the owner, issue in respect of the ship a certificate showing that the ship complies with such of the requirements of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders as are applicable as aforesaid ; and any certificate issued under this subsection is hereafter in this Act referred to as a "radio certificate".

(2) If the Minister, on receipt of declarations of survey in respect of any such ship as aforesaid, is satisfied that the ship is exempt, by virtue of any exercise by him of a power in that behalf conferred on him by this Act or conferred on him by the rules in question, from any of the requirements of the radio rules or rules for direction-finders applicable to the ship and to such international voyages as she is to be engaged on, and that she complies with the rest of the requirements of the radio rules and rules for direction-finders, he shall, on the application of the owner, issue in respect of the ship—

- (a) an exemption certificate stating which of the requirements of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders, being requirements applicable as aforesaid, the ship is exempt from and that the exemption is conditional on the ship's plying only on the voyages and complying with the other conditions (if any) specified in the certificate, and
- (b) a certificate showing that the ship complies with the rest of those requirements ;

and any certificate issued under paragraph (b) of this subsection is hereafter in this Act referred to as a "qualified radio certificate".

(3) Where any British ship registered in the United Kingdom is wholly exempt from the requirements of the radio rules and



the rules for direction-finders, the Minister shall on the application of the owner issue an exemption certificate stating that the ship is wholly exempt from the requirements of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders and specifying the voyages on which, and conditions (if any) on which, the ship is so exempt.

10. Where a ship complies with all the requirements of the construction rules, rules for life-saving appliances, radio rules or rules for direction-finders applicable to the ship and to the voyages on which she is to be engaged so far as those requirements are requirements of the Safety Convention applicable as aforesaid, the Minister may issue in respect of the ship a general safety certificate, short-voyage safety certificate, safety-equipment certificate or radio certificate, as the case may be, notwithstanding that she is exempt from, or for some other reason does not comply with, any requirements of those rules that are not applicable requirements of the Safety Convention.

Issue of general safety certificates, etc. on partial compliance with rules.

11.—(1) The owner or master of a passenger steamer in respect of which any passenger steamer's certificate issued under the principal Act, or any certificate issued under this Act, is in force shall, as soon as possible after any alteration is made in the steamer's hull, equipments or machinery affecting the efficiency thereof or the seaworthiness of the steamer, give written notice to the Minister containing full particulars of the alteration.

Notice of alterations and additional surveys.

(2) The owner or master of a ship in respect of which any certificate issued under this Act is in force, other than a passenger steamer, shall, as soon as possible after any alteration is made in the appliances or equipments required by the rules for life-saving appliances, the radio rules, the rules for direction-finders or the collision regulations to be carried by the ship, being an alteration affecting the efficiency or completeness of those appliances or equipments, give written notice to the Minister containing full particulars of the alteration.

(3) If notice of any alteration is not given as required by this section, the owner or master of the ship shall be liable to a fine not exceeding fifty pounds.

(4) If the Minister has reason to believe that since the making of the last declaration of survey in respect of any such ship as aforesaid—

(a) any such alteration has been made as is mentioned in subsection (1) or, as the case may be, in subsection (2) of this section ; or

- (b) the hull, equipments or machinery of the ship (being a passenger steamer) have sustained any injury or are otherwise insufficient ; or
- (c) the appliances or equipments of the ship (not being a passenger steamer) mentioned in subsection (2) of this section have sustained any injury or are otherwise insufficient ;

the Minister may, without prejudice to his powers under section two hundred and seventy-nine of the principal Act (which relates to the cancellation of certificates and additional surveys), require the ship to be again surveyed to such extent as he thinks fit, and, if such requirement is not complied with, may cancel any passenger steamer's certificate issued in respect of the ship under the principal Act or any certificate issued in respect of the ship under this Act.

(5) For the purpose of this section the expression "alteration" in relation to anything includes the renewal of any part of it.

Prohibition on proceeding to sea without appropriate certificates.

**12.—(1)** No British ship registered in the United Kingdom shall proceed to sea on an international voyage from a port in the United Kingdom unless there is in force in respect of the ship—

- (a) if she is a passenger steamer, a general safety certificate, a short-voyage safety certificate, a qualified safety certificate or a qualified short-voyage safety certificate which (subject to the provisions of this section relating to short-voyage safety certificates) is applicable to the voyage on which the ship is about to proceed and to the trade in which she is for the time being engaged ;
- (b) if she is not a passenger steamer, both—
  - (i) a safety-equipment certificate or a qualified safety-equipment certificate, and
  - (ii) a radio certificate or a qualified radio certificate, or an exemption certificate stating that she is wholly exempt from the requirements of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders :

Provided that this subsection shall not prohibit a ship, not being a passenger steamer, from proceeding to sea as aforesaid if there is in force in respect of the ship such certificate or certificates as would be required if she were a passenger steamer.

(2) For the purposes of this section, a qualified certificate shall not be deemed to be in force in respect of a ship unless there is also in force in respect of the ship the corresponding exemption certificate ; and an exemption certificate shall be of no effect

unless it is by its terms applicable to the voyage on which the ship is about to proceed.

(3) If any ship proceeds, or attempts to proceed, to sea in contravention of this section—

(a) in the case of a passenger steamer, the owner or master of the steamer shall, without prejudice to any other remedy or penalty under the Merchant Shipping Acts, be liable on summary conviction to a fine not exceeding ten pounds for every passenger carried on board the steamer, and the owner or master of any tender by means of which passengers have been taken on board the steamer shall be liable on summary conviction to a like fine for every passenger so taken on board ; and

(b) in the case of a ship not being a passenger steamer, the owner or master of the ship shall be liable to a fine not exceeding one hundred pounds.

(4) The master of every British ship registered in the United Kingdom shall produce to the officer of customs from whom a clearance for the ship is demanded for an international voyage the certificate or certificates required by the foregoing provisions of this section to be in force when the ship proceeds to sea ; and a clearance shall not be granted, and the ship may be detained, until the said certificate or certificates are so produced.

(5) Where the Minister permits any passenger steamer in respect of which there is in force a short-voyage safety certificate, whether qualified or not, to proceed to sea on an international voyage from a port in the United Kingdom not exceeding twelve hundred nautical miles in length between the last port of call in the United Kingdom and the final port of destination, the certificate shall for the purposes of this section be deemed to be applicable to the voyage on which the steamer is about to proceed notwithstanding that the voyage exceeds six hundred nautical miles between the said ports.

(6) Where an exemption certificate issued in respect of any British ship registered in the United Kingdom specifies any conditions on which the certificate is issued and any of those conditions is not complied with, the owner or master of the ship shall be liable to a fine not exceeding one hundred pounds.

13.—(1) Subsections (3) to (5) of section two hundred and seventy-two of the principal Act (which prescribe the contents of declarations of survey) shall cease to have effect.

Miscellaneous provisions as to surveys and certificates.

(2) Subsection (2) of section two hundred and seventy-two of the principal Act (which requires a surveyor to deliver declarations of survey to the owner of a ship), section two

hundred and seventy-three of that Act (which requires the owner to deliver the declaration to the Minister) and section two hundred and seventy-five of that Act (which relates to appeals to the court of survey) shall apply to surveys for the purpose of the issue of any certificate in respect of a ship under this Act as they apply to surveys for the purpose of the issue of passenger steamers' certificates.

(3) A safety certificate or radio certificate or an exemption certificate stating that a ship is wholly exempt from the provisions of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders shall be in force for one year, and a safety-equipment certificate shall be in force for twenty-four months, from the date of its issue, or for such shorter period as may be specified in the certificate:

Provided that no such certificate shall remain in force after notice is given by the Minister to the owner or master of the ship in respect of which it has been issued that the Minister has cancelled the certificate.

(4) An exemption certificate, other than a certificate stating that a ship is wholly exempt from the provisions of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders, shall be in force for the same period as the corresponding qualified certificate.

(5) The Minister or any person authorised by him for the purpose may grant an extension of any certificate issued under this Act in respect of a British ship registered in the United Kingdom for a period not exceeding one month from the date when the certificate would, but for the extension, have expired, or, if the ship is absent from the United Kingdom on that date, for a period not exceeding five months from that date.

(6) Any general safety certificate or short-voyage safety certificate, whether qualified or not, may be combined in one document with a passenger steamer's certificate.

(7) Any certificate issued by the Minister under this Act, and any passenger steamer's certificate, whether or not combined in one document with a safety certificate under the last preceding subsection, shall be admissible in evidence.

(8) The following provisions of the principal Act shall apply to and in relation to certificates issued by the Minister, and ships certified, under this Act in the same manner as they apply to and in relation to passenger steamers' certificates and passenger steamers, namely, section two hundred and seventy-six (which relates to the transmission of a certificate to the owner of the steamer), section two hundred and seventy-nine (which relates to the cancellation of certificates), section two hundred and eighty (which relates to the surrender of certificates no longer

in force), section two hundred and eighty-one (which relates to the posting up of a certificate on board) and section two hundred and eighty-two (which relates to the forging and falsification of certificates).

(9) The Minister may request the government of a country to which the Safety Convention applies to issue in respect of a British ship registered in the United Kingdom any certificate the issue of which is authorised under this Act; and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purposes of this Act as if it had been issued by the Minister and not by the government of that country.

*Safety Convention Ships not registered in the United Kingdom*

14.—(1) The Minister may, at the request of the government of a country to which the Safety Convention applies, issue in respect of a ship registered in that country any certificate the issue of which in respect of British ships registered in the United Kingdom is authorised under the preceding provisions of this Act if he is satisfied that it is proper for him to do so; and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purposes of this Act as if it had been issued by the said government and not by the Minister.

Certificates of  
Convention  
ships not  
registered  
in United  
Kingdom.

(2) The Minister shall make such regulations as appear to him to be necessary for the purpose of securing that certificates issued in accordance with the Safety Convention by the government of any country other than the United Kingdom in respect of Safety Convention ships not registered in the United Kingdom, or having effect under the preceding subsection as if so issued, shall be accepted as having the same force as corresponding certificates issued by the Minister under this Act; and any certificate required by those regulations to be so treated is in this Act referred to as an "accepted Safety Convention certificate."

(3) A surveyor of ships, for the purpose of verifying—

- (a) that there is in force in respect of a Safety Convention ship not registered in the United Kingdom an accepted Safety Convention certificate; or
- (b) that the condition of the hull, equipments and machinery of any such Safety Convention ship corresponds substantially with the particulars shown in such a certificate; or,
- (c) except where such a certificate states that the ship is wholly exempt from the provisions of the Safety Convention relating to radiotelegraphy and radiotelephony, that the number, grades and qualifications of radio

officers or operators on board correspond with those shown in the certificate ; or

- (d) that any conditions on which such a certificate, being the equivalent of an exemption certificate, is issued are complied with.

shall have all the powers of a Ministry of Transport inspector under the Merchant Shipping Acts.

(4) Where there is attached to an accepted Safety Convention certificate in respect of a Safety Convention passenger steamer not registered in the United Kingdom a memorandum which—

- (a) has been issued by or under the authority of the government of the country in which the steamer is registered ; and  
(b) modifies for the purpose of any particular voyage, in view of the number of persons carried on that voyage, the particulars stated in the certificate with respect to life-saving appliances,

the certificate shall have effect for the purpose of that voyage as if it were modified in accordance with the memorandum.

Modified survey of passenger steamers holding Convention certificates.

15.—(1) Where an accepted Safety Convention certificate is produced in respect of a Safety Convention passenger steamer not registered in the United Kingdom—

- (a) the steamer shall not be required to be surveyed under the Merchant Shipping Acts by a surveyor of ships except for the purpose of determining the number of passengers that she is fit to carry ;  
(b) on receipt of any declaration of survey for the purpose aforesaid, the Minister shall issue a certificate under section two hundred and seventy-four of the principal Act containing only a statement of the particulars set out in paragraph (b) of that section (which relates to the said number of passengers) ; and a certificate so issued shall have effect as a passenger steamer's certificate.

(2) Where there is produced in respect of any such passenger steamer as aforesaid an accepted Safety Convention certificate, and also a certificate issued by or under the authority of the government of the country in which the steamer is registered showing the number of passengers that the steamer is fit to carry, and the Minister is satisfied that that number has been determined substantially in the same manner as in the case of a British passenger steamer registered in the United Kingdom, he may if he thinks fit dispense with any survey of the steamer for the purpose of determining the number of passengers that she is fit to carry and direct that the last-mentioned certificate shall have effect as a passenger steamer's certificate.

16.—(1) Where an accepted Safety Convention certificate is produced in respect of a Safety Convention passenger steamer not registered in the United Kingdom, the steamer shall be exempt from paragraphs (d) and (f) of subsection (1) of section two hundred and ninety of the principal Act (which relate to the equipments of emigrant ships) and section four hundred and twenty of that Act (which relates to lights and fog-signals) and from the rules for life-saving appliances.

Miscellaneous  
privileges of  
ships holding  
Convention  
certificates.

(2) Where an accepted Safety Convention certificate, being the equivalent of a safety-equipment certificate, is produced in respect of a Safety Convention ship (other than a passenger steamer) not registered in the United Kingdom, the ship shall be exempt from section four hundred and twenty of the principal Act (which relates to lights and fog-signals) and from the rules for life-saving appliances.

(3) Where an accepted Safety Convention certificate is produced in respect of a Safety Convention ship not registered in the United Kingdom, and the certificate shows that the ship complies with the requirements of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders, or that she is exempt from some of those requirements and complies with the rest, or that she is wholly exempt from those requirements, the ship shall be exempt from the provisions of the radio rules and the rules for direction-finders.

17.—(1) The master of every Safety Convention ship not registered in the United Kingdom shall produce to the officer of customs from whom a clearance for the ship is demanded in respect of an international voyage from a port in the United Kingdom accepted Safety Convention certificates that are the equivalent of the certificates issued by the Minister under this Act that would be required to be in force in respect of the ship if she were a British ship so registered; and a clearance shall not be granted, and the ship may be detained, until such certificates are so produced.

Further  
provisions as  
to the  
production of  
Convention  
certificates.

(2) The production of an accepted Safety Convention certificate being the equivalent of—

(a) a qualified certificate, or

(b) an exemption certificate, other than a certificate stating that a ship is wholly exempt from the provisions of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders,

shall not avail for the purposes of either of the last two preceding sections unless there is also produced the corresponding exemption certificate or qualified certificate as the case may be.

*Miscellaneous Provisions for furthering Safety  
of Life at Sea*

Information  
about ship's  
stability.

18.—(1) There shall be carried on board every British ship registered in the United Kingdom whose keel is laid after the commencement of this Act such information in writing about the ship's stability as is necessary for the guidance of the master in loading and ballasting the ship.

(2) The said information shall be in such a form as may be approved by the Minister (who may approve the provision of the information in the form of a diagram or drawing only), and shall be based on the determination of the ship's stability by means of an inclining test of the ship:

Provided that the Minister may allow the information to be based on a similar determination of the stability of a sister ship.

(3) When any information under this section is provided for any ship, the owner shall send a copy thereof to the Minister:

Provided that the owner shall not be required to send a copy of any information to the Minister if a previous copy of the same information has been sent to the Minister.

(4) If any such ship proceeds, or attempts to proceed, to sea without such information as aforesaid on board, the owner or master of the ship shall be liable to a fine not exceeding one hundred pounds; and if the owner of any ship contravenes the last preceding subsection, he shall be liable to a like fine.

(5) It is hereby declared that for the purposes of section two hundred and fifty-eight of the principal Act (which requires documents relating to navigation to be delivered by the master of a ship to his successor) information under this section shall be deemed to be a document relating to the navigation of the ship.

Openings in  
passenger  
steamers'  
hulls and  
watertight  
bulkheads.

19.—(1) The Minister may in relation to British passenger steamers registered in the United Kingdom make rules for any of the following matters—

- (a) for closing and keeping closed the openings in steamers' hulls and in watertight bulkheads;
- (b) for securing, keeping in place and inspecting contrivances for closing any such openings as aforesaid;
- (c) for operating the mechanisms of contrivances for closing any such openings as aforesaid and for drills in connection with the operation thereof;
- (d) for requiring entry to be made in the official log-book or other record to be kept of any of the matters aforesaid.

(2) If any of the said rules is not complied with in relation to any such steamer as aforesaid, the master of the steamer shall be liable to a fine not exceeding one hundred pounds.



**20.** In section twenty-three of the Merchant Shipping (Safety and Load Line Conventions) Act, 1932 (which restricts the loading of certain passenger steamers by reference to the submersion of the appropriate subdivision load line), for the words "submerge the appropriate subdivision load line" there shall be substituted the words "submerge in salt water the appropriate subdivision load line".

Amendment of s. 23 of Merchant Shipping (Safety and Load Line Conventions) Act, 1932, relating to loading of passenger steamers.

**21.—(1)** His Majesty in Council may prescribe what signals shall be used by ships as signals of distress.

Signals of distress.

(2) Rules may be made by the Minister prescribing the circumstances in which, and the purposes for which, any signal prescribed by Order in Council under the last preceding subsection is to be used and the circumstances in which it is to be revoked.

(3) If the master of a ship uses or displays or causes or permits any person under his authority to use or display—

(a) any signal prescribed by Order in Council under this section except in the circumstances and for the purposes prescribed by the rules made under this section ;  
or

(b) any private signal, whether registered or not, that is liable to be mistaken for any signal so prescribed by Order in Council,

he shall be liable to a fine not exceeding fifty pounds and shall further be liable to pay compensation for any labour undertaken, risk incurred or loss sustained in consequence of the signal's having been supposed to be a signal of distress ; and that compensation may, without prejudice to any other remedy, be recovered in the same manner as salvage.

(4) Nothing in subsection (4) of section twenty-four of the Merchant Shipping (Safety and Load Line Conventions) Act, 1932 (which requires persons in charge of wireless stations to give facilities for the reception of reports relating to dangers to navigation), shall interfere with the transmission of signals prescribed under this section.

**22.—(1)** The master of a British ship registered in the United Kingdom, on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress, shall proceed with all speed to the assistance of the persons in distress (informing them if possible that he is doing so) unless he is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to do so, or unless he is released under the provisions of subsection (3) or subsection (4) of this section.

Obligation to assist vessels, etc., in distress.

(2) Where the master of any ship in distress has requisitioned any British ship registered in the United Kingdom that has answered his call, it shall be the duty of the master of the requisitioned ship to comply with the requisition by continuing to proceed with all speed to the assistance of the persons in distress.

(3) A master shall be released from the obligation imposed by subsection (1) of this section as soon as he is informed of the requisition of one or more ships other than his own and that the requisition is being complied with by the ship or ships requisitioned.

(4) A master shall be released from the obligation imposed by subsection (1) of this section, and, if his ship has been requisitioned, from the obligation imposed by subsection (2) of this section, if he is informed by the persons in distress, or by the master of any ship that has reached the persons in distress, that assistance is no longer required.

(5) If a master fails to comply with the preceding provisions of this section, he shall be guilty of a misdemeanour.

(6) If the master of a British ship registered in the United Kingdom, on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress, is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to go to the assistance of the persons in distress, he shall forthwith cause a statement to be entered in the official log-book, or if there is no official log-book cause other record to be kept, of his reasons for not going to the assistance of those persons, and if he fails to do so he shall be liable to a fine not exceeding one hundred pounds.

(7) The master of every British ship registered in the United Kingdom for which an official log is required shall enter or cause to be entered in the official log-book every signal of distress or message that a vessel, aircraft or person is in distress at sea.

(8) Nothing in this section shall affect the provisions of section six of the Maritime Conventions Act, 1911; and compliance by the master of a ship with the provisions of this section shall not affect his right, or the right of any other person, to salvage.

Carriage of  
dangerous  
goods.

**23.**—(1) The Minister may make rules for regulating in the interests of safety the carriage of dangerous goods in ships to which this section applies.

(2) This section applies to—

(a) British ships registered in the United Kingdom ;

(b) other ships while they are within any port in the United Kingdom, or are embarking or disembarking passengers within the territorial waters of the United Kingdom, or are loading or discharging cargo or fuel within those waters.

(3) If any of the rules made in pursuance of this section is not complied with in relation to any ship, the owner or master of the ship shall be liable on conviction on indictment to a fine not exceeding three hundred pounds, or on summary conviction to a fine not exceeding one hundred pounds, and the ship shall be deemed for the purposes of Part V of the principal Act to be unsafe by reason of improper loading.

(4) Any goods declared by the rules made under this section to be dangerous in their nature shall be deemed to be dangerous goods for the purposes of Part V of the principal Act.

24.—(1) Where grain is loaded on board any British ship registered in the United Kingdom, or is loaded within any port in the United Kingdom on board any ship, all necessary and reasonable precautions shall be taken to prevent the grain from shifting; and if such precautions as aforesaid are not taken, the owner or the master of the ship, or any agent of the owner who was charged with the loading or with sending the ship to sea laden with the grain, shall be guilty of an offence under this subsection, and the ship shall be deemed for the purposes of Part V of the principal Act to be unsafe by reason of improper loading. Carriage  
of grain.

(2) Where any ship, having been loaded with grain outside the United Kingdom without the taking of all necessary and reasonable precautions to prevent the grain from shifting, enters any port in the United Kingdom so laden, the owner or master of the ship shall be guilty of an offence under this subsection, and the ship shall be deemed for the purposes of Part V of the principal Act to be unsafe by reason of improper loading:

Provided that this subsection shall not have effect if the ship would not have entered any such port but for stress of weather or any other circumstance that neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

(3) Without prejudice to the generality of the two preceding subsections, any particular precaution prescribed by rules made by the Minister under this subsection, in relation to the loading of ships generally or of ships of any class, as being a precaution to be treated for the purposes of those subsections as a necessary or reasonable precaution to prevent grain from shifting, shall be so treated in the case of ships generally, or of ships of that class, as the case may be:

Provided that this subsection shall not apply where a ship is loaded in accordance in all respects with any provisions approved by the Minister as respects the loading in question other than rules made under this subsection.

(4) If any person commits an offence under subsection (1) or subsection (2) of this section he shall be liable on conviction on indictment to a fine not exceeding three hundred pounds, or on summary conviction to a fine not exceeding one hundred pounds.

(5) On the arrival at a port in the United Kingdom from a port outside the United Kingdom of any ship carrying a cargo of grain, the master shall cause to be delivered to the proper officer of Customs in the United Kingdom, together with the report required by the Customs Consolidation Act, 1876, a notice stating—

- (a) the draught of water and freeboard, as defined by Part V of the principal Act, of the said ship after the loading of her cargo was completed at the final port of loading; and
- (b) the following particulars of the grain carried, namely,
  - (i) the kind of grain and the quantity thereof, stated in cubic feet, quarters, bushels, or tons weight;
  - (ii) the mode in which the grain is stowed, and
  - (iii) the precautions taken to prevent the grain from shifting;

and if the master fails to deliver any notice required by this subsection, or if in any such notice he makes any statement that he knows to be false in a material particular or recklessly makes any statement that is false in a material particular, he shall be liable to a fine not exceeding one hundred pounds.

(6) Any person having a general or special authority in that behalf from the Minister may, for securing the observance of the provisions of this section, inspect any grain, and the mode in which it is stowed, and for that purpose shall have all the powers of a Ministry of Transport inspector under the principal Act.

(7) In this section the expression "grain" includes wheat, maize, oats, rye, barley, rice, pulses and seeds, and the expression "ship carrying a cargo of grain" means a ship carrying a quantity of grain exceeding one-third of the ship's registered tonnage, reckoning one hundred cubic feet, or two tons weight, of grain as equivalent to one ton of registered tonnage.

Contribution  
towards a  
North Atlantic  
ice service.

25. Any sums required for the contribution from the United Kingdom towards maintaining, in accordance with the Safety Convention, a service in the North Atlantic for the study and observation of ice, and for ice patrol, shall be paid by the Minister out of moneys provided by Parliament.

## Supplemental

26.—(1) In Part III of the principal Act, in the Merchant Shipping (Safety and Load Line Conventions) Act, 1932, and in this Act the expression “passenger” means any person carried in a ship, except—

Definition of “passenger” and “passenger steamer”.

- (a) a person employed or engaged in any capacity on board the ship on the business of the ship,
- (b) a person on board the ship either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstance that neither the master nor the owner nor the charterer (if any) could have prevented or forestalled, and
- (c) a child under one year of age.

(2) In the Merchant Shipping (Safety and Load Line Conventions) Act, 1932, and in this Act, the expression “passenger steamer” means a steamer carrying more than twelve passengers.

27. Where the Minister for the purpose of enabling persons to be moved from any place in consequence of a threat to their lives has permitted more persons to be carried on board a ship than are permitted under the Merchant Shipping Acts apart from this section, the carriage of that excess of persons shall not be an offence under those Acts.

Removing persons in case of danger.

28.—(1) The Minister may exempt any ships or classes of ships from any requirements of the rules for life-saving appliances or any rules or regulations made under this Act, either absolutely or subject to such conditions as he thinks fit.

Power of Minister to exempt from safety requirements.

(2) Without prejudice to the preceding provisions of this section, where a ship not normally engaged on international voyages is required to undertake a single international voyage, the Minister may, if he is of opinion that the ship complies with safety requirements that are adequate for that voyage, exempt the ship from any of the safety requirements imposed by or under the Merchant Shipping Acts.

29.—(1) Nothing in this Act—

- (a) prohibiting or preventing a ship from proceeding to sea unless there are in force in relation to the ship, or are produced, the appropriate certificates issued by the Minister under this Act or the appropriate accepted Safety Convention certificates;
- (b) conferring powers on a surveyor of ships for the purpose of verifying the existence, validity or correctness of any Safety Convention certificate or that the conditions on which any such certificate was issued are complied with;

Exemption of certain ships from certain provisions of this Act.

- (c) requiring information about a ship's stability to be carried on board ;
- (d) imposing a penalty for the contravention of any rules relating to openings in ships' hulls and watertight bulkheads,

shall, unless in the case of information about a ship's stability the Minister otherwise orders, apply to any troopship, pleasure yacht or fishing vessel, or to any ship of less than five hundred tons gross tonnage other than a passenger steamer or to any ship not propelled by mechanical means.

(2) Nothing in the preceding subsection shall affect the exemption conferred by section seven hundred and forty-one of the principal Act on ships belonging to His Majesty.

(3) Notwithstanding that any provision of this Act is expressed to apply to ships not registered in the United Kingdom while they are within any port in the United Kingdom, that provision shall not apply to a ship that would not be within any such port but for stress of weather or any other circumstance that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled.

Application to colonies etc.

**30.** Section thirty-six of the Merchant Shipping (Safety and Load Line Conventions) Act, 1932 (which enables Orders in Council to be made applying Part I of that Act to territories outside the United Kingdom), shall have effect as if references therein to Part I of that Act included references to this Act.

Countries to which Safety Convention applies.

**31.** His Majesty, if satisfied—

- (a) that the government of any country has accepted, or denounced, the Safety Convention ; or
- (b) that the Safety Convention extends, or has ceased to extend, to any territory,

may by Order in Council make a declaration to that effect.

Transitional provisions.

**32.** Without prejudice to the effect of section thirty-eight of the Interpretation Act, 1889, the provisions of the First Schedule to this Act shall have effect for the purpose of the transition from the law in force before the commencement of this Act to the provisions of this Act.

Provision as to certain fees and fines under the Merchant Shipping Acts.

**33.**—(1) There shall be paid in respect of any certificate issued by the Minister under this Act, including a certificate issued by him under subsection (1) of section fourteen of this Act, and in respect of any inspection of a ship under this Act for the purpose of seeing that she is properly provided with a radio installation and radio officers or operators in conformity with the radio rules, such fees as may be prescribed by regulations made by the Minister with the approval of the Treasury.

(2) The Minister with the approval of the Treasury may make regulations prescribing the amount or the maximum amount of the fees payable under the enactments specified in the Second Schedule to this Act; and so much of those enactments as fixes the amount or the maximum amount of any such fees shall cease to have effect.

(3) Any fees payable under subsection (1) of this section shall be paid into the Exchequer.

(4) Subsection (2) of section seven hundred and sixteen of the principal Act (which provides for the application of fines) shall apply to fines under this Act as it applies to fines under that Act.

**34.—**(1) The power to make rules and regulations under the preceding provisions of this Act or the First Schedule to this Act, or to make rules for lifesaving appliances, shall be exercisable by statutory instrument. Rules and regulations.

(2) Any statutory instrument by which any such power as aforesaid is exercised shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**35.—**(1) In subsection (3) of section seven hundred and twenty-four of the principal Act, for the words "passenger steamers" there shall be substituted the word "ships." Consequential amendments of Merchant Shipping Acts.

(2) Where a ship is detained under any provision of this Act authorising the detention of a ship until the production of a certificate, subsection (2) of section four hundred and sixty of the principal Act (which makes the owner of a ship liable to pay to the Minister his costs in connection with her detention and survey) shall apply as if she had been finally detained under that Act.

(3) So far as Part I of the Merchant Shipping (Safety and Load Line Conventions) Act, 1932, requires that any rules or regulations shall implement the International Convention for the Safety of Life at Sea, 1929, it shall cease to have effect.

(4) Section sixty-nine of the said Act of 1932 (which requires notice to be given to a consular officer of the detention of a foreign ship, or of proceedings against her master or owner, under that Act), and subsection (3) of section seventy-three of that Act (which requires ships registered in the Channel Islands or the Isle of Man to be treated for the purpose of any provisions of that Act relating to Safety Convention ships not registered in the United Kingdom as if they were registered in the United Kingdom), shall have effect as if any reference therein to that Act included a reference to this Act.

(5) In subsection (1) of section two hundred and seventy-two of the principal Act and in subsection (1) of section nine of the said Act of 1932, for any reference to a wireless telegraph installation there shall be substituted a reference to a radio installation.

(6) In subsection (1) of section nine of the said Act of 1932 (which relates to the survey of passenger steamers by radio surveyors), for any reference to an exemption under the Merchant Shipping (Wireless Telegraphy) Act, 1919, from the obligations imposed by that Act, there shall be substituted a reference to an exemption from the obligations imposed by the radio rules.

**Interpretation.**

**36.—**(1) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“ Accepted Safety Convention certificate ” has the meaning assigned to it by section fourteen of this Act ;

“ Collision regulations ” means regulations made under section four hundred and eighteen of the principal Act ;

“ Construction rules ” means rules made under section one of this Act ;

“ Country to which the Safety Convention applies ” means—

(a) a country the government of which has been declared under section thirty-one of this Act to have accepted the Safety Convention, and has not been so declared to have denounced that Convention ;

(b) a territory to which it has been so declared that the Safety Convention extends, not being a territory to which it has been so declared that that Convention has ceased to extend ;

“ Declaration of survey ” means a declaration made under section two hundred and seventy-two of the principal Act ;

“ International voyage ” means a voyage from a port in one country to a port in another country, either of those countries being a country to which the Safety Convention applies, and “ short international voyage ” means an international voyage—

(a) in the course of which a ship is not more than two hundred nautical miles from a port or place in which the passengers and crew could be placed in safety and

(b) which does not exceed six hundred nautical miles in length between the last port of call in the country in which the voyage begins and the final port of destination ;

so however that for the purpose of the definitions contained in this paragraph—

(i) no account shall be taken of any deviation by a ship from her intended voyage due solely to stress of weather or any other circumstance that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled ; and



(ii) every colony, overseas territory, protectorate or other territory for whose international relations a government that has accepted the Safety Convention is responsible, or for which the United Nations are the administering authority, shall be deemed to be a separate country ;

“The Merchant Shipping Acts” means the Merchant Shipping Acts, 1894 to 1948, and this Act ;

“The Minister” means the Minister of Transport ;

“The principal Act” means the Merchant Shipping Act, 1894 ;

“Radio navigational aid” means radio apparatus on board a ship being apparatus designed for the purpose of determining the position or direction of ships or other objects ;

“Radio rules” means rules made under section three of this Act ;

“Rules for direction-finders” means rules made under section five of this Act ;

“Rules for life-saving appliances” means rules made under section four hundred and twenty-seven of the principal Act as amended by section two of this Act ;

“Safety Convention ship” means a ship registered in a country to which the Safety Convention applies ; and the expression “Safety Convention passenger steamer” shall be construed accordingly.

(2) If any amendment of the Safety Convention comes into force, references in this Act to the Safety Convention shall, unless the context otherwise requires, be construed as references to the Safety Convention as amended.

37.—(1) This Act shall come into force on such day as His Majesty may by Order in Council appoint.

(2) Except so far as the context otherwise requires, any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any other enactment including this Act.

(3) Except so far as the context otherwise requires, this Act shall be construed as one with the Merchant Shipping Acts, 1894 to 1948, and, without prejudice to the generality of this provision, references in those Acts to the Merchant Shipping Acts shall be construed as including references to this Act.

(4) This Act may be cited as the Merchant Shipping (Safety Convention) Act, 1949, and the Merchant Shipping Acts, 1894 to 1948, and this Act may be cited together as the Merchant Shipping Acts, 1894 to 1949.

(5) The enactments mentioned in the Third Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

Commence-  
ment,  
construction,  
citation  
and repeal.

## SCHEDULES

### Section 32.

### FIRST, SCHEDULE

#### TRANSITIONAL PROVISIONS

1. Any rules or regulations made, or having effect as if made, under any enactment repealed by this Act shall, until revoked, have effect as if they had been made under the corresponding provision of this Act.

2.—(1) Any general safety certificate, short-voyage safety certificate, qualified safety certificate, passenger steamer's exemption certificate, wireless telegraphy certificate or wireless telegraphy exemption certificate in force in respect of any ship at the commencement of this Act shall continue in force until the date shown on the certificate, subject however to any cancellation of the certificate under the principal Act or this Act; and section twelve of this Act shall have effect accordingly.

(2) Section eleven of this Act shall have effect as if any such certificate as aforesaid had been issued under this Act.

(3) Where in respect of a ship there is in force at the commencement of this Act a wireless telegraphy certificate or a wireless telegraphy exemption certificate, that certificate shall be treated for the purposes of paragraph (b) of subsection (1) of section twelve of this Act as a radio certificate or as an exemption certificate stating that she is wholly exempt from the requirements of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders, as the case may require.

(4) Nothing in the said paragraph (b) shall prohibit a ship from proceeding to sea without a safety-equipment certificate (whether or not qualified) until after the expiration of twenty-four months from the date of the commencement of this Act, nor a ship of less than sixteen hundred tons gross tonnage from proceeding to sea without a radio certificate (whether or not qualified), or a certificate stating that she is wholly exempt from the provisions of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders, until after the expiration of one year from that date.

(5) Subsection (5) of section thirteen of this Act shall apply to any such certificate as is mentioned in sub-paragraph (1) of this paragraph as it applies to certificates issued under this Act.

3.—(1) The Minister may by regulations provide—

(a) that any country to which the International Convention for the Safety of Life at Sea, 1929, applies shall, for such purposes, for such a period and subject to such conditions as may be

specified by or under the regulations, be treated for the purposes of this Act as if it were a country to which the Safety Convention applies; and

1st SCH.  
—cont.

- (b) that any certificate purporting to have been issued in accordance with the said Convention of 1929 and complying with such of the regulations made under subsection (2) of section sixteen of the Merchant Shipping (Safety and Load Line Conventions) Act, 1932, as are applicable in the circumstances may, for such purposes, for such a period and subject to such conditions as may be specified by or under the regulations, be treated as if it were an accepted Safety Convention certificate within the meaning of this Act.

(2) Without prejudice to any general provision of this Schedule regarding the validity of regulations made under any Act repealed by this Act, regulations made under subsection (2) of section sixteen of the said Act of 1932 shall continue in force so far as they are required for the purposes of this paragraph.

4. Nothing in section seventeen of this Act shall require the master of a ship of less than sixteen hundred tons gross tonnage other than a passenger steamer to produce an accepted Safety Convention certificate being the equivalent of a radio certificate (whether or not qualified), or a certificate stating that she is wholly or partly exempt from the provisions of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders, before the expiration of twelve months after the date of the commencement of this Act; nor the master of any ship to produce an accepted Safety Convention certificate being the equivalent of a safety-equipment certificate (whether or not qualified) before the expiration of twenty-four months after that date; and the provisions of that section relating to clearance and detention of ships shall have effect accordingly.

## SECOND SCHEDULE

Section 33.

### ENACTMENTS FIXING THE AMOUNT OF FEES

The Merchant Shipping Act, 1894, sections 64 (1), 77 (2), 83, 97, 125 (3), 126 (2), 210 (3), 277, 306 (2), 360 (2), 420 (8), 567 (1), 695 (2).

The Merchant Shipping (Mercantile Marine Fund) Act, 1898, section 3.

The Fees (Increase) Act, 1923, section 2 (1) to (4).

## Section 37.

**THIRD SCHEDULE  
ENACTMENTS REPEALED**

| Session and Chapter     | Short Title                             | Extent of Repeal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------|-----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 57 & 58 Vict.<br>c. 60. | <b>The Merchant Shipping Act, 1894.</b> | <p>In section sixty-four, in subsection (1), the words "not exceeding two shillings".</p> <p>In section seventy-seven, in subsection (2), the words "not exceeding that specified in the Third Schedule to this Act".</p> <p>In section eighty-three, the words "not exceeding those specified in the Third Schedule to this Act".</p> <p>In section ninety-seven, the words "not exceeding those specified in the Fourth Schedule to this Act".</p> <p>In section one hundred and twenty-five, in subsection (3), the words "not exceeding ten shillings".</p> <p>In section one hundred and twenty-six, in subsection (2), the words "not exceeding one shilling".</p> <p>In section two hundred and ten, in subsection (3), the words from "not exceeding" to the end.</p> <p>In section two hundred and sixty-seven, the definition of "passenger".</p> <p>In section two hundred and seventy-two, subsections (3) to (5).</p> <p>In section two hundred and seventy-seven, the words "not exceeding those specified in Part I of the Ninth Schedule to this Act".</p> <p>In section three hundred and six, in subsection (2), the words "not exceeding three pounds for the first hundred persons or fraction of a hundred persons inspected, and one pound for each additional hundred persons or fraction of a hundred persons inspected".</p> <p>In section three hundred and sixty, in subsection (2), the words from "mentioned in Part II" to the end.</p> |

| Session and Chapter          | Short Title                                               | Extent of Repeal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|------------------------------|-----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 57 & 58 Vict.<br>c. 60—cont. | The Merchant Shipping Act, 1894—cont.                     | <p>In section four hundred and twenty, in subsection (8), the words from “not exceeding” to the end.</p> <p>Section four hundred and thirty-five.</p> <p>Sections four hundred and fifty-two to four hundred and fifty-six.</p> <p>In section five hundred and sixty-seven, in subsection (1), the words “not exceeding the amounts therein mentioned”.</p> <p>In section six hundred and ninety-five, in subsection (2), the words “not exceeding one shilling for every folio of ninety words” and “of five shillings”.</p> <p>The Third and Fourth Schedules.</p> <p>In the Sixth Schedule, paragraphs (6) and (7).</p> <p>The Ninth, Sixteenth and Eighteenth Schedules.</p> <p>The Twentieth Schedule, so far as it specifies the amount or the maximum amount of any fees.</p> |
| 61 & 62 Vict.<br>c. 44.      | The Merchant Shipping (Mercantile Marine Fund) Act, 1898. | <p>In section three, the words “not exceeding those specified in the First Schedule to this Act”.</p> <p>The First Schedule.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 6 Edw. 7. c. 48              | The Merchant Shipping Act, 1906.                          | <p>Sections three and four.</p> <p>Section eleven.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 9 & 10 Geo. 5.<br>c. 38.     | The Merchant Shipping (Wireless Telegraphy) Act, 1919.    | <p>The whole Act.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 13 & 14 Geo. 5.<br>c. 4.     | The Fees (Increase) Act, 1923.                            | <p>In section one, in subsection (1), the words “the Merchant Shipping Act, 1894, and of”, “limit the amount of fees chargeable under those Acts or” and “such”, and subsection (2).</p> <p>In section two, in subsection (1), the words from “not exceeding” to the end; in subsection (2), the words “not exceeding those specified in Part II of the Second Schedule to this Act”; in subsection (3), paragraph (b) and the word “or” immediately preceding it and the words from “not exceeding” to the end, and in subsection (4), the words “not exceeding those specified in Part IV of the Second Schedule to this Act”.</p>                                                                                                                                                 |

3RD SCH.  
—cont.

| Session and Chapter                | Short Title                                                         | Extent of Repeal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|------------------------------------|---------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 13 & 14 Geo. 5.<br>c. 4—cont.      | The Fees (Increase) Act, 1923—cont.                                 | In the First Schedule, Part I so far as it amends the principal Act, and Part II.<br>The Second Schedule.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 18 & 19 Geo. 5.<br>c. 40.          | The Merchant Shipping (Line-throwing Appliance) Act, 1928.          | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 22 & 23 Geo. 5.<br>c. 9.           | The Merchant Shipping (Safety and Load Line Conventions) Act, 1932. | Sections one to four.<br>In section five, subsections (1), (4) and (5).<br>Sections six and seven.<br>In section nine, subsection (2).<br>Sections ten and eleven.<br>Sections thirteen to twenty-two.<br>In section twenty-four, in subsection (2), the words from "and shall make" to the end and in subsection (4), the proviso.<br>Sections twenty-five and twenty-six.<br>Section twenty-eight.<br>Sections thirty-two to thirty-five.<br>Sections thirty-seven and thirty-eight.<br>In section sixty-two, in subsection (1), the words "and in subsection (1) of section four hundred and fifty-four".<br>In section sixty-eight, the words "Safety Convention or" in both places where they occur.<br>In section seventy-three, the definitions of "Passenger" and "Passenger steamer".<br>The Third Schedule.<br>In section three, in subsection (1), the words from "and the power" to the words "surface of the water" in the third place where they occur, paragraph (ii) and in paragraph (iv) the words "in subsection (3) of the said section twenty-five or". |
| 26 Geo. 5 &<br>1 Edw. 8.<br>c. 44. | The Air Navigation Act, 1936.                                       | In section three, in subsection (1), the words from "and the power" to the words "surface of the water" in the third place where they occur, paragraph (ii) and in paragraph (iv) the words "in subsection (3) of the said section twenty-five or".                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

DIPLOMA

*Table of Statutes referred to in this Act*

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—cont.

| Short Title                                                              | Session and Chapter   |
|--------------------------------------------------------------------------|-----------------------|
| Customs Consolidation Act, 1876 ... ..                                   | 39 & 40 Vict. c. 36.  |
| Interpretation Act, 1889 ... ..                                          | 52 & 53 Vict. c. 63.  |
| Merchant Shipping Act, 1894 ... ..                                       | 57 & 58 Vict. c. 60.  |
| Merchant Shipping (Mercantile Marine Fund)<br>Act, 1898 ... ..           | 61 & 62 Vict. c. 44.  |
| Merchant Shipping Act, 1906 ... ..                                       | 6 Edw. 7. c. 48.      |
| Maritime Conventions Act, 1911 ... ..                                    | 1 & 2 Geo. 5. c. 57.  |
| Merchant Shipping (Wireless Telegraphy) Act,<br>1919 ... ..              | 9 & 10 Geo. 5. c. 38. |
| Fees (Increase) Act, 1923 ... ..                                         | 13 & 14 Geo. 5. c. 4. |
| Statute of Westminster, 1931 ... ..                                      | 22 & 23 Geo. 5. c. 4. |
| Merchant Shipping (Safety and Load Line<br>Conventions) Act, 1932 ... .. | 22 & 23 Geo. 5. c. 9. |

**CHAPTER 44**

*Superannuation Act, 1949*

ARRANGEMENT OF SECTIONS

PART I

PENSIONS TO WIDOWS, CHILDREN, ETC.

*Pensions under Part I*

Section

1. Power to grant widows' and children's pensions.
2. Pensions under Part I to depend on deceased's superannuation allowance.
3. Widows' pensions.
4. Children's pensions: beneficiaries.
5. Children's pensions: rate and mode of payment.

*Contributions under Part I*

6. Duty to pay contributions under Part I.
7. Periodical contributions under Part I.
8. Return of periodical contributions under Part I.
9. Contribution under Part I by reduction in additional allowances and death gratuities.

*Application of Part I*

10. Application of Part I to existing and future male civil servants.
11. Application of Part I with modifications to certain retired male civil servants.
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O

*Miscellaneous*

## Section

13. Saving for allocations under Superannuation Act, 1935, s. 2, and power to revoke allocations to beneficiaries under Part I.
14. Superannuation Acts to apply in their most recent form where Part I applies.

## PART II

## DEPENDANTS' PENSIONS

*Pensions under Part II*

15. Power to grant pensions to nominated dependants of civil servants.
16. Pensions under Part II to depend on nominator's superannuation allowance.
17. Life pensions.
18. Pensions of limited duration.

*Contributions under Part II*

19. Duty to pay contributions under Part II.
20. Periodical contributions under Part II.
21. Return of periodical contributions under Part II.
22. Contribution under Part II by reduction in additional allowances and death gratuities.

*Limitations on right to nominate, avoidance of nominations, etc.*

23. Nominees must be related to and dependent on the nominator.
24. Limitation of number of nominees.
25. Prevention of overlap with Part I.
26. Avoidance of nominations.
27. Renominations of nominees under previous nominations which have become void.
28. Power to refuse nominations on ground of nominator's ill-health.
29. Power of certain retired civil servants to make nominations.

*Miscellaneous*

30. Saving for allocations under Superannuation Act, 1935, s. 2, and power to revoke allocations in certain circumstances.
31. Superannuation Acts to apply in their most recent form where nominations made.

## PART III

## MISCELLANEOUS AMENDMENTS OF THE SUPERANNUATION ACTS

32. Increase of superannuation and additional allowances in cases of retirement for ill-health with less than twenty years' service.
33. Power of certain retired civil servants to allocate part of their superannuation benefits to their spouses.
34. Superannuation benefit in certain cases of premature retirement.
35. Additions to pensions etc. for service after retiring age in certain cases.
36. Additions to pensions etc. in certain cases of unestablished employment after retirement.
37. Repeal of certain provisions as to death gratuities and additional allowances.



## Section

38. Reckoning of unestablished service.
39. Gratuities to unestablished persons.
40. Part-time service.
41. Gratuities and allowances to civil servants and others injured or contracting diseases in the discharge of their duties.
42. Computation of service and reduction of retiring age where service has been in certain places abroad.
43. Computation of service and reduction of retiring age in the case of certain prison and other employments.
44. Counting of certain war service for superannuation purposes.

## PART IV

## MISCELLANEOUS AND GENERAL

*Supplemental provisions as to Parts I and II*

45. Duty of civil servants to give information.
46. Meaning of "period of childhood and full-time education" for the purposes of Parts I and II.
47. Marriages of civil servants whose early death is to be foreseen.
48. Application of Pensions (Increase) Acts, Lunacy Act, 1890, Forfeiture Act, 1870, etc.
49. Contributions not to qualify for Income Tax Relief.
50. Mode of making elections, etc.
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52. Application to cases falling within the Superannuation (Various Services) Act, 1938.
53. Application to employees of Cable and Wireless, etc.
54. Application of Act to persons holding successive offices or transferring to approved employment.
55. Application of Act to persons who have served on the establishment of the Secretary of State in Council of India.
56. Provisions as to existing Irish officers.
57. Age-barred officers.
58. Application of this Act to compensation and retiring allowances.

*General*

59. Power to ignore breaks in dependence.
60. Statutory instruments to be subject to annulment.
61. Power of Treasury to delegate power to grant allowances, etc.
62. Financial provisions.
63. Interpretation.
64. Short title, citation and repeal.

## SCHEDULES :

First Schedule—Provisions relating to incapacitated persons.

Part I—Children's pensions.

Part II—Dependants' pensions.

Second Schedule—Modifications of Parts I and II in relation to persons to whom ss. 35 and 36 apply.

Part I—Persons serving after retiring age and 40 years' reckonable service.

Part II—Persons serving in unestablished employment after retirement.

Third Schedule—Enactments repealed.

An Act to amend the law relating to the superannuation and other benefits payable to and in respect of persons who serve or have served in the civil service of the State or in service to which the Superannuation (Various Services) Act, 1938, applies or are existing Irish officers within the meaning of the Government of Ireland Act, 1920 ; to authorise the payment of annual allowances and gratuities to and in respect of persons who are injured or contract diseases while employed in a civil capacity for the purposes of His Majesty's Government in the United Kingdom ; and for purposes connected with the matters aforesaid.

[14th July 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

#### PART I

#### PENSIONS TO WIDOWS, CHILDREN, ETC.

##### *Pensions under Part I*

Power to grant widows' and children's pensions.

1. Subject to the provisions of this Act, the Treasury may, on the death of a male person to whom this Part of this Act applies (hereafter in this Part of this Act referred to as "the deceased"), grant, in respect of his service—

- (a) where he leaves a widow, a pension to that widow (hereafter in this Part of this Act referred to as a "widow's pension"); and
- (b) where he had a wife at any time after this Part of this Act first applied to him (whether or not the marriage continued until his death and whether or not a widow's pension is or can be granted), a pension for the benefit of the children of the marriage, and, in certain circumstances, of other children of his or hers (hereafter in this Part of this Act referred to as a "children's pension"):

Provided that any marriage of the deceased which takes place after he has ceased to be a civil servant shall be left out of account for the purposes of this Part of this Act, and any reference in this Part of this Act to a marriage, a wife, the widow or the children of the deceased shall be construed accordingly.

Pensions under Part I to depend on deceased's superannuation allowance.

2.—(1) A pension shall not be granted under this Part of this Act unless—

- (a) the deceased had become eligible for the grant of a superannuation allowance (whether such an allowance had actually been granted or not); or

- (b) the deceased was still serving as a civil servant at the time of his death and would, if he had then retired upon a medical certificate, have been eligible for the grant of a superannuation allowance ; or
- (c) the deceased had ceased to be a civil servant in such circumstances that, on attaining a particular age, he would or might have become eligible for a superannuation allowance by virtue of subsection (2) of section thirty-four of this Act (which relates to superannuation benefit in certain cases of premature retirement).

PART I  
—cont.

(2) In this Part of this Act, the expression “ the rate of the superannuation allowance of the deceased ” means the annual rate of the superannuation allowance mentioned in subsection (1) of this section for which the deceased had become eligible (whether such an allowance at that or any other rate had actually been granted or not), or, as the case may be, for which he would or might have become eligible, any abatements falling to be made under regulations made under subsection (4) of section sixty-nine of the National Insurance Act, 1946, being left out of account.

3.—(1) A widow’s pension shall not be granted if—

- (a) the widow was at the time of the death cohabiting with a person other than the deceased ; or
- (b) after the death the widow remarries or cohabits with any person,

Widows’  
pensions.

and if, after the grant of a widow’s pension, the widow remarries or cohabits with any person, the pension shall cease as from the date of the remarriage or the commencement of the cohabitation :

Provided that where—

- (i) a pension is withheld or ceases under this section ; and
- (ii) the Treasury are satisfied at a subsequent date that the marriage or cohabitation has come to an end or that there are compassionate grounds for the payment of pension notwithstanding the marriage,

the Treasury may, if they think fit, grant or regrant the pension as from that date.

(2) Subject to the provisions of subsection (1) of this section, a widow’s pension may be paid in respect of the whole period from the death of the deceased to the death of the widow.

(3) The annual rate of a widow’s pension may amount to one-third of the rate of the superannuation allowance of the deceased or to twenty-six pounds per annum, whichever is the higher.

PART I  
—cont.  
Children's  
pensions :  
beneficiaries.

4.—(1) A children's pension may be granted if, and be paid so long as and whenever, there are persons for whose benefit it can enure.

(2) Subject to the provisions of this section and to the provisions of the First Schedule to this Act, the persons for whose benefit a children's pension can enure are the children of the deceased or of any wife of his who are for the time being in their period of childhood and full-time education.

(3) A children's pension cannot enure—

- (a) for the benefit of any person conceived after the deceased ceased to be a civil servant ;
- (b) for the benefit of any person by reason that he is the illegitimate or adopted child of the deceased, if he was born, or, as the case may be, adopted, after the termination of the deceased's last marriage or after the deceased had ceased to be a civil servant ; or
- (c) for the benefit of any person by reason that he is the child of a wife of the deceased, if he was born or became her child after the termination of the marriage or after the deceased had ceased to be a civil servant.

(4) A children's pension cannot enure for the benefit of any person by reason that—

- (a) he is the illegitimate child of the deceased ; or
- (b) he is a stepchild of the deceased and a child of a wife of his ; or
- (c) he is the stepchild, adopted child or illegitimate child of a wife of the deceased,

unless he was wholly or mainly dependent on the deceased at the time of his death.

(5) A children's pension cannot enure for the benefit of a female person who at the time of the death of the deceased was married or was cohabiting with any person, and if, after the death of the deceased, a female person marries or cohabits with any person, she shall thereupon cease to be a person for whose benefit a children's pension can enure :

Provided that where—

- (a) a pension is withheld from or does not enure for the benefit of a person by virtue of this subsection ; and
- (b) the Treasury are satisfied at a subsequent date that the marriage or cohabitation has come to an end or that there are compassionate grounds for permitting the pension to enure for her benefit notwithstanding the marriage,

the Treasury may, if they think fit, grant the pension, or, as the case may be, permit the pension to enure for her benefit, as from that date.

(6) A children's pension cannot enure for the benefit of a person who is the subject of a nomination made by the deceased under Part II of this Act which is still in force.

PART I  
—cont.

5.—(1) Only one children's pension shall be granted in respect of the service of any one person, but

Children's  
pensions:  
rate and  
mode of  
payment.

- (a) the rate thereof may vary according to the number of persons for whose benefit it can for the time being enure ; and
- (b) it shall be paid to such person or persons as the Treasury may from time to time direct, and different parts thereof may be directed to be paid to different persons ; and
- (c) the person to whom all or any part thereof is paid shall apply the sum paid to him, without distinction, for the benefit of all the persons for whose benefit the pension can for the time being enure or for the benefit of such of them as the Treasury may from time to time direct.

(2) Where the deceased leaves no widow, and, if he leaves a widow, after her death, the annual rate of a children's pension—

- (a) while the persons for whose benefit it can enure are three or more in number, may amount to one-third of the rate of the superannuation allowance of the deceased or to twenty-six pounds per annum, whichever is the higher ;
- (b) while the said persons are two in number, may amount to one-quarter of the rate of the superannuation allowance of the deceased, or to nineteen pounds ten shillings per annum, whichever is the higher ;
- (c) while there is only one such person, may amount to one-sixth of the rate of the superannuation allowance of the deceased or to thirteen pounds per annum, whichever is the higher.

(3) Subject to the provisions of the next succeeding subsection, where the deceased leaves a widow, the annual rate of a children's pension during her life—

- (a) while the persons for whose benefit it can enure are four or more in number, may amount to one-third of the rate of the superannuation allowance of the deceased or to twenty-six pounds per annum, whichever is the higher ;
- (b) while the said persons are three in number, may amount to one-quarter of the rate of the superannuation allowance of the deceased, or to nineteen pounds ten shillings per annum, whichever is the higher ;

**PART I**  
*—cont.*

- (c) while the said persons are two in number, may amount to one-sixth of the rate of the superannuation allowance of the deceased, or to thirteen pounds per annum, whichever is the higher ;
- (d) while there is only one such person, may amount to one-twelfth of the rate of the superannuation allowance of the deceased or to six pounds ten shillings per annum, whichever is the higher :

Provided that—

- (i) where all the persons for whose benefit a children's pension can enure were at the time of the death of the deceased in the care of some person other than the widow, the Treasury may, if they think fit, direct that subsection (2) of this section shall apply notwithstanding that the widow is still alive ; and
- (ii) where some but not all of those persons were at that time in the care of some person other than the widow, the annual rate of the children's pension may, if the Treasury think fit, amount to the sum of the rate to which it might have amounted if those persons were left out of account and the rate to which it might have amounted if the widow were dead and the other persons were left out of account, so, however, that in no case shall the annual rate of the pension amount to more than either one-third of the rate of the superannuation allowance of the deceased or twenty-six pounds per annum, whichever is the higher.

(4) Notwithstanding anything in the preceding provisions of this section, where the deceased leaves a widow and no widow's pension is granted to her or, if one is granted to her, it ceases to be paid before her death, no children's pension shall be payable as respects any period comprised within the life-time of the widow or within the time in respect of which no widow's pension is payable, as the case may be, unless the Treasury specially direct that such a pension shall be so payable, but, if the Treasury do specially so direct, they may, if they think fit, further direct that subsection (2) of this section shall apply as respects any such period notwithstanding that the widow is alive.

*Contributions under Part I*

Duty to pay contributions under Part I.

6. The provisions of the three next succeeding sections shall have effect for the purpose of securing that part of the cost of the pensions payable under this Part of this Act is borne by contributions by persons to whom this Part of this Act applies.

Periodical contributions under Part I.

7.—(1) At the time when this Part of this Act first applies to a person or within six months thereafter, he shall elect whether or not to make contributions under this section.

(2) Where a person who has no wife when this Part of this Act first applies to him marries or first marries thereafter, he shall, unless he has previously elected under subsection (1) of this section to make contributions under this section, again elect, at the time of his marriage or within six months thereafter, whether or not to make such contributions.

(3) Contributions by a person under this section—

- (a) shall be equal to one and a quarter per cent. of the amount of the salary from time to time payable to him, exclusive of allowances and payments for overtime ;
- (b) shall be payable in respect of his salary from the date as from which his election to pay the contributions becomes effective until he ceases to be a civil servant; and
- (c) shall be paid at such times and in such manner as the Treasury may determine.

An election by a person under subsection (1) of this section shall be effective as from the date when this Part of this Act first applies to him and an election by a person under subsection (2) of this section shall be effective as from the date when he marries or first marries thereafter.

(4) Contributions under this section are hereafter in this Part of this Act referred to as “periodical contributions.”

8.—(1) If—

- (a) when a person who had made periodical contributions ceases to be a civil servant, it appears that he has had no wife throughout the period for which this Part of this Act applied to him ; or
- (b) a person who has made periodical contributions ceases to be a civil servant under such circumstances that he is not eligible for the grant of a superannuation allowance and will not become eligible therefor on attaining a particular age,

Return of  
periodical  
contributions  
under Part I.

the whole of his periodical contributions may be returned to him.

(2) In any other case where a person ceases to be a civil servant after making periodical contributions, there may be returned to him such of those contributions, if any, beginning with the last of them, as is necessary in order to secure that the period in respect of which such contributions are paid by him without being returned—

- (a) is an exact number of years; and
- (b) does not extend beyond the date on which his reckonable service amounted to forty years ; and

PART I  
—cont.

(c) if he has no wife when he ceases to be a civil servant, does not extend beyond the date on which he last had a wife.

(3) Where any contributions are returned under this section, they may be returned with compound interest at such rate or rates as the Treasury may from time to time determine.

Contribution under Part I by reduction in additional allowances and death gratuities.

9.—(1) Subject to the provisions of this section, where an additional allowance or a gratuity under section two of the Superannuation Act, 1909, becomes payable to or in respect of a person to whom this Part of this Act applies, a contribution under this section shall be made in respect of him, taking the form of a reduction in the amount of the allowance or gratuity.

(2) A contribution shall not be made under this section where the civil servant has no wife when he ceases to be a civil servant and has had no wife throughout the period for which this Part of this Act applied to him, or where the number of relevant years, as defined in subsection (4) of this section, is nil.

(3) Where subsection (2) of this section does not apply, the contribution shall be equal to one-eightieth of the average annual amount of the salary and emoluments of the civil servant's office during the last three years of his service, multiplied by the number of relevant years as defined in subsection (4) of this section.

(4) In this section, the expression "the number of relevant years" means—

(a) if the civil servant has a wife when he ceases to be a civil servant, the number of completed years of reckonable service which he then has ;

(b) if the civil servant has no wife when he ceases to be a civil servant, the number of completed years of reckonable service which he had when he last had a wife before that date,

reduced, in each case, by the number of years, if any, for which periodical contributions have been made by him and are not returnable.

(5) Service after forty years of reckonable service shall be left out of account for the purposes of this section.

(6) Any reduction effected or to be effected under this section in the amount of any additional allowance shall be left out of account for the purposes of subsection (2) of section two of the Superannuation Act, 1909 (which provides for a supplemental death gratuity in the cases of persons dying shortly after becoming eligible for a superannuation allowance) and, accordingly, the question whether any and if so what gratuity may be granted under that subsection shall be determined as if no such reduction as aforesaid had been or had to be made.



*Application of Part I*PART I  
—cont.

10.—(1) Subject to the provisions of this section, this Part of this Act shall apply to all male persons who are civil servants at the date of the passing of this Act or thereafter become civil servants.

Application of Part I to existing and future male civil servants.

(2) A male person who is a civil servant at the date of the passing of this Act and has then a wife may, within the six months next following the date of passing of this Act, elect that this Part of this Act shall not apply and shall be deemed never to have applied to him.

(3) A male person who is a civil servant at the date of the passing of this Act and has then no wife may, within the six months next following the date on which he marries or first marries thereafter, elect that this Part of this Act shall not apply and shall be deemed never to have applied to him :

Provided that a person shall not make an election under this subsection if he has already elected to make periodical contributions.

(4) Where—

(a) a person who is at the date of the passing of this Act employed in an unestablished capacity or part-time service thereafter becomes a civil servant ; and

(b) any of that service is reckonable service, whether as to the whole or as to any part thereof,

the provisions of the last two preceding subsections shall apply in relation to him as they apply in relation to a person who is at the date of the passing of this Act a civil servant, but as if for the references therein to the date of the passing of this Act there were substituted references to the date when he becomes a civil servant.

(5) Where—

(a) a person has elected under this section that this Part of this Act shall not apply and shall be deemed never to have applied to him ; and

(b) his marriage comes to an end ; and

(c) he again marries,

he may, before the expiration of six months from the date of the marriage referred to in paragraph (c) of this subsection, give a notice cancelling that election.

11.—(1) A male person who was a civil servant before the passing of this Act but had by then ceased to be a civil servant, may, if either—

Application of Part I with modifications to certain retired male civil servants.

(a) he was a civil servant at some time on or after the eighth day of May, nineteen hundred and forty-five ; or

PART I  
—cont.

(b) before the passing of this Act and after ceasing to be a civil servant, he served in an unestablished capacity his service in which either—

(i) included at least six months of continuous service beginning on or after the said eighth day of May ; or

(ii) followed immediately upon his service as a civil servant, was in the post which he last held as a civil servant or in a similar post, and included, and was continuous until, the said eighth day of May,

elect, within the six months next following the passing of this Act, that this Part of this Act shall apply to him :

Provided that a person may not make an election under this section unless he was married when he ceased to be a civil servant and his wife is still living when he makes the election.

(2) A person who makes an election under this section shall be liable to make the same contribution as would have fallen to be made by him under section nine of this Act if this Act had been passed before he ceased to be a civil servant and this Part of this Act had applied to him, and, if he has already been paid his additional allowance or there is no additional allowance payable in his case, he shall pay the amount of that contribution to the Treasury not later than twelve months from the date of the election.

(3) If any amount payable to the Treasury under subsection (2) of this section is not paid in full within the twelve months next following the election and the person who should have paid it is still living at the end of the said twelve months, the election shall be ineffective.

(4) If any amount falls to be paid under subsection (2) of this section and the person by whom it is to be paid dies within the twelve months next following the date of the election without having paid the whole of that amount,—

(a) no further payments shall be made under that subsection ; and

(b) any widow's pension or children's pension which may be payable in respect of his service shall be reduced so as to bear to the full amount thereof the same proportion as the amount paid under the said subsection (2) bears to the full amount which fell to be paid thereunder ; and

(c) the election shall be ineffective unless either a widow's pension or a children's pension can be paid in respect of his service at a rate equal to at least six pounds ten shillings per annum.

(5) Where an election is ineffective under subsection (3) or subsection (4) of this section, so much of the amount payable under subsection (2) of this section as has already been paid shall be repaid.

PART I  
—cont.

12.—(1) A woman civil servant who has a husband may, on proof to the satisfaction of the Treasury that her husband is wholly or mainly dependent on her, elect that this Part of this Act shall apply to her. Application of Part I with modifications to women.

(2) A woman who has a husband and was a civil servant before the passing of this Act but had by then ceased to be a civil servant may, on proof to the satisfaction of the Treasury that her husband is, and, when she last was a civil servant, was, wholly or mainly dependent on her, have the same right to elect that this Part of this Act shall apply to her as she would have had under the last preceding section if she had been a man whose wife was still living, and all the provisions of that section shall apply to her accordingly.

(3) Where this Part of this Act applies to a woman by reason of an election under this section, all the provisions of this Act shall apply in relation to her as if references therein to a male person who is or was a civil servant included references to her, and as if any reference to the wife or widow of such a person included a reference to her husband or her widower :

Provided that—

- (a) where she leaves a widower, the Treasury may, if they think fit, direct that subsection (2) of section five of this Act shall apply to any children's pension payable in respect of her service to the exclusion of subsection (3) thereof, notwithstanding that some or all of the persons for whose benefit the pension can enure were not at the time of her death in the care of some person other than the widower ; and
- (b) if her husband dies and she remarries, the subsequent marriage and the children thereof shall be left out of account for all the purposes of this Part of this Act unless she proves to the satisfaction of the Treasury, at some time while she is still a civil servant, that her husband by that marriage is wholly or mainly dependent on her.

#### Miscellaneous

13.—(1) Save as is provided in subsection (2) of this section, the fact that this Part of this Act applies to a person shall not affect his rights under section two of the Superannuation Act, 1935 (which provides for the partial allocation of superannuation benefits to wives and dependants), and the pensions payable under this Part of this Act in respect of the service of a person shall be calculated as if any surrender under that section of a part of a superannuation allowance had not been made. Saving for allocations under Superannuation Act, 1935, s. 2, and power to revoke allocations to beneficiaries under Part I.

PART I  
—cont.

(2) Where a person who has ceased to be a civil servant at the time of the passing of this Act duly elects that this Part of this Act shall apply to him, he may, if he thinks fit, by notice given at the time of his election, cancel any surrender made under the said section two of any superannuation allowance, being a surrender made for the purpose of enabling the Treasury to grant a pension to a person to whom or for whose benefit a pension may be granted under this Part of this Act in respect of his service, and in that event the surrender, and any grant of a pension made by reason thereof under the said section two, shall not have effect as respects so much of the allowance or pension as accrues on or after the date on which the cancellation becomes effective, without prejudice, however, to the effect, as respects so much of the allowance or pension as accrued before that date, of the said surrender and of any such grant of a pension.

(3) A cancellation under subsection (2) of this section shall not become effective until the contribution falling to be made by virtue of the election has been paid, and the references in the said subsection (2) to the date on which the cancellation becomes effective shall be construed accordingly.

Superannuation Acts to apply in their most recent form where Part I applies.

14.—(1) Where this Part of this Act becomes applicable to a male person to whom sections one and two of the Superannuation Act, 1909, do not apply, the said sections one and two shall apply to him as they apply to male civil servants who entered the service after the passing of that Act.

(2) If a female person to whom the said sections one and two do not apply duly elects that this Part of this Act shall apply to her, the said sections one and two shall apply to her as they apply to female civil servants who entered the service after the commencement of the Superannuation Act, 1935.

(3) Section four of the Superannuation Act, 1935 (which relates to the averaging of salary and emoluments) shall apply to every person who duly elects that this Part of this Act shall apply to him, notwithstanding that he is comprised in the exceptions enumerated in subsection (1) of the said section four.

(4) Where this Part of this Act becomes applicable to an existing member of the diplomatic service, as defined in the Superannuation (Diplomatic Service) Act, 1929, who gave notice under section two of that Act that he desired to remain subject to the provisions of the Diplomatic Salaries, &c. Act, 1869, the Superannuation (Diplomatic Service) Act, 1929, shall apply to him as it applies to persons who were in the diplomatic service but were not existing members thereof as defined as aforesaid, and a superannuation allowance, additional allowance or gratuity may be granted to or in respect of him accordingly.

(5) Where a person who duly elects that this Part of this Act shall apply to him had ceased to be a civil servant at the time of the passing of this Act, the provisions of subsections (1) to (4) of this section shall not affect the superannuation allowance or diplomatic pension, or, save so far as it may be reduced by a contribution, the additional allowance, if any, which has been or may be granted to him, but the pensions payable under this Part of this Act in respect of his service, and the contributions payable by him under this Part of this Act, shall be calculated as if the said allowances might have been granted in accordance with the provisions of the said subsections (1) to (4) and not otherwise.

PART I  
—cont.

## PART II

### DEPENDANTS' PENSIONS

#### *Pensions under Part II*

15.—(1) Subject to the provisions of this Part of this Act, a person who is a civil servant may, at any time before he ceases to be a civil servant, nominate another person who satisfies the conditions in that behalf specified in this Part of this Act as to relationship, dependence and otherwise, as a person to whom or for whose benefit a pension may be granted under this Part of this Act after the nominator's death, and, subject as aforesaid, the Treasury may, after the death of the nominator and if the nomination is still in force, grant a pension accordingly to or for the benefit of the person nominated.

Power to grant pensions to nominated dependants of civil servants.

(2) Pensions under this Part of this Act shall be either—

- (a) pensions which may continue for the life of the grantee (in this Part of this Act referred to as "life pensions"); or
- (b) pensions which (subject to the provisions of the First Schedule to this Act) may be paid only while the persons for whose benefit they are granted are still in their period of childhood and full-time education (in this Part of this Act referred to as "pensions of limited duration").

(3) In this Part of this Act, the expression "nomination" means such a nomination as is referred to in subsection (1) of this section, and the expressions "nominate", "nominator" and "nominee" shall be construed accordingly:

Provided that, except where the context otherwise requires, the expression "nominee" does not include a nominee under a nomination which has ceased to be in force.

16.—(1) A pension shall not be granted under this Part of this Act unless—

- (a) the nominator had become eligible for the grant of a superannuation allowance (whether such an allowance had actually been granted or not); or

Pensions under Part II to depend on nominator's superannuation allowance.

PART II  
—cont.

- (b) the nominator was still serving as a civil servant at the time of his death and would, if he had then retired upon a medical certificate, have been eligible for the grant of a superannuation allowance ; or
- (c) the nominator had ceased to be a civil servant in such circumstances that, on attaining a particular age, he would or might have become eligible for superannuation allowance by virtue of subsection (2) of section thirty-four of this Act (which relates to superannuation benefit in certain cases of premature retirement).

(2) In this Part of this Act, the expression “ the rate of the superannuation allowance of the nominator ” means the annual rate of the superannuation allowance mentioned in subsection (1) of this section for which the nominator had become eligible (whether such an allowance at that or any other rate had actually been granted or, not) or, as the case may be, for which he would or might have become eligible, any abatements falling to be made under regulations made under subsection (4) of section sixty-nine of the National Insurance Act, 1946, being left out of account.

## Life pensions

17.—(1) A life pension may be granted to a nominee who was nominated after the end of his period of childhood and full-time education.

(2) A life pension may be paid in respect of the whole period from the death of the nominator until the death of the nominee.

(3) Notwithstanding anything in the preceding provisions of this section, a life pension shall not be granted to a female nominee if either—

- (a) at the time of the death of the nominator, she is married ; or
- (b) at or after the time of the death of the nominator, she cohabits with any person,

and if, after the granting of a life pension to a female nominee, she marries or cohabits with any person, the pension shall cease as from the date of the marriage or the commencement of the cohabitation :

Provided that where—

- (i) a pension is withheld or ceases under this section ; and
- (ii) the Treasury are satisfied at a subsequent date that the marriage or cohabitation has come to an end or that there are compassionate grounds for the payment of pension notwithstanding the marriage,

the Treasury may, if they think fit, grant or re-grant the pension as from that date.

(4) The annual rate of a life pension may amount to one-third of the rate of the superannuation allowance of the nominator or to twenty-six pounds per annum, whichever is the higher.

**18.—(1)** A pension of limited duration may be granted if, and be paid so long as and whenever, there are nominees for whose benefit it can enure, and, subject to the provisions of this section and to the provisions of the First Schedule to this Act, the nominees for whose benefit such a pension can enure are nominees who are for the time being in their period of childhood and full-time education.

**PART II**  
—cont.

Pensions of  
limited  
duration.

(2) Only one pension of limited duration shall be granted in respect of the nominations of any one person but—

- (a) the rate thereof may vary according to the number of persons for whose benefit it can for the time being enure ; and
- (b) it shall be paid to such person or persons as the Treasury may from time to time direct, and different parts thereof may be directed to be paid to different persons ; and
- (c) the person to whom all or any part thereof is paid shall apply the sum paid to him, without distinction, for the benefit of all the persons for whose benefit the pension can for the time being enure or for the benefit of such of them as the Treasury may from time to time direct.

(3) The annual rate of a pension of limited duration—

- (a) while the persons for whose benefit it can enure are three or more in number, may amount to one-third of the rate of the superannuation allowance of the nominator or to twenty-six pounds per annum, whichever is the higher ;
- (b) while the said persons are two in number, may amount to one-quarter of the rate of the superannuation allowance of the nominator, or to nineteen pounds ten shillings per annum, whichever is the higher ;
- (c) while there is only one such person, may amount to one-sixth of the rate of the superannuation allowance of the nominator or to thirteen pounds per annum, whichever is the higher.

(4) A pension of limited duration cannot enure for the benefit of a female nominee who at the time of the death of the nominator was married or was cohabiting with any person, and, if, after the death of the nominator, a female nominee marries or cohabits with any person, she shall cease to be a person for whose benefit a pension of limited duration can enure :

Provided that where—

- (a) such a pension as aforesaid is withheld from or does not enure for the benefit of a nominee by virtue of this subsection ; and

PART II  
—*con.*

(b) the Treasury are satisfied at a subsequent date that the marriage or cohabitation has come to an end or that there are compassionate grounds for permitting the pension to enure for her benefit notwithstanding the marriage,

the Treasury may, if they think fit, grant the pension, or, as the case may be, permit the pension to enure for her benefit, as from that date.

*Contributions under Part II*

Duty to pay  
contributions  
under Part II.

19.—(1) Where a person makes a nomination, contributions shall be made by him in accordance with this and the three next succeeding sections in respect of that nomination, at rates ascertained by reference to tables to be prepared from time to time by the Government Actuary.

(2) The said tables shall classify nominations according to the ages and sexes of the nominator and the nominee and according to whether or not the nominee is presumptively eligible for a life pension, and shall, in relation to each of the two kinds of contribution provided for by the three next succeeding sections, fix a rate of contribution (expressed as a percentage) for each class of nomination; and those rates shall be fixed with a view to securing that, as nearly as may be, the value of the contributions payable in respect of each class of nomination is equivalent to half the burden of the pensions payable under this Part of this Act by reason of nominations of that class.

(3) It shall be assumed, in preparing the said tables, that no nominator will ever make more than one nomination, and where two or more nominations (being nominations where the nominee is not presumptively eligible for a life pension) are in force at the same time, the contributions to be made in respect of the second nomination and the third nomination, if any, shall be at half the rate specified in the tables:

Provided that where two or more nominations are made on the same day, the one with the youngest nominee shall be deemed for the purpose of this subsection to be made first, and so on.

(4) In this Part of this Act, the expression "the appropriate percentage" means, in relation to the contributions of any kind payable in respect of a nomination of any class, the percentage or, as the case may be, half the percentage, which, in the tables prepared under this section which are in force at the date of the nomination, is expressed to be the rate for contributions of that kind in respect of nominations of that class.

Periodical  
contributions  
under Part II.

20.—(1) When a person makes a nomination, he shall elect whether or not to make contributions under this section in respect of it.



## (2) Contributions by a person under this section—

(a) shall be equal to the appropriate percentage of the amount of the salary from time to time payable to him, exclusive of allowances and payments for overtime;

(b) shall be payable in respect of his salary from the date of the nomination—

(i) until he ceases to be a civil servant ; or

(ii) if the nomination becomes void before he ceases to be a civil servant, until the nominator gives notice to the Treasury of the avoidance of the nomination or, as the case may be, of the event causing it to be void ; or

(iii) if the nomination was made during the nominee's period of childhood and full-time education, until the nominee attains the age of sixteen years,

whichever first occurs ;

(c) shall be paid at such times and in such manner as the Treasury may determine :

Provided that the Treasury may, if in all the circumstances they think fit so to do, direct, in relation to a nomination which becomes void before the nominator ceases to be a civil servant, that contributions shall not be payable in respect of the salary of the nominator after the date on which the nomination becomes void.

(3) Contributions under this section are hereafter in this Part of this Act referred to as " periodical contributions ".

**21.**—(1) If a person who has made periodical contributions in respect of a nomination ceases to be a civil servant under such circumstances that he is not eligible for the grant of a superannuation allowance and will not become eligible therefor on attaining a particular age, the whole of his periodical contributions in respect of that nomination may be returned to him.

Return of  
periodical  
contributions  
under Part II.

(2) In any other case where a person ceases to be a civil servant after making periodical contributions in respect of a nomination, there may be returned to him such of those contributions, if any, beginning with the last of them, as is necessary in order to secure that the period in respect of which such contributions are paid by him without being returned—

(a) is an exact number of years ; and

(b) does not extend beyond the date on which his reckonable service amounted to forty years.

(3) Where any contributions are returned under this section, they may be returned with compound interest at such rate or rates as the Treasury may from time to time determine.

PART II  
—cont.

Contribution under Part II by reduction in additional allowances and death gratuities.

**22.**—(1) Subject to the provisions of this section, where an additional allowance or a gratuity under section two of the Superannuation Act, 1909, becomes payable to or in respect of a person who has made a nomination, a contribution under this section shall be made in respect of that nomination, taking the form of a reduction in the amount of the allowance or gratuity.

(2) A contribution shall not be made under this section in respect of a nomination where the number of relevant years, as defined in subsection (4) of this section, is nil.

(3) Where subsection (2) of this section does not apply, the contribution shall be equal to the appropriate percentage of the average annual amount of the salary and emoluments of the nominator's office during the last three years of his service, multiplied by the number of relevant years, as defined in subsection (4) of this section.

(4) In this section, the expression "the number of relevant years" means the number of completed years of reckonable service which the nominator has on whichever of the following dates first occurs, that is to say—

- (a) the date when the nominator ceases to be a civil servant ; or
- (b) if the nomination became void before the nominator ceased to be a civil servant, the date when the nominator gives notice to the Treasury of the avoidance of the nomination or, as the case may be, of the event by reason of which the nomination became void ; or
- (c) if the nomination was made during the nominee's period of childhood and full-time education, the date when the nominee attains the age of sixteen years,

reduced, in each case, by the number of years, if any, for which periodical contributions have been made by him in respect of the nomination and are not returnable.

(5) Service after forty years of reckonable service shall be left out of account for the purposes of this section.

(6) Where a nomination becomes void before the nominator ceases to be a civil servant, otherwise than by revocation, the Treasury may, if in all the circumstances they think fit so to do, direct that this section shall have effect in relation to it as if references to the date when it became void were substituted for references to the date when the nominator gave notice to the Treasury of the avoiding thereof or, as the case may be, of the event by reason of which it became void.

(7) Any reduction effected or to be effected under this section in the amount of any additional allowance shall be left out of account for the purposes of subsection (2) of section two of the Superannuation Act, 1909 (which provides for a supplemental

death gratuity in the cases of persons dying shortly after becoming eligible for a superannuation allowance) and, accordingly, the question whether any and if so what gratuity may be granted under that subsection shall be determined as if no such reduction as aforesaid had been or had to be made.

PART II  
—cont.

*Limitations on right to nominate, avoidance of nominations, etc.*

23.—(1) A nominee must be the mother or father of the nominator, a sister, brother or child of the nominator, a child of a deceased sister or deceased brother of the nominator or a child of a deceased child of the nominator.

Nominees must be related to and dependent on the nominator.

(2) A nominee must at the date of the nomination, and at all times thereafter until the nominator ceases to be a civil servant, be wholly or mainly dependent on the nominator.

(3) In their nominations, persons shall give preference to their children over their other dependants and accordingly a person who has a child who might be, but is not, a nominee of his, shall not have any nominee who is not a child of his.

24. Subject to the provisions of the First Schedule to this Act, the maximum number of nominees which a person may have at the same time is as follows, that is to say—

Limitation of number of nominees.

(a) he may have one nominee who is presumptively eligible for a life pension ; or

(b) he may have up to three nominees who are not presumptively eligible for life pensions.

25.—(1) Subject to the provisions of the First Schedule to this Act—

Prevention of overlap with Part I.

(a) a person who is for the time being presumptively eligible for a pension under Part I of this Act in respect of the service of any person shall not be or remain the nominee of that person ; and

(b) a civil servant to whom Part I of this Act applies and who has a wife or a husband and a woman civil servant to whom Part I of this Act does not apply but who has an incapacitated husband wholly or mainly dependent on her, shall not have any nominee.

(2) Where—

(a) the marriage of a person, whether male or female, to whom Part I of this Act applies comes to an end after the said Part I has become applicable to him or to her and before he or she has ceased to be a civil servant ; and

(b) when the marriage came to an end, there was any person presumptively eligible for a children's pension under the said Part I in respect of his or her service,

the number of nominees permissible under paragraph (b) of the last preceding section shall, during any period during which any

PART II  
—cont.

person who was presumptively eligible as aforesaid is alive and is still in his period of childhood and full-time education, be reduced by one for each such person who is alive and is still in his said period.

(3) The references in the preceding provisions of this section to a person presumptively eligible at any date for a pension under Part I of this Act in respect of the service of another person shall be construed as references to any person to whom or for whose benefit such a pension could have been granted if that other person had died on that date, it being assumed (notwithstanding any provision of the Superannuation Acts which has the effect of requiring a minimum period of service as a condition of the grant of a superannuation allowance) that that other person would have been eligible for a superannuation allowance if he had retired on that date from the civil service upon a medical certificate.

(4) A male person to whom Part I of this Act does not apply by reason of an election of his that it should not apply to him shall be in the same position under this section as he would have been in if he had not made that election, and the preceding provisions of this section shall have effect in relation to him accordingly as if—

- (a) the said Part I applied to him during all periods during which it would have applied to him if he had not made the election ; and
- (b) any persons who, on any date, would be or would have been presumptively eligible for a pension under the said Part I in respect of his service were then, or, as the case may be, had then been, presumptively eligible for such a pension in respect thereof.

Avoidance of  
nominations.

**26.**—(1) A purported nomination made in contravention of any of the provisions of the three last preceding sections shall be void.

(2) A nomination validly made may at any time be revoked by the nominator by a notice given by him and shall thereupon become void.

(3) Where a nomination validly made becomes, owing to a change in circumstances, one which is not permissible under the three last preceding sections, it shall thereupon become void.

(4) A nomination shall become void on the death of the nominee.

(5) Subject to the provisions of the First Schedule to this Act, a nomination which is made during the nominee's period of childhood and full-time education shall become void upon the cessation of the nominee's period of childhood and full-time education.

**27.—(1)** A nomination which is otherwise valid shall not be invalid by reason only that the nominee has previously been nominated by the same person under a nomination which has become void.

**PART II**  
**—cont.**  
Renominations  
of nominees  
under previous  
nominations  
which have  
become void.

**(2)** Where a nomination validly made has become void at any time on the ground that a child of the nominator might then have been but was not a nominee of his and the nominator has died or retired without having made a new nomination, the Treasury may, if in the circumstances they think fit so to do, direct that the provisions of this Act shall have effect as if the nominator, immediately after the event by which the nomination was avoided, had nominated the person who was the nominee under the nomination (or, where more than one nomination was avoided by that event, such of those persons as may be specified in the direction) and had also nominated his child.

**(3)** Where a person nominates another person who has been his nominee under a previous nomination which has become void, then, subject to the provisions of subsection (4) of this section, the Treasury may, if in the circumstances they think fit so to do, direct that the contributions payable in respect of the nominations shall be calculated as if the previous nomination had never become void:

Provided that where the nominator has elected to make periodical contributions under the first nomination, he shall not, except so far as the Treasury may otherwise direct, make periodical contributions in respect of the period after the first nomination became void and before the new nomination is made, and the amount which he is to contribute by way of a reduction of his additional allowance or gratuity shall be calculated accordingly.

**(4)** The provisions of subsection (3) of this section shall not apply where—

- (a)** the nominee is, under the new nomination, and was not, under the previous nomination, presumptively eligible for a life pension ; or
- (b)** the nominee is not, under the new nomination, but was, under the previous nomination, presumptively eligible for a life pension,

but, in any such case, the Treasury may, if they think fit, direct that—

- (i)** all or any of the periodical contributions, if any, made in respect of the first nomination shall be returned to the nominator ; and
- (ii)** that no contribution, or a reduced contribution, shall be made in respect of the first nomination by way of a reduction of an additional allowance or gratuity.

**PART II**  
—cont.

(5) Where any contributions are returned under subsection (4) of this section, they may be returned with compound interest at such rate or rates as the Treasury may from time to time determine.

Power to refuse nominations on ground of nominator's ill-health.

**28.**—(1) The Treasury may refuse to accept a nomination if they are not satisfied that the nominator was, having regard to his age, in good health at the time of the making of the nomination, and any nomination refused under this subsection shall be void.

(2) A person who makes a nomination shall, when he makes the nomination and subsequently, make such declarations and provide such information as the Treasury may reasonably require for the purpose of enabling them properly to exercise the powers conferred on them by subsection (1) of this section and shall, if so required by the Treasury for that purpose, submit to be medically examined by a registered medical practitioner nominated or approved in that behalf by the Treasury.

Power of certain retired civil servants to make nominations.

**29.**—(1) A person who was a civil servant before the passing of this Act but had by then ceased to be a civil servant may, if either—

(a) he was a civil servant at some time on or after the eighth day of May, nineteen hundred and forty-five ; or

(b) before the passing of this Act and after ceasing to be a civil servant, he served in an unestablished capacity his service in which either—

(i) included at least six months of continuous service beginning on or after the said eighth day of May ; or

(ii) followed immediately upon his service as a civil servant, was in the post which he last held as a civil servant or in a similar post and included, and was continuous until, the said eighth day of May,

make, within the six months next following the passing of this Act, any nomination which he might have made if he were still a civil servant :

Provided that—

(a) the nominee under a nomination made under this section must not only be wholly or mainly dependent on the nominator at the date of the nomination but also have been wholly or mainly dependent on the nominator when the nominator ceased to be a civil servant ; and

(b) a person who could elect that Part I of this Act should apply to him but has not so elected shall not make any nomination under this section.

(2) A person who makes a nomination under this section shall be liable to make the same contribution in respect thereof as would have fallen to be made by him under section twenty-two

of this Act if this Act had been passed, and he had made the nomination, before he ceased to be a civil servant, regard being had to the ages of the nominator and the nominee at the actual date of the nomination, and, if he has already been paid his additional allowance or there is no additional allowance payable in his case, he shall pay the amount of that contribution to the Treasury not later than twelve months from the date of the nomination.

PART II  
—cont.

(3) If any amount payable to the Treasury under subsection (2) of this section in respect of a nomination is not paid in full within the twelve months next following the nomination and the person who should have paid it is still living at the end of the said twelve months, the nomination shall be ineffective.

(4) If any amount falls to be paid under subsection (2) of this section in respect of a nomination and the person by whom it is to be paid dies within the twelve months next following the date of the nomination without having paid the whole of that amount—

- (a) no further payments shall be made in respect thereof under that subsection ; and
- (b) any pension which may be payable under this Part of this Act to or for the benefit of the nominee shall be reduced so as to bear to the full amount thereof the same proportion as the amount paid under the said subsection (2) in respect of the nomination bears to the full amount which fell to be paid under that subsection in respect thereof ; and
- (c) the nomination shall be ineffective unless a pension under this Part of this Act at a rate equal to at least six pounds ten shillings per annum can be paid to or for the benefit of the nominee.

Where the nominee is still in his period of childhood and full-time education when the nominator dies and there are other nominees who are also then within the period of their childhood and full-time education, the references in this subsection to a pension payable for the benefit of the nominee shall be construed as including references to a pension enuring partly for his benefit and partly for the benefit of the other nominees, and the reduction required to be made by this subsection shall be calculated by reference to the aggregate of the amounts paid under subsection (2) of this section, and the aggregate of the full amounts which fell to be paid thereunder, in respect of all the nominations in respect of which the pension is payable.

(5) Where a nomination is ineffective under subsection (3) or subsection (4) of this section, so much of the amount payable under subsection (2) of this section in respect thereof as has already been paid shall be repaid.

PART II  
—cont.

Saving for allocations under Superannuation Act, 1935, s. 2, and power to revoke allocations in certain circumstances.

*Miscellaneous*

**30.**—(1) Save as is provided in subsection (2) of this section, the fact that a person has made a nomination shall not affect his rights under section two of the Superannuation Act, 1935 (which provides for the partial allocation of superannuation benefits to wives and dependants), and the pensions payable under this Part of this Act to or for the benefit of the nominees of a person shall be calculated as if any surrender made by him under that section of a part of a superannuation allowance had not been made.

(2) Where a person who has ceased to be a civil servant at the time of the passing of this Act duly makes a nomination, he may, if he thinks fit, by notice given at the time he makes the nomination, cancel any surrender made under the said section two of any superannuation allowance, being a surrender made for the purpose of enabling the Treasury to grant a pension to or for the benefit of the nominee, and in that event the surrender shall not have effect as respects so much of the allowance as accrues on or after the date on which the cancellation becomes effective, without prejudice, however, to the effect of the surrender as respects so much of the allowance as has accrued before that date.

(3) A cancellation under subsection (2) of this section shall not become effective until the contribution falling to be paid in respect of the nomination has been paid, and the references in the said subsection (2) to the date on which the cancellation becomes effective shall be construed accordingly.

Superannuation Acts to apply in their most recent form where nominations made.

**31.**—(1) If a male person to whom sections one and two of the Superannuation Act, 1909, do not apply duly makes a nomination, the said sections one and two shall apply to him as if he had entered the service after the passing of that Act.

(2) If a female person to whom the said sections one and two do not apply duly makes a nomination, the said sections one and two shall apply to her as they apply to female civil servants who entered the service after the commencement of the Superannuation Act, 1935.

(3) Section four of the Superannuation Act, 1935 (which relates to averaging of salary and emoluments) shall apply to every person who duly makes a nomination, notwithstanding that he is comprised in the exceptions enumerated in subsection (1) of the said section four.

(4) Where an existing member of the diplomatic service, as defined in the Superannuation (Diplomatic Service) Act, 1929, who gave notice under section two of that Act that he desired to remain subject to the provisions of the Diplomatic Salaries, &c. Act, 1869, duly makes a nomination, the Superannuation



(Diplomatic Service) Act, 1929, shall apply to him as it applies to persons who were in the diplomatic service but were not existing members thereof as defined as aforesaid, and a superannuation allowance, additional allowance or gratuity may be granted to or in respect of him accordingly.

PART II  
—cont.

(5) Where a person who duly makes a nomination had ceased to be a civil servant at the time of the passing of this Act, the provisions of subsections (1) to (4) of this section shall not affect the superannuation allowance or diplomatic pension or, save so far as it may be reduced by a contribution, the additional allowance, if any, which has been or may be granted to him, but the pensions payable under this Part of this Act to or for the benefit of his nominees, and the contributions payable by him under this Part of this Act, shall be calculated as if the said allowances might have been granted in accordance with the provisions of the said subsections (1) to (4) and not otherwise.

### PART III

#### MISCELLANEOUS AMENDMENTS OF THE SUPERANNUATION ACTS

##### 32.—(1) Where—

- (a) a person, on retiring from the civil service upon a medical certificate, becomes eligible for the grant of a superannuation allowance; and
- (b) his reckonable service is less than twenty years,
- the same superannuation allowance and additional allowance, if any, may be granted to him as might have been granted to him if his reckonable service had been twenty years.

Increase of superannuation and additional allowances in cases of retirement for ill-health with less than twenty years' service.

(2) In the case of a person whose reckonable service would, if he had continued to serve in the employment in which he was when he was last a civil servant until five years after the retiring age, have been a period shorter than twenty years, subsection (1) of this section shall have effect as if for the last reference therein to twenty years there were substituted a reference to that shorter period.

(3) The provisions of this section shall apply and shall be deemed always to have applied to persons who retired from the civil service at any time after the third day of December nineteen hundred and forty-eight, and to persons who so retired on or before that date and are living at the passing of this Act, and superannuation allowances and additional allowances granted before the passing of this Act may be increased accordingly; but nothing in this subsection shall authorise the payment, in respect of any period before the passing of this Act, of any increase in the superannuation allowance of a person who retired as aforesaid on or before the said third day of December.

PART III  
—cont.

(4) This section applies only—

- (a) to cases of actual retirement from the civil service upon a medical certificate; and
- (b) to the computation of pensions under Part I and Part II of this Act which fall to be computed by reference to the amount of the superannuation allowance for which a person who dies while a civil servant would have been eligible if, instead of dying, he had retired upon a medical certificate,

and does not affect cases falling within, or pensions under the said Part I or the said Part II falling to be computed by reference to the superannuation allowance grantable under, any provision (whether contained in this or in any other Act) which provides for the grant, in other circumstances, of the same superannuation allowance or additional allowance as might be granted on retirement from the civil service upon such a certificate.

Power of  
certain retired  
civil servants to  
allocate part  
of their  
superannuation  
benefits to  
their spouses.

**33.—**(1) The Treasury may make rules for securing that, in such circumstances and subject to such conditions as to proof of good health and other matters as may be specified in the rules, a retired civil servant under seventy years of age who has married since his retirement shall be allowed to surrender, as from the date of his marriage, in return for the benefits of the rules, such part of any superannuation allowance granted or to be granted to him as may be specified in the rules and for enabling the Treasury to grant to his spouse a pension of such value as, according to tables prepared from time to time by the Government Actuary is actuarially equivalent, at the said date, to the value of that part of the superannuation allowance which is surrendered:

Provided that the part of a superannuation allowance surrendered by a person under this section, together with any part thereof surrendered under section two of the Superannuation Act, 1935, shall not exceed one-third of the allowance.

(2) This section applies whether the civil servant retired before or after the passing of this Act, but it shall not apply where the retirement was on the ground of ill health.

(3) Subsections (2) and (3) of section two of the Superannuation Act, 1935, so far as they apply to surrenders made for the benefit of spouses and pensions granted to spouses, shall apply also to surrenders under this section and pensions granted by virtue thereof, but as if any references to the date of retirement were references to the date of the marriage.

(4) In relation to a person whose marriage took place before the date of the making of the first rules made under this section,

subsections (1) and (3) of this section shall have effect as if for references therein to the date of the marriage there were substituted references to the date on which that person notifies in accordance with the rules his desire to make the surrender.

PART III  
—cont.

(5) The power conferred by this section to make rules shall be exercisable by statutory instrument.

34.—(1) If, after the passing of this Act,—

Superannua-  
tion benefit in  
certain cases  
of premature  
retirement.

(a) the employment of a civil servant who has attained the age of fifty years is terminated before the retiring age; and

(b) the appropriate Minister certifies that the termination of his employment is desirable in the interests of efficiency,

the same superannuation allowance and additional allowance, if any, may be granted to him as might have been granted to him if he had retired upon a medical certificate.

In this subsection, the expression “the appropriate Minister” means the Minister responsible for the civil servant’s department, or, if there is no such Minister or there is any doubt as to who that Minister is, such Minister as may be determined by the Treasury.

(2) If, after the passing of this Act, the employment of a civil servant who has attained the age of fifty years is terminated at his request before the retiring age, the same superannuation allowance and additional allowance, if any, may be granted to him as might have been granted to him if he had retired upon a medical certificate:

Provided that, unless the Treasury otherwise determine on compassionate grounds, no such allowance shall be granted to a person by virtue of this subsection before he attains the age which would have been the retiring age for him if he had continued in the employment in which he was when he was last a civil servant.

(3) Where a person who would have been eligible for the grant of a superannuation allowance but for the operation of the proviso to subsection (2) of this section dies without any such allowance being granted to him, the Treasury may grant to his legal personal representatives such gratuity, if any, as might have been granted to them if he had died on the last day on which he was employed as a civil servant.

(4) Nothing in this section applies to a civil servant who is, or to a person who, when he was last a civil servant, was, a member of His Majesty’s foreign service of a grade not lower than that of second secretary.

PART III  
—cont.

Additions to pensions etc. for service after retiring age in certain cases.

35.—(1) Where a civil servant continues to serve as such after both the two following conditions are satisfied in relation to him, that is to say—

- (a) that he has attained the retiring age; and
- (b) that he has forty years of reckonable service,

any superannuation allowance or additional allowance which may be granted to him shall be calculated in accordance with the subsequent provisions of this section.

(2) The said allowances shall be computed—

- (a) upon the amount of salary and emoluments upon which they would have fallen to be computed if he had retired as soon as the said two conditions were satisfied in relation to him; or
- (b) upon the amount of salary and emoluments upon which they would fall to be computed apart from this section,

whichever is the higher.

(3) For each completed year, not exceeding five, of the reckonable service of the civil servant after the said two conditions were satisfied in relation to him—

- (a) the superannuation allowance may be increased by one-eightieth, or, if section one of the Superannuation Act, 1909, does not apply, one-sixtieth, of the higher of the amounts mentioned in subsection (2) of this section; and
- (b) the additional allowance, if any, may be increased by three-eightieths, or, if section four of the Superannuation Act, 1935, does not apply, one-thirtieth, of the higher of those amounts:

Provided that section two of the Superannuation Act, 1946 (which enables the service of certain late entrants to the civil service to be reckoned at eight-fifths of its actual length) shall not apply to the computation, for the purposes of this subsection, of the reckonable service of a person after the said two conditions are satisfied in relation to him.

(4) This section, so far as it applies to additional allowances, applies also for the purposes of section two of the Superannuation Act, 1914 (which provides, in certain cases, for death gratuities being calculated in the same way as additional allowances).

(5) The provisions of Parts I and II of this Act shall, in relation to persons to whom this section applies, have effect subject to the provisions of Part I of the Second Schedule to this Act.

(6) In the case of any person who is serving as a civil servant at the passing of this Act, the reckonable service which may be taken into account for the purposes of subsection (3) of this section shall include service before the passing of this Act.

(7) The provisions of this section shall apply, and shall be deemed always to have applied, to any person who ceased to be a civil servant before the passing of this Act but was serving as a civil servant or in an unestablished capacity on the third day of December, nineteen hundred and forty-eight, and any superannuation allowance or additional allowance granted to any such person before the passing of this Act may be increased accordingly.

**36.—(1) Where—**

- (a) a person who has ceased to be a civil servant re-enters, either immediately or after an interval, the civil service of the State to serve in an unestablished capacity ; and
- (b) when he re-enters the civil service of the State, he has been granted or is eligible for the grant of a superannuation allowance,

Additions to pensions etc. in certain cases of unestablished employment after retirement.

any superannuation allowance or additional allowance granted to him may, as from the cessation of the said service in an unestablished capacity, be increased in accordance with the subsequent provisions of this section :

**Provided that—**

- (i) any service in an unestablished capacity which is not continuous service lasting for at least one year shall be left out of account for the purposes of this section ; and
- (ii) where the person in question ceased to be a civil servant before attaining the retiring age, no account shall be taken for any of the purposes of this section (including the purposes of paragraph (i) of this proviso) of any service in an unestablished capacity before he attains the age which would have been the retiring age for him if he had continued in the employment in which he was when he was last a civil servant.

The reference in this subsection to the cessation of a person's service in an unestablished capacity includes a reference to the cessation thereof by reason of his death.

**(2) The said allowances shall be computed—**

- (a) upon the amount of salary and emoluments upon which they would have fallen to be computed if the service in an unestablished capacity had been service in an established capacity and the salary and emoluments of the service in an unestablished capacity had fallen to be taken into account accordingly ; or
- (b) upon the amount upon which they would have fallen to be computed apart from this section,

whichever is the higher.

**PART III**  
—cont.

(3) For each completed year, not exceeding five, of continuous service in an unestablished capacity—

- (a) the superannuation allowance may be increased by one-eightieth, or, if section one of the Superannuation Act, 1909, does not apply, one-sixtieth, of the higher of the amounts mentioned in subsection (2) of this section; and
- (b) the additional allowance, if any, may be increased by three-eightieths, or, if section four of the Superannuation Act, 1935, does not apply, one-thirtieth, of the higher of those amounts.

(4) Notwithstanding anything in subsection (3) of the last preceding section, no year shall be taken into account thereunder which would make the number of years taken into account under that and the last preceding subsection exceed five in all.

(5) The enactments relating to the computation of reckonable service (other than section two of the Superannuation Act, 1946, which enables the service of certain late entrants to the civil service to be reckoned at eight-fifths of its actual length) shall apply to the computation of service for the purposes of the proviso to subsection (1) of this section, and of subsection (3) of this section, as if it were established service.

(6) The provisions of Parts I and II of this Act shall, in relation to persons to whom this section applies, have effect subject to the provisions of Part II of the Second Schedule to this Act.

(7) In the case of any person who is serving in an unestablished capacity at the passing of this Act, the continuous service in such a capacity which may be taken into account for the purposes of subsection (3) of this section shall include service before the passing of this Act.

(8) The provisions of this section shall apply, and shall be deemed always to have applied, to any person who had ceased to serve in an unestablished capacity before the passing of this Act but was serving in such a capacity on the third day of December, nineteen hundred and forty-eight, and any superannuation allowance or additional allowance granted to any such person before the passing of this Act may be increased accordingly.

(9) Where—

- (a) a person has ceased to be a civil servant before the passing of this Act; and
- (b) on ceasing to be a civil servant he re-entered the civil service of the State to serve therein in an unestablished capacity; and

- (c) his service in an unestablished capacity followed immediately upon his service as a civil servant, and was in the post which he held when he was last a civil servant or in a similar post ; and
- (d) his reckonable service when he ceased to be a civil servant was not a complete number of years but included an odd part of a year,

PART III  
—cont.

the said odd part of a year shall be taken into account for the purposes of this section as if it were part of the service in an unestablished capacity.

37. The proviso to subsection (2) of section one, and the proviso to subsection (1) of section two, of the Superannuation Act, 1909 (which provide for the reduction of additional allowances and death gratuities in the case of persons who continue to serve when they have attained the age of sixty-six) shall not have effect and shall be deemed never to have had effect in relation to any person ceasing to be a civil servant on or at any time after the third day of December, nineteen hundred and forty-eight, or to any person to whom the last preceding section applies, and allowances or gratuities granted before the passing of this Act may be increased accordingly.

Repeal of certain provisions as to death gratuities and additional allowances.

38.—(1) The Treasury may direct that, subject to such conditions as they may determine, section three of the Superannuation Act, 1935, and section three of the Superannuation Act, 1887 (which relate to the reckoning of unestablished service as service in the capacity of a civil servant) shall apply to a person who becomes a civil servant after having previously served the State in an unestablished capacity notwithstanding that there is an interval between the conclusion of his service in such a capacity and the time when he becomes a civil servant.

Reckoning of unestablished service.

(2) The preceding subsection shall apply to persons ceasing to be civil servants after the passing of this Act whether they became civil servants before or after the passing thereof.

(3) Section three of the Superannuation Act, 1935, shall have effect, in relation to any service in an unestablished capacity rendered after the passing of this Act, as if in subsection (1) thereof the words "as to one half of the period thereof" were omitted.

39.—(1) If, after the passing of this Act, a person employed in an unestablished capacity dies while still in his employment after having served continuously therein for not less than seven years, the Treasury may grant to his legal personal representatives a gratuity at the rate of one pound or one week's pay, whichever is the greater, for each year of his service in the employment.

Gratuities to unestablished persons.

P

PART III  
—cont.

(2) If, after the passing of this Act, a person employed as aforesaid retires or is removed from his employment after having served continuously therein for not less than seven years, the Treasury may, on the recommendation of the head officer of the department, grant to him a gratuity at the rate of one pound or one week's pay, whichever is the greater, for each year of his service in the employment.

(3) If, after the passing of this Act, a civil servant who, before he was a civil servant, was employed in an unestablished capacity dies without having completed sufficient service for it to be possible that a gratuity should be paid in respect of him, his employment as a civil servant may be treated for the purposes of this section as if it were employment in an unestablished capacity.

(4) Paragraphs (a) and (b) of subsection (2) of section three of the Superannuation Act, 1935 (which enables the Treasury to direct that discontinuous periods of service in an unestablished capacity shall be taken into account for the purposes of that section in the manner therein specified) shall apply for the purposes of this section as they apply for the purposes of that section.

(5) Service taken into account for the purposes of section thirty-six of this Act shall not also be taken into account for the purposes of this section.

(6) Section four of the Superannuation Act, 1887, and section three of the Superannuation Act, 1914 (which provide for compassionate gratuities in the case of persons employed in an unestablished capacity) are hereby repealed.

Part-time  
service.

**40.**—(1) The part-time service to which this section applies is part-time service (whether before or after the passing of this Act) in the civil service of the State where the person employed gives personal service of at least eighteen hours a week and the remuneration is defrayed entirely out of moneys provided by Parliament.

(2) Subject to the provisions of this subsection, subsections (1) to (4) of the last preceding section shall apply in relation to persons who die while employed in, or retire or are removed from, part-time service to which this section applies, or who, having become civil servants after having been employed in such part-time service as aforesaid, die while still civil servants, as if references in those subsections to employment or service in an unestablished capacity were references to employment or service in such part-time service as aforesaid:



Provided that—

PART III  
—cont.

- (a) if the pay for the part-time service covers expenses, the rate thereof shall be treated for the purposes of this subsection as reduced to such extent as the Treasury may think fit;
  - (b) if the pay for the part-time service is computed by reference to a weekly rate based on full-time service and varies according to the number of hours actually worked in the week, the rate thereof shall be taken for the purposes of this subsection to be one half of that weekly rate.
- (3) Where a person, after being employed in part-time service to which this section applies, is employed, whether before or after the passing of this Act, in an unestablished capacity and, after the passing of this Act, he dies in, or retires or is removed from, his employment—
- (a) his employment in the part-time service to which this section applies may, for the purpose of determining whether a gratuity may be granted under the last preceding section in respect of the service in an unestablished capacity (but not for the purpose of determining the amount of that gratuity), be taken into account as if it were employment in an unestablished capacity; and
  - (b) where, whether by virtue of paragraph (a) of this subsection or otherwise, a gratuity falls to be granted under the last preceding section to or in respect of him, a gratuity may also be granted under that section, as applied by subsection (2) of this section, in respect of his said part-time service, notwithstanding that he has not served therein for the minimum period required by that section as so applied.
- (4) Where a person, before being employed in part-time service to which this section applies, is employed, whether before or after the passing of this Act, in an unestablished capacity, and, after the passing of this Act, he dies in, or retires or is removed from, his employment—
- (a) his employment in the unestablished capacity may, for the purpose of determining whether a gratuity may be granted under the last preceding section, as applied by subsection (2) of this section, in respect of the part-time service (but not for the purpose of determining the amount of that gratuity) be taken into account as if it were employment in the part-time service; and
  - (b) where, whether by virtue of paragraph (a) of this subsection or otherwise, a gratuity falls to be granted to or in respect of him under the last preceding section as

PART III  
—cont.

so applied, a gratuity may also be granted under the section in respect of his service in an unestablished capacity, notwithstanding that he has not served therein for the minimum period required by that section.

(5) Where either of the following conditions is satisfied in relation to a person who at the time of the passing of this Act or at any time thereafter is a civil servant, that is to say—

- (a) that, when he became a civil servant, he was serving in part-time service to which this section applies which would, in the opinion of the Treasury have fallen to be treated as reckonable service, whether as to the whole or as to one half thereof, if it had been whole time service; or
- (b) that he became a civil servant after serving in an unestablished capacity in such circumstances that all or some of his service in an unestablished capacity fall to be treated as reckonable service, either as to the whole or as to one half thereof, and was serving in such part-time service as aforesaid when his service in an unestablished capacity began,

his continuous service in such part-time service as aforesaid immediately before he became a civil servant or, as the case may be, immediately before he began to serve in an unestablished capacity, except so much thereof as took place before he attained the age of eighteen years, shall, as to one half or, if and so far as that service took place before the passing of this Act, one quarter of the period thereof, be reckoned for all the purposes of the Superannuation Acts as service as a civil servant:

Provided that the Treasury may direct—

- (i) that, subject to such conditions as they may determine, the service of any person in part-time service to which this section applies for two or more periods shall, for the purpose of determining whether or not such service by him is to be reckoned as aforesaid, be treated as if it were continuous service beginning at the commencement of the first of those periods or of such one of them as the Treasury may determine;
- (ii) that, subject as aforesaid, discontinuous periods of such part-time service as aforesaid shall be aggregated for the purpose of computing the service to be reckoned as aforesaid; and
- (iii) that, subject as aforesaid, this subsection shall apply to a person who had part-time service to which this section applies notwithstanding that there is an interval between the conclusion of his part-time service and the beginning of his service as a civil servant or of his service in an unestablished capacity, as the case may be.

41.—(1) Where, after the passing of this Act, a person who is a civil servant, or, not being a civil servant, is employed in a civil capacity for the purposes of His Majesty's Government in the United Kingdom, whether temporarily or permanently and whether for reward or not, either—

PART III  
—cont.

Gratuities and allowances to civil servants and others injured or contracting diseases in the discharge of their duties.

- (a) is injured in the actual discharge of his duty by some injury specifically attributable to the nature of his duty which is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct; or
- (b) contracts a disease to which he is exposed by the nature of his duty, not being a disease wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct,

the Treasury may grant to him, and, if, either immediately or within seven years from the time when he suffered the injury or contracted the disease, he dies as a direct result thereof, to all or any of the following persons, that is to say—

- (i) his widow;
- (ii) his mother, or, where his mother is dead, his father, if his mother, or, as the case may be, his father, is wholly or mainly dependent on him at the time of his death;
- (iii) his children; and
- (iv) where he has no children who are, under the terms of the warrant hereinafter mentioned, eligible for the grant of a gratuity or allowance under this section, any brother or sister of his who is wholly or mainly dependent on him at the time of his death,

such gratuity or annual allowance as the Treasury may consider reasonable, and as may be permitted by the terms of a warrant of the Treasury under this section.

(2) The reference in subsection (1) of this section to the widow of the person who is injured or contracts the disease shall, where that person is a female, be deemed to be a reference to her widowed husband if he is wholly or mainly dependent on her at the time of her death.

(3) Where the person who is injured or contracts the disease is a civil servant, any allowance granted under this section to him shall not, together with any superannuation allowance, and the annuity value of any additional allowance, for which he is otherwise eligible, exceed five-sixths of the annual salary and emoluments of his office.

In this subsection, the expression "annuity value" means, in relation to an additional allowance for which a person is eligible, the value thereof computed in accordance with the Tables for immediate life annuities framed under Part II of the Government Annuities Act, 1929, which are in force when he ceases to be a civil servant.

PART III  
—cont.

Any reduction effected or to be effected in the amount of any additional allowance by way of contribution under Part I or Part II of this Act shall be left out of account for the purposes of this subsection and, accordingly, the annuity value of any additional allowance shall be determined as if no such reduction as aforesaid had been or had to be made.

(4) Where the person who is injured or contracts the disease is a civil servant whose service, as computed for the purposes of section two of the Superannuation Act, 1909 (which relates to death gratuities), is less than five years, and he dies as the direct result of the injury or disease, he shall be treated for the purposes of that section as if his service had amounted to five years.

(5) Where the person who is injured or contracts the disease is a person employed in an unestablished capacity whose continuous service therein as computed for the purposes of section thirty-nine of this Act is less than seven years, and he dies as the direct result of the injury or disease, his continuous service shall be treated for the purposes of that section as amounting to seven years.

(6) Where a civil servant recruited as such in the United Kingdom is employed outside the United Kingdom for the purposes of His Majesty's Government in the United Kingdom and suffers an aggravation of a disease from which he is already suffering, being an aggravation to which he is exposed by the nature of his duty outside the United Kingdom and which is not wholly or mainly due to his own serious and culpable negligence or misconduct, this section shall apply in relation to him as if, when he sustained the aggravation, he had contracted such a disease as is mentioned in paragraph (b) of subsection (1) thereof.

(7) A warrant under this section may be revoked or varied by a subsequent warrant of the Treasury thereunder.

(8) Any power to issue a warrant conferred by this section shall be exercisable by statutory instrument.

(9) Section one of the Superannuation Act, 1887, is hereby repealed and any warrants in force under that section at the date of the passing of this Act shall, until revoked, continue in force and be deemed to be warrants issued under this section.

Computation of service and reduction of retiring age where service has been in certain places abroad.

42.—(1) This section shall apply in relation to such countries and places (being countries or places outside the United Kingdom) as the Treasury may by order specify (in this section referred to as "countries and places to which this section applies").

(2) Subject to the provisions of this section, in computing the amount of any superannuation allowance, additional allowance

or gratuity, each year of actual service in a country or place to which this section for the time being applies, either as a civil servant or in an unestablished capacity, shall be reckoned as service as a civil servant or service in an unestablished capacity, as the case may be, for one and a half years and so proportionately as regards parts of a year :

Provided that this subsection shall not apply to any service which would, apart from this subsection, fall to be reckoned for any of the purposes aforesaid at a rate greater than one and a half years for each year of actual service.

(3) Subject to the provisions of this section, for each completed year of actual service as a civil servant in countries or places to which this section for the time being applies, the age on retirement at which without a medical certificate a superannuation allowance or additional allowance may be granted apart from the provisions of section thirty-four of this Act shall be reduced by three months, so, however, that the said age shall not in any case be reduced below fifty-five years.

Service in an unestablished capacity in countries or places to which this section for the time being applies which could be taken into account in computing the amount of any superannuation allowance shall be taken into account under this subsection as if it were service as a civil servant.

(4) Nothing in this section shall, without the consent of the Treasury, apply to a person who was residing in a country or place to which this section for the time being applies when he first entered the civil service of the State.

(5) Nothing in this section shall affect the minimum period which it is requisite that a person should serve in order that a superannuation allowance, additional allowance or gratuity may become payable to or in respect of him.

(6) The Superannuation Act, 1876, is hereby repealed, but any order made thereunder declaring a country or place to be an unhealthy place shall be deemed for the purposes of this section to be an order under subsection (1) of this section specifying that country or place for the purposes of this section.

(7) Any order under this section may be revoked or varied by a subsequent order of the Treasury.

(8) An order under this section may, if in the special circumstances of the case it appears proper to the Treasury so to frame the order, be so framed as to apply this section to a country or place as from a date before that of the making of the order or of the passing of this Act, and where an order is so framed, references in this section to a country or place to which this section for the time being applies shall be construed accordingly.

PART III  
—cont.

(9) The powers conferred by this section to make orders shall be exercisable by statutory instrument.

(10) This section—

(a) so far as it affects superannuation allowances, additional allowances and gratuities other than gratuities under section thirty-nine of this Act, shall have effect, and be deemed always to have had effect, in relation to any person who serves as a civil servant at any time after the passing of this Act;

(b) so far as it affects gratuities under the said section thirty-nine, shall have effect, and be deemed always to have had effect, in relation to any person who serves in an unestablished capacity at any time after the passing of this Act:

Provided that, for the purpose of the computations of service required to be made by sections thirty-five and thirty-six of this Act, this section shall have effect and be deemed always to have had effect in relation to every person to whom those sections respectively apply, whether or not he serves as a civil servant after the passing of this Act.

Computation of service and reduction of retiring age in the case of certain prison and other employments.

**43.**—(1) This section applies to employment in prisons and other institutions to which the Prison Acts, 1865 to 1898, or the Prisons (Scotland) Acts, 1860 to 1926, apply, whether with or without modifications, being employment of any such classes as the Secretary of State may with the approval of the Treasury by order prescribe:

Provided that rules made under section two of the Superannuation (Miscellaneous Provisions) Act, 1948, may provide, in relation to persons who become civil servants after having been employed in another employment belonging to the classes of employment specified in subsection (2) of that section, that that other employment shall be treated as employment to which this section applies.

(2) Fifty-five years shall be substituted for sixty years as the age on retirement at which without a medical certificate a superannuation allowance or additional allowance may be granted apart from the provisions of section thirty-four of this Act to a civil servant who retires from employment to which this section applies.

(3) After twenty years of actual service, whether as a civil servant or in an unestablished capacity, in employment to which this section applies, each year of actual service in such employment shall be reckoned for the purpose of computing the amount of any superannuation allowance, additional allowance-

or gratuity as two years of service as a civil servant or, as the case may be, of service in an unestablished capacity, and so proportionately as regards parts of a year.

**PART III**  
—*cont.*

(4) The Superannuation (Prison Officers) Act, 1919, is hereby repealed, but any order or other instrument made or issued thereunder prescribing an employment for the purposes of that Act shall be deemed for the purposes of this section to be an order under subsection (1) of this section prescribing that employment for the purposes of this section.

This subsection applies to orders and instruments made or issued under the said Act in relation to employment in Broadmoor institutions or criminal lunatic asylums, or made or issued under section ten of the Superannuation Act, 1935, in relation to employment in institutions maintained by the Board of Control under sections twenty-five and thirty-five of the Mental Deficiency Act, 1913, and the provisions of subsection (1) of this section shall be extended accordingly.

(5) Any order made under this section may be revoked or varied by a subsequent order of the Secretary of State made with the approval of the Treasury.

(6) The powers conferred by this section to make orders shall be exercisable by statutory instrument.

(7) This section shall have effect in relation to any person who serves in an employment to which this section applies at any time after the passing of this Act and, in relation to any such person, shall be deemed always to have had effect :

Provided that, for the purpose of the computations of service required to be made by sections thirty-five and thirty-six of this Act, this section shall have effect and be deemed always to have had effect in relation to every person to whom those sections respectively apply, whether or not he serves as a civil servant after the passing of this Act.

44.—(1) Where a person to whom this section applies had, before he became a civil servant, served in whole-time service in the armed forces of the Crown, the merchant navy or the mercantile marine at any time between the fourth day of August, nineteen hundred and fourteen and the thirty-first day of August, nineteen hundred and twenty-one, then if and so far as that service took place after the date on which he was declared successful in a competitive examination for persons desiring to become civil servants or, as the case may be, the date on which he was nominated by the head officer of a Government department for appointment to the civil service, it shall be reckoned for the purposes of the Superannuation Acts as if it had been service as a civil servant.

Counting of certain war service for superannuation purposes.

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PART III  
—cont.

(2) For the purposes of this section a person who became a civil servant more than three months after the date on which he was declared or nominated as mentioned in the preceding subsection shall be deemed to have served in whole-time service in the armed forces of the Crown, the merchant navy or the mercantile marine during the whole of the period between that date and the date on which he became a civil servant, unless the contrary appears.

(3) This section shall apply and shall be deemed always to have applied to persons who are civil servants at the date of the passing of this Act and to persons who retired from the civil service before that date and are living at the passing of this Act, and superannuation allowances and additional allowances granted before the passing of this Act may be increased accordingly; but nothing in this subsection shall authorise the payment, in respect of any period before the date of the passing of this Act, of any increase in the superannuation allowance of a person who retired from the civil service before that date.

## PART IV

## MISCELLANEOUS AND GENERAL

*Supplemental provisions as to Parts I and II*

Duty of civil servants to give information.

45. It is hereby declared that it is the duty of every person who is or has been a civil servant to give to the Treasury or other proper authority all such information as is necessary for the proper operation of Parts I and II of this Act in relation to him, whether he is asked to give the information or not.

Meaning of "period of childhood and full-time education" for the purposes of Parts I and II.

46.—(1) Subject to the provisions of subsection (4) of this section, a person shall be deemed for the purposes of Parts I and II of this Act to be in his period of childhood and full-time education while either—

- (a) he is under the age of sixteen; or
- (b) he is receiving full-time instruction at any university, college, school or other educational establishment; or
- (c) he is undergoing training by any person (hereinafter referred to as "the employer") for any trade, profession or vocation in such circumstances that—

(i) he is required to devote the whole of his time to the training for a period of not less than two years; and

(ii) while he is undergoing the training, the emoluments receivable by him, or payable by the employer in respect of him, do not exceed thirteen pounds a year, exclusive of any emoluments receivable or payable by way of return of any premium paid in respect of the training:



Provided that a person shall not be deemed for the purposes of this section to satisfy the condition specified in paragraph (b) or the condition specified in paragraph (c) of this subsection unless there has up till then been no time since he attained the age of sixteen when he did not satisfy one or other of those conditions.

PART IV  
—cont.

(2) In subsection (1) of this section, the expression “ emoluments ” means any salary, fees, wages, perquisites, or profits or gains whatsoever, and includes the value of free board, lodging or clothing, and, for the purposes of sub-paragraph (ii) of paragraph (c) of the said subsection (1), where a premium has been paid in respect of the training of a person, all emoluments at any time receivable by him, or payable by the employer in respect of him, shall be deemed to be receivable or payable by way of return of the premium, unless and except to the extent that the amount thereof exceeds in the aggregate the amount of the premium.

(3) As respects any period during which neither of the conditions specified in paragraphs (b) and (c) of subsection (1) of this section is satisfied in relation to a person, the Treasury may, if they think fit and are satisfied that that person’s full-time education ought not to be regarded as completed, direct either—

- (a) that that period shall be ignored for the purposes of the proviso to subsection (1) of this section ; or
- (b) that that period shall be so ignored and shall also be treated as part of his period of childhood and full-time education for all the other purposes of Parts I and II of this Act, except such purposes, if any, as may be specified in the direction.

(4) Notwithstanding anything in the preceding provisions of this section, the period of childhood and full-time education shall not, in the case of a person who is permanently incapacitated, be deemed for any of the purposes of Parts I and II of this Act to continue after he attains the age of sixteen or his permanent incapacity becomes known, whichever is the later.

47. Where a civil servant marries and—

- (a) he dies within the year beginning with the date of the marriage ; and
- (b) there are no children born of the marriage ; and
- (c) the Treasury are of the opinion that his death within the year beginning with the date of the marriage was, at that date, to be foreseen by him,

Marriages of  
civil servants  
whose early  
death is to be  
foreseen.

the same results shall follow under Parts I and II of this Act as would have followed if the marriage had not taken place, and all necessary adjustments (including, if need be, repayments of sums paid in respect of pensions already granted under the said

**PART IV** Part I, repayments of contributions made under the said Part I  
 —cont. and grants of additional pensions and payments of additional  
 contributions under the said Part II) shall be made accordingly.

Application of Pensions (Increase) Acts, 1890, Forfeiture Act, 1870, etc.

**48.**—(1) The following provisions of the Pensions (Increase) Act, 1947, that is to say—

- (a) subsection (2) of section three (which prevents a pension being increased where the amount of the pension is determined by reference to a rate of emoluments received on or after the first day of April, nineteen hundred and forty-seven, or by reference to an average rate of emolument received over a period of service beginning on or after the first day of April, nineteen hundred and forty-six);
- (b) subsection (3) of the said section three (which requires any increase of pension to be reduced where the amount of the pension is determined by reference to an average rate of emoluments received over a period of service beginning before the first day of April, nineteen hundred and forty-six, but ending after that date),

shall not apply to a superannuation allowance computed upon the amount mentioned in paragraph (a) of subsection (2) of section thirty-six of this Act unless they would have applied thereto had it been computed upon the amount mentioned in paragraph (b) thereof.

(2) Where subsection (3) of section three of the Pensions (Increase) Act, 1947 (as modified by the preceding subsection) applies to a superannuation allowance computed upon the amount mentioned in paragraph (a) of subsection (2) of section thirty-six of this Act, the period of service by reference to which the amount mentioned in the said paragraph (a) is determined shall be deemed for the purposes of the said subsection (3) to have begun and ended on the same dates as the period of service which would have been relevant if the superannuation allowance had been computed upon the amount mentioned in paragraph (b) of subsection (2) of the said section thirty-six.

(3) Notwithstanding anything in subsection (2) of section three of the Pensions (Increase) Act, 1944 (which requires increases otherwise payable under that Act to be withheld or reduced in the case of pensions increased in consequence of war bonus or similar payments) a superannuation allowance computed upon the amount mentioned in paragraph (a) of subsection (2) of section thirty-six of this Act may be increased under the Pensions (Increase) Acts, 1944 and 1947, to an amount not exceeding the amount to which that allowance could have been increased in accordance with the provisions of those Acts and subsection (3)

of section sixty-two of this Act, if it had been computed upon the amount mentioned in paragraph (b) of subsection (2) of the said section thirty-six.

PART IV  
— cont.

(4) The Pensions (Increase) Acts, 1944 and 1947, shall not apply to any pension under Part I or Part II of this Act and the amount of any such pension shall be calculated without regard to any increase made or falling to be made under those Acts in any superannuation or other allowance.

(5) Section two of the Forfeiture Act, 1870 (which provides for forfeiture of pensions in certain cases of conviction for treason or felony) and section three hundred and thirty-five of the Lunacy Act, 1890, and subsection (1) of section seven of the Superannuation Act, 1887 (which relate to pensions payable to persons of unsound mind), shall apply in relation to a pension or part of a pension under Part I or Part II of this Act which is applied for the benefit of any person as if that pension or part of a pension, as the case may be, were a pension paid to that person :

Provided that where part only of a pension under the said Part I or the said Part II is applied for the benefit of the person in question, the said section two shall have effect as if, instead of providing that the pension should determine and cease to be payable, it had provided that that pension could not enure for his benefit.

49. Relief from income tax shall not be allowed to any person under section thirty-two of the Income Tax Act, 1918 (which provides relief for, amongst other things, contributions to secure deferred annuities to widows and provision for children) or under any other provision of the Income Tax Acts providing for relief for income tax purposes, in respect of any contributions made by him under Part I or Part II of this Act.

Contributions  
not to qualify  
for Income  
Tax relief.

50.—(1) Any election or nomination required or authorised to be made under Part I or Part II of this Act, and any notice required or authorised to be given under Part I or Part II of this Act shall be in writing, shall be made or given to the Treasury or such other authority as the Treasury may appoint, shall be made or given in the lifetime of the person who makes or gives it and, unless that person has ceased to be a civil servant before the expiration of six months from the passing of this Act, shall, except so far as is otherwise expressly provided, be made or given before he ceases to be a civil servant.

Mode of  
making  
elections, etc.

(2) Where any person by whom, under section eleven or section twenty-nine of this Act, an election or nomination may be made within six months after the passing of this Act is of unsound mind, the Treasury may direct that the said six months shall be extended for such period as may be necessary to enable the election or nomination to be made on his behalf.

PART IV  
—cont.

Effect under  
Parts I and  
II of certain  
nullity  
decrees.

**51.** Where a marriage which is voidable but not void from the beginning is declared to be null by any court of competent jurisdiction, the same results shall follow under Parts I and II of this Act as would have followed thereunder if the marriage had not been voidable and had been dissolved at the date of the declaration of nullity.

*Provisions as to certain special classes of case*

Application to  
cases falling  
within the  
Superannua-  
tion (Various  
Services) Act,  
1938.

**52.—**(1) For the avoidance of doubt, it is hereby declared that the power conferred on the appropriate authority by section one of the Superannuation (Various Services) Act, 1938, to grant superannuation benefits extends—

(a) to the grant in respect of service before the passing of this Act of benefits payable under this Act in respect of such service ; and

(b) to the grants of pensions under Parts I and II of this Act to widows, widowers, children and dependants ; and the provisions of this Act, including the provisions thereof relating to income tax, shall, with any necessary adaptations, apply accordingly.

(2) Where, by virtue of subsection (3) of the said section one the said power is required to be exercised under a scheme approved by the Treasury or in accordance with regulations, any such scheme or regulations made after the passing of this Act may, so far as the provisions of the scheme or regulations correspond with the provisions of this Act, be made so as to take effect from such date, not being earlier than the passing of this Act, as may be specified in the scheme or regulations.

Application to  
employees of  
Cable and  
Wireless, etc.

**53.** Section six of the Commonwealth Telegraphs Act, 1949 (which enables the Postmaster General to make regulations with respect to the pension rights of employees of Cable and Wireless Limited who enter the civil service of the State) shall have effect as if the references in paragraph (d) of subsection (2) of that section to the Superannuation Acts, 1834 to 1946, included references to this Act.

Application of  
Act to persons  
holding  
successive  
offices or  
transferring to  
approved  
employment.

**54.—**(1) This Act shall, in relation to persons who, whether before or after they are civil servants, serve in the permanent civil service of a colony or of the Isle of Man, or in a public office (not in the civil service of the State) to which the rules made under section one of the Superannuation Act, 1892, apply or as members of a police force within the meaning of the Police Pensions Act, 1948, or in service by virtue of which they are deemed for the purposes of that Act to be members of such a force, or who, having been civil servants, become Governors within the meaning of the Pensions (Governors of Dominions etc.) Acts, 1911 to 1947, have effect subject to such adaptations

and modifications as may be prescribed by rules made by the Treasury ; and where rules are made under this subsection, they may contain provisions modifying, in relation to the persons affected by the rules, any other enactment relating to the pensions and other benefits payable to or in respect of them.

(2) This Act shall, in relation to persons who, having ceased to be civil servants, are employed in approved employment as defined in section four of the Superannuation Act, 1914, have effect subject to such adaptations and modifications as may be prescribed by rules made by the Treasury, and rules made under this subsection may contain such provisions for modifying the provisions of the Superannuation Acts, 1834 to 1946, relating to approved employment as appear to the Treasury to be equitable having regard to the provisions of this Act as modified by the rules.

(3) The powers conferred by this section to make rules shall be exercisable by statutory instrument.

55. The application of this Act in relation to civil servants who have served on the permanent establishment of the Secretary of State in Council of India shall not be affected by anything in subsection (1) of section two hundred and eighty-two of the Government of India Act, 1935 (which provides that part of any superannuation and other allowances or gratuities awarded to such persons shall be paid out of the revenues of the Federation of India), and the said subsection (1) shall operate in relation to them as if this Act had not been passed and the allowances and gratuities payable to or in respect of them had been computed and granted accordingly.

PART IV  
—cont.

Application of Act to persons who have served on the establishment of the Secretary of State in Council of India.

56.—(1) Section two of the Superannuation Act, 1935 (which relates to the allocation of superannuation benefits to dependants) and the rules made thereunder shall, in relation to existing Irish officers retiring or removed on or after the third day of December, nineteen hundred and forty-eight, have effect and be deemed always to have had effect as if any annual compensation allowance granted under the Eighth Schedule to the Government of Ireland Act, 1920, were a superannuation allowance granted under the Superannuation Acts.

Provisions as to existing Irish officers.

(2) Section four of the Superannuation Act, 1935 (which relates to the averaging of salary, etc.) shall apply to any allowance granted after the commencement of this Act to an existing Irish officer under the Eighth Schedule to the Government of Ireland Act, 1920, as it applies to an allowance granted under the Superannuation Acts.

(3) His Majesty may, by an Order in Council made in pursuance of a Resolution passed by both Houses of Parliament of Northern Ireland, direct that all or any of the provisions of this

PART IV  
—cont.

Act, other than this section, shall, subject to such exceptions and adaptations as may be specified in the Order, apply to existing Irish officers to whom the Superannuation Acts, 1834 to 1914, apply by virtue of subsection (2) of section fifty-five of the Government of Ireland Act, 1920.

(4) The power conferred by subsection (3) of this section extends to the application of all or any of the provisions of this Act to the case of existing Irish officers to whom compensation falls to be granted under the Eighth Schedule to the Government of Ireland Act, 1920, and the adaptations subject to which those provisions may be so applied may include the insertion of provisions modifying the said Eighth Schedule so far as appears necessary or expedient for the purposes of the Order.

(5) Save as aforesaid, the provisions of this Act other than this section shall not apply to any existing Irish officers.

(6) In this section the expression “existing Irish officers” has the same meaning as in the Government of Ireland Act, 1920.

Age-barréd  
officers.

57. The provisions of this Act shall, with any necessary adaptations, apply in relation to any person who—

- (a) when serving in an unestablished capacity was refused appointment as a civil servant on the ground that by reason of his age he would not, if appointed a civil servant, have become eligible to receive a superannuation allowance on retirement at the retiring age; and
- (b) is, under sub-paragraph (2) of paragraph 3 of the Second Schedule to the Superannuation Act, 1946, treated as eligible for such superannuation benefits as are there mentioned,

as if he had become a civil servant at the time of the refusal and had remained a civil servant until the conclusion of his service in an unestablished capacity.

Application of  
this Act to  
compensation  
and retiring  
allowances.

58.—(1) Parts I and II, and sections thirty-two, thirty-three, forty-two, forty-three and forty-four of this Act shall, so far as capable of such application, apply in relation to compensation allowances and retiring allowances as if references therein to superannuation allowances included references to any annual compensation or retiring allowance and references therein to additional allowances included references to any compensation or retiring allowance taking the form of a lump sum.

(2) In this section the expression “compensation allowance” means an allowance under section six of the Superannuation Act, 1909, or section seven of the Superannuation Act, 1859 (which relate to compensation for abolition of office), and the expression “retiring allowance” means an allowance under section two of the Superannuation Act, 1887 (which relates to persons removed for inefficiency).

**General****PART IV**

—cont.

59. The Treasury may treat a person for all or any of the purposes of this Act as wholly or mainly dependent on another person notwithstanding that for the time being he is not in fact so dependent on him, if they are satisfied that it is reasonable to expect that the first-mentioned person will again become dependent upon the second-mentioned person and are further satisfied that the break in the dependence ought in all the circumstances to be regarded as a temporary one.

Power to ignore breaks in dependence.

60. Where any provision of this Act declares that a power conferred by that provision shall be exercisable by statutory instrument, any statutory instrument made in the exercise of that power shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Statutory instruments to be subject to annulment.

61. The Treasury may, to such extent and subject to such conditions as they think fit, delegate to any Minister or officer of the Crown—

Power of Treasury to delegate power to grant allowances, etc.

- (a) any power conferred on them by the Superannuation Acts to grant any allowance or gratuity; and
- (b) any functions exercisable by them under any provision of this Act relating to pensions or contributions under Parts I and II thereof,

and references in this Act to the Treasury shall be construed accordingly.

62.—(1) There shall be paid out of moneys provided by Parliament—

Financial provisions.

- (a) any pension, allowance, gratuity or return of contributions, with or without interest, which is payable under or by virtue of any of the provisions of this Act and does not fall to be paid from some other fund; and
- (b) any increase attributable to any of the provisions of this Act in the sums which, under any other Act, are payable out of moneys so provided; and
- (c) any administrative expenses incurred by any Government department attributable to the passing of this Act.

(2) Contributions under Parts I and II of this Act, except so far as they take the form of a reduction of an allowance or gratuity or fall to be paid into some other fund, shall be paid into the Exchequer.

(3) Nothing in this Act shall be construed as authorising any greater amount being paid in any case under the Pensions (Increase) Acts, 1920 and 1924, or the Pensions (Increase) Acts, 1944 and 1947, than would have fallen to be paid in that case if this Act had not been passed.

PART IV  
—*cont.*  
Interpretation.

63.—(1) In this Act, except so far as is otherwise expressly provided or the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

- “additional allowance” means an allowance granted under subsection (2) of section one of the Superannuation Act, 1909, either as originally enacted or as amended by any subsequent Act ;
- “brother” includes, in relation to a person, every male child of his father or his mother ;
- “child”, in relation to a person, includes an illegitimate child, a stepchild and an adopted child ;
- “employment in an unestablished capacity” has the same meaning as in section three of the Superannuation Act, 1935, that is to say employment in the civil service of the State otherwise than in the capacity of a civil servant, being employment to which the person serving therein is required to devote his whole time and the remuneration for which is paid entirely out of moneys provided by Parliament ;
- “father” includes, in relation to a person, his stepfather and a male person by whom he has been adopted ;
- “gratuity” means a gratuity granted under any provision of the Superannuation Acts ;
- “medical certificate”, in relation to the retirement of any person, means a medical certificate to the satisfaction of the Treasury that that person is incapable from infirmity of mind or body to discharge the duties of his situation and that that infirmity is likely to be permanent ;
- “mother” includes, in relation to a person, his stepmother and a female person by whom he has been adopted ;
- “presumptively eligible for a life pension”, in relation to a person, means nominated under Part II of this Act after his period of childhood and full-time education or under a nomination which states that he is permanently incapacitated ;
- “reckonable service” means service as computed in accordance with the enactments (including enactments contained in this Act) relating to the computation of service for the purpose of determining the amount of a superannuation allowance or additional allowance ;
- “retiring age” means, in relation to a civil servant, the age which a civil servant, in accordance with section ten of the Superannuation Act, 1859, as amended by any other enactment, including any provision of this



Act, must, apart from section thirty-four of this Act, attain in order that a superannuation allowance may be granted to him on retirement without a medical certificate ;

“ sister ” includes, in relation to a person, every female child of his father or his mother ;

“ superannuation allowance ” means an allowance under section two of the Superannuation Act, 1859, either as originally enacted or as amended by any subsequent Act and does not include an allowance under the Third Schedule to the Supreme Court of Judicature (Consolidation) Act, 1925, under Part II of the First Schedule to the County Courts Act, 1934, or under the First Schedule to the County Courts Act, 1924.

“ the Superannuation Acts ” means the Superannuation Acts, 1834 to 1946, and this Act.

(2) In this Act, the expression “ civil servant ” means a person serving in an established capacity in the permanent civil service of the State who holds his appointment directly from the Crown or has been admitted into the civil service with a certificate from the Civil Service Commissioners and references in this Act to persons ceasing to be civil servants, to persons retiring from being civil servants and to retired civil servants shall be construed accordingly :

Provided that, without prejudice to the operation of the enactments hereinafter mentioned as to the computation of the service of any person for any of the purposes of the Superannuation Acts, so much of the Pensions (Colonial Service) Act, 1887, or of the Pensions (Governors of Dominions, etc.) Acts, 1911 to 1947, as requires service in the permanent civil service of a colony, or service as a Governor within the meaning of the last-mentioned Acts, to be treated as service in the permanent civil service of the State shall not apply to this subsection.

(3) Any reference in this Act to a person ceasing to be a civil servant includes a reference to the death of a person who dies while he is a civil servant.

(4) Any reference in this Act to an adopted child of a person shall be construed as a reference to a child adopted by him (whether alone or jointly with any other person) in pursuance of an adoption order made under the Adoption of Children Act, 1926, or the Adoption of Children (Scotland) Act, 1930, or any corresponding enactment of the Parliament of Northern Ireland, or adopted by him (whether alone or jointly with any other person) in accordance with the law of the place where he was

**PART IV**  
**—cont.**

domiciled at the time of the adoption, and references to a person by whom another person has been adopted shall be construed accordingly.

(5) In this Act, the expression “incapacitated” means, in relation to a person, incapable by reason of old age or some specific bodily or mental disability of earning his own living, and a person who is in any event too young to earn his own living shall be treated as incapacitated for the purposes of this Act if it appears that, by reason of any specific bodily or mental disability, he will be incapable of earning his own living when he attains the age at which he would otherwise be capable of doing so.

(6) The amendments and repeals effected by this Act in the Superannuation Acts, 1834 to 1946, shall not, except so far as is expressly provided in this Act, be construed as affecting those Acts in so far as they are applied by any enactment to persons not in the civil service of the State, but, save as aforesaid, any reference in this Act to any enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended or extended by or under any other enactment, including this Act.

Short title,  
citation  
and repeal.

**64.—(1)** This Act may be cited as the Superannuation Act, 1949, and the Superannuation Acts, 1834 to 1946, and this Act may be cited together as the Superannuation Acts, 1834 to 1949.

(2) The enactments mentioned in the Third Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

## SCHEDULES

### FIRST SCHEDULE

#### PROVISIONS RELATING TO INCAPACITATED PERSONS

##### PART I

##### *Children's Pensions*

1. Where a person for whose benefit, if he were still in his period of childhood and full-time education, a children's pension could enure under Part I of this Act in respect of the service of any deceased person is for the time being incapacitated by an incapacity which arose or first arose during that period, then, subject as hereinafter provided, a children's pension may enure for the benefit of that person notwithstanding that he is no longer in his period of childhood and full-time education:

Provided that this paragraph shall not apply where the incapacity is a permanent one which arose before the deceased ceased to be a civil servant, and the deceased, before he ceased to be a civil servant, knew or might reasonably be expected to have known that it had arisen and was permanent.

Sections 4, 15  
18, 24 and 26

2. If in any case to which subsection (2) of section five of this Act applies a children's pension can enure for the benefit of any person by virtue only of the preceding paragraph, then, whether or not that pension can also enure for the benefit of any other person or persons, the annual rate thereof may amount to one-third of the rate of the superannuation allowance of the deceased or to twenty-six pounds per annum, whichever is the higher.

1ST SCH.  
—cont.

## PART II

### *Dependants' Pensions*

3. A life pension may be granted under section seventeen of this Act to a nominee who is nominated before the end of the period of his childhood and full-time education, if the nomination states that he is permanently incapacitated; but a life pension shall not be granted to such a nominee by virtue of this paragraph until the end of his period of childhood and full-time education.

4. Notwithstanding anything in section eighteen of this Act, a pension of limited duration shall be capable of enuring for the benefit of a nominee after the end of his period of childhood and full-time education (not being a nominee who is presumptively eligible for a life pension) so long as he is for the time being incapacitated by an incapacity which arose or first arose during that period:

Provided that this paragraph shall not apply where the incapacity is a permanent one which arose before the nominator ceased to be a civil servant, and the nominator, before he ceased to be a civil servant, knew or might reasonably have been expected to have known that it had arisen and was permanent.

5. The annual rate of any such pension as is mentioned in the preceding paragraph may, whether or not it can also enure for the benefit of any other person or persons, amount to one-third of the rate of the superannuation allowance of the deceased or to twenty-six pounds per annum, whichever is the higher.

6. Sub-paragraph (iii) of paragraph (b) of subsection (2) of section twenty of this Act, and paragraph (c) of subsection (4) of section twenty-two of this Act, shall not apply to the contributions payable in respect of a nomination by virtue of which the nominee is presumptively eligible for a life pension.

7. Notwithstanding anything in section twenty-four or section twenty-five of this Act, a nominator may have one nominee who is his child and is presumptively eligible for a life pension and may have that nominee in addition to the number of nominees allowed under the said section twenty-four.

8. A nomination in force immediately before paragraph (b) of subsection (1) of section twenty-five of this Act became applicable to the nominator shall not be invalidated by reason only of that paragraph, if the nominee was then known to the nominator to be permanently incapacitated and was presumptively eligible for a life pension.

1ST SCH.  
—cont.

9. A nomination by virtue of which the nominee is presumptively eligible for a life pension shall not become void by virtue of subsection (5) of section twenty-six of this Act at the end of the nominee's period of childhood and full-time education; and for the purpose of determining whether a person not presumptively eligible for a life pension is eligible for a pension of limited duration by virtue of paragraph 4 of this Schedule, the said subsection (5) shall be deemed not to have applied to the nomination.

Sections  
35 and 36.

## SECOND SCHEDULE

### MODIFICATIONS OF PARTS I AND II IN RELATION TO PERSONS TO WHOM SS. 35 AND 36 APPLY

#### PART I

##### *Persons Serving after Retiring Age and 40 Years' Reckonable Service*

1. Where any person to whom section thirty-five of this Act applies ceases to be a civil servant after making periodical contributions under section seven or section twenty of this Act, the period in respect of which contributions may be returned to him by virtue of paragraph (b) of subsection (2) of section eight or paragraph (b) of subsection (2) of section twenty-one of this Act respectively shall be reduced by the number of years of reckonable service which are taken into account under subsection (3) of the said section thirty-five or would be so taken into account but for the provisions of subsection (4) of section thirty-six of this Act.

2. For the purpose of computing any contribution to be made under section nine or section twenty-two of this Act in respect of a person to whom section thirty-five of this Act applies there shall be taken into account (notwithstanding anything in subsection (5) of the said section nine or subsection (5) of the said section twenty-two) any year of reckonable service which is taken into account for the purposes of subsection (3) of the said section thirty-five or which would be so taken into account but for the provisions of subsection (4) of section thirty-six of this Act.

3. Where any superannuation allowance or additional allowance granted to a person to whom section thirty-five of this Act applies is computed upon the amount specified in paragraph (a) of subsection (2) of that section, any contribution to be made in respect of that person under subsection (3) of section nine of this Act or subsection (3) of section twenty-two of this Act shall be ascertained by reference to that amount instead of by reference to the average annual amount of the salary and emoluments of his office during the last three years of his service.

#### PART II

##### *Persons Serving in Unestablished Employment after Retirement*

4. Where any person to whom section thirty-six of this Act applies had a wife when he ceased to be a civil servant then, in computing any contribution to be made in respect of him under section nine of this Act, any year of continuous unestablished service which is taken into account for the purposes of subsection (3) of the said

section thirty-six, being a year throughout which his wife is living, shall be added to the number of relevant years as ascertained in accordance with subsections (4) and (5) of the said section nine:

2ND SCH.  
—cont.

Provided that the years added by virtue of this paragraph together with the years taken into account by virtue of paragraph 2 of this Schedule shall not exceed five in all.

5. For the purpose of computing any contribution to be made under section twenty-two of this Act in respect of a person to whom section thirty-six of this Act applies, any year of continuous unestablished service which is taken into account for the purposes of subsection (3) of the said section thirty-six, being a year throughout which a nomination made by that person under Part II of this Act is in force, shall be added to the number of relevant years as ascertained in accordance with subsections (4) and (5) of the said section twenty-two:

Provided that the years added by virtue of this paragraph together with the years taken into account by virtue of paragraph 2 of this Schedule shall not exceed five in all.

6. Where any superannuation allowance or additional allowance granted to a person to whom section thirty-six of this Act applies is computed upon the amount specified in paragraph (a) of subsection (2) of that section, any contribution to be made in respect of that person under subsection (3) of section nine or subsection (3) of section twenty-two of this Act shall be ascertained by reference to that amount instead of by reference to the average annual amount of the salary and emoluments of his office during the last three years of his service as a civil servant.

7. Subject to the provisions of the next following paragraph, the amount of any increase attributable to the provisions of this Part of this Schedule in the contribution payable in respect of any person under Part I or Part II of this Act shall take the form of a reduction of the increase in the additional allowance which would otherwise be granted to that person by virtue of section thirty-six of this Act; and so much of section eleven or section twenty-nine of this Act as requires the amount of any such contribution to be paid within twelve months of an election or nomination made thereunder, or renders such an election or nomination ineffective in default of such payment, shall not apply to any such increase as aforesaid.

8. Where any person in respect of whom contributions under Part I or Part II of this Act fall to be made by virtue of subsection (2) of section eleven or subsection (2) of section twenty-nine of this Act is a person to whom sections one and two of the Superannuation Act, 1909, do not apply, any increase attributable to the provisions of this Part of this Schedule in any such contribution may be recovered from him by means of deductions from his salary and emoluments or pension of such amounts as the Treasury may from time to time determine.

9. In relation to a superannuation allowance which has been or may be increased under section thirty-six of this Act, the references in subsection (2) of section two and subsection (2) of section sixteen of this Act to the annual rate of the superannuation allowance shall be construed as references to the annual rate of that allowance as so increased.

## Section 64.

## THIRD SCHEDULE

## ENACTMENTS REPEALED

| Session and Chapter       | Short Title                                     | Extent of Repeal                                                                                                                    |
|---------------------------|-------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| 39 & 40 Vict.<br>c. 53.   | The Superannuation Act, 1876.                   | The whole Act.                                                                                                                      |
| 50 & 51 Vict.<br>c. 67.   | The Superannuation Act, 1887.                   | Sections one and four.                                                                                                              |
| 9 Edw. 7. c. 10.          | The Superannuation Act, 1909.                   | In section one, the proviso to subsection (2).<br>In section two, the proviso to subsection (1).<br>Section five.<br>Section three. |
| 4 & 5 Geo. 5.<br>c. 86.   | The Superannuation Act, 1914.                   | The whole Act.                                                                                                                      |
| 9 & 10 Geo. 5.<br>c. 67.  | The Superannuation (Prison Officers) Act, 1919. | The whole Act.                                                                                                                      |
| 14 & 15 Geo. 5.<br>c. 17. | The County Courts Act, 1924.                    | In section five, subsection (2).                                                                                                    |
| 24 & 25 Geo. 5.<br>c. 53. | The County Courts Act, 1934.                    | In section twenty-nine, subsection (2).                                                                                             |
| 25 & 26 Geo. 5.<br>c. 23. | The Superannuation Act, 1935.                   | In section seven, in subsection (1), the words "and eleven".<br>Section eleven.                                                     |

Table of Statutes referred to in this Act

| Short Title                                                  | Session and Chapter    |
|--------------------------------------------------------------|------------------------|
| Superannuation Act, 1859 ... ..                              | 22 Vict. c. 26.        |
| Diplomatic Salaries, &c. Act, 1869 ... ..                    | 32 & 33 Vict. c. 43.   |
| Forfeiture Act, 1870 ... ..                                  | 33 & 34 Vict. c. 23.   |
| Superannuation Act, 1876 ... ..                              | 39 & 40 Vict. c. 53.   |
| Pensions (Colonial Service) Act, 1887 ... ..                 | 50 & 51 Vict. c. 13.   |
| Superannuation Act, 1887 ... ..                              | 50 & 51 Vict. c. 67.   |
| Lunacy Act, 1890 ... ..                                      | 53 & 54 Vict. c. 5.    |
| Superannuation Act, 1892 ... ..                              | 55 & 56 Vict. c. 40.   |
| Superannuation Act, 1909 ... ..                              | 9 Edw. 7. c. 10.       |
| Mental Deficiency Act, 1913 ... ..                           | 3 & 4 Geo. 5. c. 28.   |
| Superannuation Act, 1914 ... ..                              | 4 & 5 Geo. 5. c. 86.   |
| Income Tax Act, 1918 ... ..                                  | 8 & 9 Geo. 5. c. 40.   |
| Superannuation (Prison Officers) Act, 1919 ... ..            | 9 & 10 Geo. 5. c. 67.  |
| Government of Ireland Act, 1920 ... ..                       | 10 & 11 Geo. 5. c. 67. |
| County Courts Act, 1924 ... ..                               | 14 & 15 Geo. 5. c. 17. |
| Supreme Court of Judicature (Consolidation) Act, 1925 ... .. | 15 & 16 Geo. 5. c. 49. |
| Adoption of Children Act, 1926 ... ..                        | 16 & 17 Geo. 5. c. 29. |
| Superannuation (Diplomatic Service) Act, 1929... ..          | 19 & 20 Geo. 5. c. 11. |
| Government Annuities Act, 1929... ..                         | 19 & 20 Geo. 5. c. 29. |
| Adoption of Children (Scotland) Act, 1930 ... ..             | 20 & 21 Geo. 5. c. 37. |
| County Courts Act, 1934 ... ..                               | 24 & 25 Geo. 5. c. 53. |

| Short Title                                                   | Session and Chapter            |
|---------------------------------------------------------------|--------------------------------|
| Superannuation Act, 1935 ... ..                               | 25 & 26 Geo. 5. c. 23.         |
| Government of India Act, 1935 ... ..                          | 26 Geo. 5 & 1 Edw. 8.<br>c. 2. |
| Superannuation (Various Services) Act, 1938 ...               | 1 & 2 Geo. 6. c. 13.           |
| Pensions (Increase) Act, 1944 ... ..                          | 7 & 8 Geo. 6. c. 21.           |
| Superannuation Act, 1946 ... ..                               | 9 & 10 Geo. 6. c. 60.          |
| National Insurance Act, 1946 ... ..                           | 9 & 10 Geo. 6. c. 67.          |
| Pensions (Increase) Act, 1947 ... ..                          | 10 & 11 Geo. 6. c. 7.          |
| Police Pensions Act, 1948 ... ..                              | 11 & 12 Geo. 6. c. 24.         |
| Superannuation (Miscellaneous Provisions) Act,<br>1948 ... .. | 11 & 12 Geo. 6. c. 33.         |
| Commonwealth Telegraphs Act, 1949 ... ..                      | 12 & 13 Geo. 6. c. 39.         |

## CHAPTER 45

An Act to provide for the administration by the Minister of Pensions of veterans' pensions and other sums payable under the law of the United States of America in respect of certain persons; [and for purposes connected therewith. [14th July 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) If, as respects any person resident in the United Kingdom (hereinafter referred to as "the beneficiary"), it is agreed between the Minister and the Administrator of Veterans' Affairs that the next following subsection shall apply in relation to payments by the Administrator in respect of the beneficiary, the following provisions shall have effect.

Administration  
by Minister  
of Pensions of  
veterans'  
pensions, etc.

(2) During the period for which it is agreed that this subsection is to apply (hereinafter referred to as "the period of administration by the Minister"), the Minister shall receive the said payments and shall hold them upon trust to deal with them as follows, that is to say,—

(a) by paying them to, or applying them in such manner as the Minister may think expedient in the interests of, the beneficiary, or

- (b) by investing them and either holding the investments for the time being representing them until the end of the period of administration by the Minister or, at such times and to such extent as the Minister may determine, realising the said investments and paying or applying as aforesaid the proceeds of the realisation thereof,

or partly in one way and partly in another, as the Minister thinks best conducive to the welfare of the beneficiary; and income accruing from investments held by the Minister in pursuance of this subsection shall be held by the Minister upon the like trusts.

(3) On the coming to an end of the period of administration by the Minister all money or investments then held by the Minister in respect of the beneficiary shall be held by the Minister upon trust to deal therewith in one of the following ways:—

- (a) the Minister may request the Administrator of Veterans' Affairs to specify to what person and at what time the said money or investments shall be paid over or transferred, and may pay over or transfer the money or investments accordingly;
- (b) if the money or investments have not been dealt with in pursuance of the last foregoing paragraph, the Minister may hold them on trust for the beneficiary;
- (c) if the beneficiary is then dead and the money or investments have not been dealt with in pursuance of paragraph (a) of this subsection, the Minister may, if he is satisfied that the money or investments, if paid or transferred under this paragraph, will not devolve under any enactment or rule of law relating to bona vacantia or escheat or any similar enactment or rule of law, either—
- (i) pay or transfer the money or investments to the personal representative of the beneficiary to be dealt with in like manner as if they formed part of his estate, or
- (ii) where the aggregate amount or value of the money or investments does not exceed one hundred pounds, pay or transfer them to the persons appearing to the Minister to be the persons who would be beneficially entitled thereto if they had formed part of the beneficiary's estate.

(4) An agreement under subsection (1) of this section shall not be made as respects a person in whose case a court in the United Kingdom has appointed a person to act as guardian, tutor.



factor loco tutoris, committee (including a person appointed to exercise any powers of a committee) or curator bonis:

Provided that nothing in this subsection shall prevent such an agreement being made in relation to any payments which the person so appointed as aforesaid would not be competent to receive and administer under his appointment.

(5) His Majesty may by Order in Council direct that this Act shall have effect as if the expression "the United Kingdom" in this section included the Isle of Man and the Channel Islands, and may by the same or any subsequent Order direct that so much of the last foregoing subsection as relates to the appointment of persons by courts in the United Kingdom shall have effect, in relation to the appointment of persons by courts in the Isle of Man or the Channel Islands, subject to such adaptations as may be specified in the Order.

2.—(1) This Act may be cited as the U.S.A. Veterans' Pensions (Administration) Act, 1949. Short title and interpretation.

(2) In this Act the expression "Administrator of Veterans' Affairs" means the Administrator of Veterans' Affairs appointed under the law of the United States of America, and includes any body or persons for the time being entrusted under that law with the discharge of any functions exercisable under that law at the passing of this Act by the said Administrator or his establishment; and the expression "the Minister" means the Minister of Pensions for the time being.

(3) In this Act references to investment shall include references to the placing of money in an account at any bank, and the expression "investments" shall be construed accordingly.

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## CHAPTER 46

An Act to indemnify John Burns Hynd, Esquire, John James Robertson, Esquire, and Albert Evans, Esquire, from any penal consequences which they may have incurred under the Succession to the Crown Act, 1707, the House of Commons (Disqualification) Act, 1782, or the House of Commons (Disqualifications) Act, 1801, in respect of certain matters arising before the passing of this Act, and to remove any disqualification for membership of the House of Commons so incurred by them. [14th July 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Indemnification, and removal of disqualification, of John Burns Hynd, Esquire, and John James Robertson, Esquire.  
21 & 22 Vict. c. 90.

1. John Burns Hynd, Esquire, and John James Robertson, Esquire, shall be and are hereby freed, discharged and indemnified from all penal consequences whatsoever incurred by them respectively before the passing of this Act by sitting or voting as a member of the Commons House of Parliament while holding the office of a member of the General Medical Council (that is to say, the Council established under section three of the Medical Act, 1858) ; and they shall be deemed not to have been or to be incapable of sitting or voting as a member of that House by reason only of having held that office at any time before the passing of this Act.

Indemnification, and removal of disqualification, of Albert Evans, Esquire, in respect of contracts for the public service.  
22 Geo. 3. c. 45.  
41 Geo. 3. c. 52.

2. The House of Commons (Disqualification) Act, 1782 and the House of Commons (Disqualifications) Act, 1801 (which disqualify members of the House of Commons who enter into certain contracts for the public service), shall not apply, and shall be deemed never to have applied, to any contract for the supply of wares or merchandise for the public service made before the passing of this Act by the firm of Evans Brothers of 17, Clerkenwell Green in the County of London, notwithstanding that Albert Evans, Esquire, was at the material time a partner in that firm.

Short title.

3. This Act may be cited as the House of Commons (Indemnification of Certain Members) Act, 1949.

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## CHAPTER 47

### *Finance Act, 1949*

#### ARRANGEMENT OF SECTIONS

##### PART I

##### CUSTOMS AND EXCISE

###### Section.

1. Tea.
2. Reduction of duties on beer.
3. Continuation of duties on hops, etc., and beer.
4. Wines.
5. Sweets.
6. Sugar.
7. Matches.
8. Mechanical lighters.

## Section.

9. Amendment of rates of entertainments duty.
10. Exemption from entertainments duty of amateur entertainments.
11. Extension of relief from entertainments duty for rural entertainments.
12. Pool betting duty.
13. Duration of dog licences.
14. Abolition of excise duties on licences for appraisers, auctioneers, house agents and plate dealers.
15. Transfer of duties on certain excise licences to county councils.
16. Remission of customs duties on certain aircraft and parts and equipment therefor.
17. Continuation of relief for vehicles fitted with towing contrivances.

## PART II

## INCOME TAX

18. Charge of income tax for 1949-50.
19. Higher rates of income tax for 1948-49.
20. Increase in initial allowances, etc., in respect of machinery or plant, etc.
21. Miscellaneous provisions as to allowances in respect of machinery or plant.
22. Annual allowances, etc., for overseas mineral rights.
23. Interest payable abroad to be deductible in computing profits in certain cases.
24. Amendment of Finance Act, 1946, s. 27.
25. Borrowings against life policies to be treated as income in certain cases.
26. Amendment as to double taxation relief.

## PART III

## DEATH DUTIES AND CORPORATION DUTY

27. Abolition of duties.
28. Increase in estate duty and modification of provisions related to legacy or succession duty.
29. Allowance for, or repayment of, legacy or succession duty paid on capital of settled fund.
30. Corporation duty (modification of provisions related to legacy or succession duty).
31. Exemption from estate duty of maintenance funds given to National Trust.
32. Extension of relief on compulsory acquisitions.
33. Extension of exemption for small gifts inter vivos.

## PART IV

## STAMP DUTIES

34. Abolition of duty on bonus issues of securities.
35. Abolition of and exemptions from other duties.
36. Amendments as to conveyances on sale.

## PART V

## LAND TAX

37. Stabilisation of charge for tax, and procedure for assessment.
38. Exoneration of certain properties.
39. Liability to and date for compulsory redemption.
40. Amount of, and liability and charge for, redemption money.

## Section

41. Payment for voluntary redemption.
42. Land tax redeemed but not exonerated.
43. Regulations.
44. Interpretation of Part V.
45. Application of Part V to Scotland.

## PART VI

## NATIONAL DEBT

46. Provisions as to permanent annual charge for the National Debt and as to the Old Sinking Fund.
47. Unclaimed dividends account.
48. Transfer of Government stock on production of Isle of Man or Channel Islands probates, etc.

## PART VII

## MISCELLANEOUS

49. Extension of special contribution to Northern Ireland.
50. Taxation of Lloyd's and other underwriters who set up special reserve funds.
51. Settling of appeals, etc., by agreement.
52. Short title, construction, extent and repeals.

## SCHEDULES :

## First Schedule—Beer (Rates of Duty and Drawback).

Part I—Rate of Excise Duty.

Part II—Rate of Excise Drawback.

Part III—Rate of Customs Duty in case of Beer being an Empire Product.

Part IV—Rate of Customs Duty in case of Beer not being an Empire Product.

Part V—Rate of Customs Drawback in case of Beer being an Empire Product.

Part VI—Rate of Customs Drawback in case of Beer not being an Empire Product.

## Second Schedule—Wines (Rates of Customs Duty).

## Third Schedule—Sweets (Rates of Excise Duty).

## Fourth Schedule—Sugar, etc. (Rates of Duty and Drawback).

Part I—Full Rates of Customs Duty and of General Preferential Reductions.

Part II—Rates of Customs Duty on Certificated Colonial Sugar.

Part III—Rates of Excise Duty.

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## Fifth Schedule—Matches (Rates of Duty).

Part I—Rates of Customs Duties.

Part II—Rates of Excise Duties.

## Sixth Schedule—Allowances in respect of Machinery or Plant.

Part I—Calculation of Annual Allowances.

Part II—Miscellaneous Amendments as to Initial, Annual and Balancing Allowances, and Balancing Charges.

Part III—Special Provisions as to Annual Allowances for 1947-48 and 1948-49.

## Seventh Schedule—General Scale of Rates of Estate Duty.

## Eighth Schedule—Stamp Duties Abolished.

Part I—Charges under Stamp Act, 1891, and Consequential Exemptions.

Part II—Charges under other Acts.

Ninth Schedule—Provisions which may be applied to compulsory Redemption of Land Tax.

Tenth Schedule—Provisions as to Arrangements for Special Reserve Funds in relation to Lloyd's and Other Underwriters.

Eleventh Schedule—

Part I—Repeals of Provisions as to Appraisers, etc.

Part II—Repeals as to transferred Excise Licences.

Part III—Miscellaneous Customs and Excise Repeals.

Part IV—Death Duty Repeals.

Part V—Stamp Duty Repeals.

Part VI—Land Tax Repeals.

Part VII—National Debt Repeals.

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue (other than Purchase Tax), and to make further provision in connection with Finance.

[30th July 1949.]

Most gracious Sovereign,

**WE**, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART I

### CUSTOMS AND EXCISE

1.—(1) The duties of customs chargeable under section one Tea. of the Finance Act, 1936, on tea shall cease to be chargeable, but in lieu thereof there shall, in the case of tea imported into the United Kingdom and not being an Empire product within the meaning of subsection (1) of section eight of the Finance Act, 1919, be charged a duty of customs at the rate of twopence the pound.

(2) Section fourteen of the Finance Act, 1924 (which, as amended by section twelve of the Finance Act, 1925, makes provision for the allowance of drawback on the exportation or

PART I  
—cont.

shipment as stores of certain blended tea) shall extend to blended tea prepared wholly or partly from tea in respect of which the customs duty chargeable under this section has been paid.

(3) This section shall be deemed to have had effect as from the seventh day of April, nineteen hundred and forty-nine.

Reduction  
of duties  
on beer.

2.—(1) Section one of the Finance (No. 2) Act, 1939 (which imposes duties of excise and customs in respect of beer and provides for drawbacks from those duties), shall have effect as if the First Schedule to this Act were substituted for the First Schedule to that Act:

Provided that this section shall not apply to reduce any drawback in respect of beer as to which it is shown to the satisfaction of the Commissioners that duty was paid at the rate in force before the coming into force of this section.

(2) This section shall be deemed to have had effect as from the seventh day of April, nineteen hundred and forty-nine.

Continuation  
of duties on  
hops, etc.  
and beer.

3.—(1) The duties charged by virtue of subsection (1) of section one of the Finance Act, 1945, until the end of the fifteenth day of August, nineteen hundred and forty-nine, namely—

- (a) the duties of customs charged on hops and extracts, essences or other similar preparations made from hops under subsection (1) of section seven of the Finance Act, 1925; and
- (b) the duty of customs charged on hop oil under the proviso to subsection (1) of section four of the Finance Act, 1929; and
- (c) the additional duty of customs charged in respect of beer under subsection (2) of section two of the Finance Act, 1933,

shall continue to be charged until the end of the fifteenth day of August, nineteen hundred and fifty-three.

(2) The drawback allowed by virtue of subsection (2) of section one of the Finance Act, 1945, until the end of the fifteenth day of November, nineteen hundred and forty-nine, namely, the additional excise drawback allowed in respect of beer under subsection (4) of section two of the Finance Act, 1933, shall continue to be allowed until the end of the fifteenth day of November, nineteen hundred and fifty-three.

## Wines.

4.—(1) In lieu of the duties of customs charged on wines under section three of the Finance (No. 2) Act, 1939, there shall (subject to the next following subsection) be charged on wines

imported into the United Kingdom duties of customs at the rates set out in the Second Schedule to this Act, the rates specified in the second column thereof applying to wines which are not Empire products and those specified in the third column to wines which are.

(2) If at any time the Treasury are satisfied that an increase of a shilling in each of the rates specified in the said Second Schedule for light wines which are Empire products would not contravene any of the Ottawa agreements for the time being in force they shall by order increase those rates by a shilling, but shall revoke the order on being satisfied at any time that the increase does contravene one of those agreements; and those rates shall also be increased by a shilling in the case of wines produced or manufactured in a country the Government of which is a party to one of the Ottawa agreements at any time when that agreement is not in force.

(3) Subsection (2) of section eight of the Customs and Inland Revenue Act, 1890 (which provides that wine rendered sparkling in warehouse is to be deemed to be sparkling wine for the purpose of certain duties charged on sparkling wine), shall apply for the purpose of the duties charged on sparkling wine by this section as it applied for the purpose of the duty mentioned in that subsection.

(4) For the purposes of this section—

- (a) the expression " Empire product " has the same meaning as in subsection (1) of section eight of the Finance Act, 1919 ;
- (b) the expression " Ottawa agreement " means an agreement scheduled to the Ottawa Agreements Act, 1932, as for the time being varied by mutual consent ;
- (c) the expression " wine " includes the lees of wine.

(5) This section shall be deemed to have had effect as from the seventh day of April, nineteen hundred and forty-nine.

5.—(1) The duty of excise on sweets charged under section six of the Finance Act, 1927, shall be charged at the rates specified in the Third Schedule to this Act instead of at the rates specified in the Fifth Schedule to the Finance Act, 1948. Sweets.

(2) This section shall be deemed to have had effect as from the seventh day of April, nineteen hundred and forty-nine.

6.—(1) As respects sugar, molasses and glucose, the rates of the duties of customs and excise, of the preferential reduction under section eight of the Finance Act, 1925 (which relates to Empire

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**PART I**  
—*cont.*

products), and of any drawback of those duties under subsection (2) of section four of the Finance Act, 1928, shall be those applicable immediately after the passing of the Finance Act, 1934; and any certificate issued under section one of the last mentioned Act (which relates to certificated colonial sugar) shall have effect accordingly.

(2) Accordingly those rates, and the rates of the duties and reduction in the case of saccharin, shall be as set out in the Fourth Schedule to this Act (which is to be construed in accordance with paragraph 9 of Part III of the Second Schedule to the said Act of 1928).

(3) For the purposes of section seven of the Finance Act, 1926 (which provides for stabilising imperial preference as at the first day of July, nineteen hundred and twenty-six), the rates specified in Part I of the said Schedule shall be deemed to have been the rates in force immediately before that day.

(4) Any reduction effected by this section in the rates of any drawbacks shall not have effect in relation to any goods as respects which it is shown to the satisfaction of the Commissioners that duty was paid at the rates in force before the commencement of this section.

(5) This section shall be deemed to have had effect as from five o'clock in the evening of the sixth day of April, nineteen hundred and forty-nine.

Matches.

7.—(1) In lieu of the duties of customs charged on matches under section four of the Finance Act, 1940, there shall be charged on matches imported into the United Kingdom duties of customs at the rates specified in Part I of the Fifth Schedule to this Act.

(2) In lieu of the duties of excise charged on matches under the said section four there shall be charged on matches manufactured in the United Kingdom duties of excise at the rates specified in Part II of the Fifth Schedule to this Act.

(3) Subsections (4) and (5) of section three of the Finance (New Duties) Act, 1916 (which made supplemental provision for the purpose of the duties under that section), shall apply for the purpose of all duties of customs or excise from time to time charged on matches.

(4) This section shall be deemed to have had effect as from the seventh day of April, nineteen hundred and forty-nine.

Mechanical  
lighters.

8.—(1) The duty of customs charged under section six of the Finance Act, 1928, on the importation into the United Kingdom of any mechanical lighter and of any component part of a mechanical lighter other than a flint shall (instead of being charged at the rate directed by section five of the Finance Act,



1940) be charged at the rate of seven shillings or, in the case of a gas lighter or component part of a gas lighter, at the rate of five shillings.

(2) The duty of excise charged under the said section six on every mechanical lighter manufactured in the United Kingdom which is complete, or which could be made complete by the addition of a flint, and on every mechanical lighter sent out in an incomplete state from the premises of a manufacturer of mechanical lighters, shall (instead of being charged at the rate directed by section five of the Finance Act, 1940) be charged at the rate of six shillings or, in the case of a gas lighter, at the rate of four shillings.

(3) References in this section to a gas lighter or to a component part of a gas lighter are to be taken as referring to a mechanical lighter or part, as the case may be, which is shown to the satisfaction of the Commissioners to be constructed solely for the purpose of igniting gas for domestic use.

(4) This section shall be deemed to have had effect as from the seventh day of April, nineteen hundred and forty-nine.

9.—(1) As respects payments for admission to entertainments held on or after the thirty-first day of July, nineteen hundred and forty-nine, Part II of the Fifth Schedule to the Finance Act, 1943 (which sets out the full rates of entertainments duty), shall have effect, and be deemed always to have had effect, subject to the following amendments:—

Amendment of rates of entertainments duty.

- (a) the eightpenny halfpenny rate of duty shall apply only where the amount of the payment referred to in the first column of the Schedule exceeds elevenpence and does not exceed one shilling and a halfpenny (instead of where it exceeds tenpence halfpenny and does not exceed one shilling and a halfpenny); and
- (b) instead of a sevenpenny halfpenny rate applying where that amount exceeds eightpence three-farthings and does not exceed tenpence halfpenny there shall be—
  - (i) a sevenpenny rate, to apply where that amount exceeds tenpence and does not exceed elevenpence; and
  - (ii) a fivepenny rate, to apply where that amount exceeds eightpence three-farthings and does not exceed tenpence.

(2) Where entertainments duty has been charged on any payment made before the said thirty-first day of July, and by virtue of this section the duty should have been charged at a lower rate

PART I  
—cont.

than that at which it was in fact charged, the person by whom the duty was paid shall be entitled to repayment of the amount of the overcharge.

Exemption  
from entertain-  
ments duty of  
amateur enter-  
tainments.

10.—(1) Entertainments duty within the meaning of section one of the Finance (New Duties) Act, 1916, shall not be chargeable on payments for admission to any entertainment which is held on or after the thirty-first day of July, nineteen hundred and forty-nine, and consists of one or more of the following items: that is to say—

- (a) a stage play ;
- (b) a ballet (whether a stage play or not) ;
- (c) a performance of music (whether vocal or instrumental) ;
- (d) a lecture ;
- (e) a recitation ;
- (f) an eisteddfod ;

where the Commissioners are satisfied that the entertainment is provided by a society, institution or committee which is not conducted or established for profit and that the entertainment is an amateur one.

(2) For the purposes of this section an entertainment shall not be deemed to be an amateur one if any payment is made or reward given for the appearance of any of the performers whose words or actions constitute the entertainment or any part of it, or for any person's services in connection with the entertainment as instructor, producer, manager or conductor or in any advisory capacity.

(3) This section shall be deemed always to have had effect and where entertainments duty has been charged on any payment made before the said thirty-first day of July, being a payment which by virtue of this section is not chargeable with duty, the person by whom the duty was paid shall be entitled to repayment of the amount of the duty.

Extension of  
relief from  
entertainments  
duty for  
rural  
entertainments.

11.—(1) As respects payments for admission to entertainments held on or after the first day of May, nineteen hundred and forty-nine, the exemption from entertainments duty conferred by section seventeen of the Finance Act, 1948, shall be, and be deemed always to have been, extended by the substitution in subsection (1) of that section for the words "a population not exceeding sixty-four to the square mile" of the words "a population not exceeding six hundred and forty to the square mile."

(2) Where entertainments duty has been charged on any payment made before the said first day of May, being a payment which by virtue of this section is not chargeable with duty, the

person by whom the duty was paid shall be entitled to repayment of the amount of the duty.

PART I  
—cont.

**12.** The amount of the pool betting duty on a bet made at any time by reference to an event taking place on or after the ninth day of April, nineteen hundred and forty-nine, shall be, and be deemed always to have been, one half as much again as if this section had not been passed, except in the case of a bet exempted under section fourteen of the Finance Act, 1948, from the increase under that section as being made by means of a totalisator set up on a dog racecourse.

Pool betting  
duty.

**13.** Any licence taken out under the Dog Licences Act, 1867, after the beginning of the year nineteen hundred and fifty shall be in force from the time it is taken out until the expiration of the period of twelve months beginning with the first day of the month in which it is taken out:

Duration of  
dog licences.

Provided that this section shall not be taken as preventing the licence from being suspended under the Protection of Animals (Cruelty to Dogs) Act, 1933, or the Protection of Animals (Cruelty to Dogs) (Scotland) Act, 1934.

**14.** The enactments specified in Part I of the Eleventh Schedule to this Act (which relate to excise duties on licences for appraisers, auctioneers, house agents and dealers in plate) shall, to the extent mentioned in the third column of that Schedule, be deemed never to have had effect as respects licences for any period after the fifth day of July, nineteen hundred and forty-nine.

Abolition of  
excise duties  
on licences  
for appraisers,  
auctioneers,  
house agents  
and plate  
dealers.

**15.—(1)** Subject to the provisions of this section, there shall be transferred to county and county borough councils the power to levy the duties on the following licences, namely—

Transfer of  
duties on  
certain excise  
licences to  
county  
councils.

- (a) hawkers' licences under the Hawkers Act, 1888 ;
- (b) moneylenders' licences under the Moneylenders Act, 1927 ;
- (c) pawnbrokers' licences under the Pawnbrokers Act, 1872 ;
- (d) licences to keep refreshment houses under the Refreshment Houses Act, 1860.

(2) Subject to the provisions of this section, a county or county borough council and their officers shall have within their area, for the purpose of levying the duties transferred, the same powers, duties and liabilities as the Commissioners and their officers have with respect to those duties and to the issue and cancellation of licences on which those duties are imposed and to other matters under the enactments relating to those duties and licences, and the said enactments shall apply accordingly:

**PART I**  
—cont.

**Provided that—**

- (a) all penalties and forfeitures recovered by a council in pursuance of this section shall, instead of being paid to the Exchequer, be retained by the council ;
- (b) the power given by the said enactments to the Treasury for the mitigation or remission of any penalty or any part thereof shall, as respects the said duties and licences, be exercisable by the council ;
- (c) nothing in this section shall confer on a council any special privileges of the Crown as respects legal proceedings.

(3) Any grant or renewal of a licence by a county or county borough council under this section for the purposes of the Hawkers Act, 1888, or the Pawnbrokers Act, 1872, shall be in force for a year from the date on which it takes effect (subject to any provision for its determination otherwise than by lapse of time).

(4) The duty on a licence granted by a county or county borough council to keep a refreshment house shall be one guinea in all cases, and the annual rate of abatement under section nine of the Revenue (No. 2) Act, 1861, on taking out the wine licence there mentioned shall be seventeen shillings and tenpence in all cases ; and any provision of the said section as to a less duty or rate of abatement where the house and premises are under the rent and value of thirty pounds a year shall accordingly not apply in relation to a licence so granted.

(5) Any hawker's licence issued by a county or county borough council under this section shall have effect throughout Great Britain.

(6) The transfer of any of the said duties under this section shall take effect on such day as the Treasury may by order appoint.

(7) Any order under this section may make such provision as appears to the Treasury to be necessary or expedient to give full effect to the transfer of the duties to which it relates, including provision—

- (a) for exceptions and modifications in the enactments relating to the duties and licences in the application of those enactments to county and county borough councils and their officers ;
- (b) for the issue of licences at such places and through such persons as may be determined by or under the order.

(8) Any order under this section shall be made by statutory instrument, and so far as it makes any such provision as is mentioned in the last foregoing subsection may be varied or revoked by a subsequent order thereunder.

(9) In the application of this section to Scotland—

- (a) for any reference to a county borough council there shall be substituted a reference to the town council of a large burgh within the meaning of the Local Government (Scotland) Act, 1947, and any burgh other than as aforesaid shall be included in the county in which it is situated ; and
- (b) references to licences to keep refreshment houses shall not apply.

16.—(1) Subject to the following subsections, the Treasury may direct that duty shall not be chargeable under the Import Duties Act, 1932, or the Safeguarding of Industries Act, 1921, on the importation into the United Kingdom of any aircraft or aircraft parts or equipment to which this section applies.

Remission of customs duties on certain aircraft and parts and equipment therefor.

(2) The aircraft and aircraft parts and equipment to which this section applies are any aircraft of wing span greater than one hundred and twenty feet and any spare part or equipment for incorporation in or use on such an aircraft, as respects which the Treasury are satisfied—

- (a) in the case of any aircraft that it is to be used in maintaining overseas services ; and
- (b) in the case of any spare part or equipment that it is required for an aircraft manufactured outside the United Kingdom and used or to be used as aforesaid.

(3) The Treasury shall not exercise the powers conferred by this section except on the recommendation of the Board of Trade and on being satisfied that it is in the national interest that the duty should not be chargeable, and any directions of the Treasury under this section may be given subject to such conditions as they think fit for restricting the use or disposal of the aircraft, aircraft parts or equipment and for enabling the Board of Trade to satisfy themselves that the conditions are complied with.

(4) The said powers shall also not be exercised except on an application made by the importer before delivery to him of the aircraft or aircraft parts or equipment.

(5) An application under the last foregoing subsection shall be made in writing and in accordance with such directions, if any, as may be given by the Treasury.

**PART I**  
—*cont.*

(6) Where any aircraft or aircraft parts or equipment are imported without payment of duty by virtue of directions of the Treasury under this section, and any conditions attached to the directions are not complied with, then (without prejudice to any liability for duty) the aircraft or aircraft parts or equipment shall be forfeited.

Continuation  
of relief for  
vehicles  
fitted with  
towing  
contrivances.

17. Section ten of the Finance Act, 1943 (which provides for disregarding the weight of towing contrivances in determining the duty on certain mechanically propelled vehicles charged according to their weight and which is terminable by Order in Council), is made permanent.

**PART II**

**INCOME TAX**

Charge of  
income tax  
for 1949-50.

18.—(1) Income tax for the year 1949-50 shall be charged at the standard rate of nine shillings in the pound, and, in the case of an individual whose total income exceeds two thousand pounds, at such higher rates in respect of the excess over two thousand pounds as Parliament may hereafter determine.

(2) Subject to the provisions of any Act of the present Session relating to war damage or superannuation, and to any enactment which has effect only after the end of the year 1948-49, all such enactments as had effect with respect to the income tax charged for that year, other than enactments which by their terms relate only to tax for that year, shall have effect with respect to the income tax charged for the year 1949-50.

Higher rates  
of income  
tax for  
1948-49.

19. Income tax for the year 1948-49 shall be charged, in the case of an individual whose total income exceeded two thousand pounds, at the same higher rates in respect of the excess over two thousand pounds as were charged for the year 1947-48.

Increase in  
initial  
allowances,  
etc., in respect  
of machinery  
or plant, etc.

20.—(1) In relation to expenditure incurred on or after the sixth day of April, nineteen hundred and forty-nine, section fifteen of the Income Tax Act, 1945 (which provides for initial allowances in the case of expenditure on the provision of machinery or plant) shall have effect as if for the words "equal to one-fifth of the expenditure" there were substituted the words "equal to two-fifths of the expenditure".

(2) In relation to expenditure incurred on or after the said sixth day of April, section twenty-eight of the Finance Act, 1944 (which provides for allowances for capital expenditure on scientific research) shall have effect as if, in subsection (1) thereof, for the words "a deduction equal to one-fifth of the expenditure shall be allowed in charging the profits or gains of

the trade for each of the five years of assessment mentioned in the succeeding provisions of this section" there were substituted the words "a deduction equal to three-fifths of the expenditure shall be allowed in charging the profits or gains of the trade for the first of the five years of assessment mentioned in the succeeding provisions of this section and a deduction equal to one-tenth of the expenditure shall be allowed in charging the profits or gains of the trade for each of the remaining four of the said five years".

(3) Section thirty-four of the Finance Act, 1946 (which relates to the initial allowance which is to be made in certain cases where the buyer and the seller of machinery or plant are under the same control) shall, in a case in which subsection (1) of this section applied to the initial allowance made to the seller, have effect as if for the words "four-fifths" in paragraph (d) of subsection (2) and paragraph (a) of subsection (3) thereof there were substituted the words "three-fifths".

(4) Where there is a contract for the sale of a ship and either—

(a) the price becomes payable before the sixth day of April, nineteen hundred and forty-nine, but the ship is delivered in performance of the contract on or after that date; or

(b) the price is payable in instalments, some of which are payable before that date, and some of which are payable on or after that date,

so much of the price as becomes payable before that date shall for the purposes of the provisions of the Income Tax Acts relating to initial allowances be deemed to have become payable on that date:

Provided that where—

(i) an initial allowance falls to be made by virtue of this subsection in respect of the price or any part thereof for any year of assessment; and

(ii) an initial allowance in respect of the price or, as the case may be, that part of the price, has been given, or, apart from this subsection, falls to be given, for a year of assessment earlier than that year,

the allowance given or to be given for that earlier year shall not be affected by the provisions of this subsection but the amount of the allowance to be given by virtue of this subsection shall be correspondingly reduced.

21.—(1) The provisions of Parts I, II and III of the Sixth Schedule to this Act, being—

(a) as to Part I, provisions designed to secure that the amount of any annual allowance in respect of machinery or plant.

Q\*

**PART II**  
—*cont.*

machinery or plant shall, instead of being, or being five-fourths of, an amount considered by the Commissioners having jurisdiction in the matter to be just and reasonable, be an amount arrived at in accordance with the provisions of the said Part I ;

- (b) as to Part II, provisions effecting miscellaneous amendments in relation to initial allowances, annual allowances, balancing allowances, and balancing charges in respect of machinery or plant ; and
- (c) as to Part III, special provisions applicable to annual allowances in respect of machinery or plant for the years 1947-48 and 1948-49,

shall have effect in relation to the matters therein mentioned.

(2) In this section and the said Sixth Schedule, the expression "annual allowance" means an allowance or deduction under Rule 6 of the Rules applicable to Cases I and II of Schedule D or under section twenty of the Income Tax Act, 1945, and so much of Part VIII of that Act as requires expressions and references to be construed in a particular manner shall have effect in relation to expressions and references in this section, and, save as otherwise provided therein, in the said Sixth Schedule, as if they were contained in that Act.

Annual allowances, etc., for overseas mineral rights.

**22.**—(1) Subject to the provisions of this section, capital expenditure incurred by any person in connection with the working of a mine, oil well or other source of mineral deposits of a wasting nature outside the United Kingdom, being expenditure on the acquisition of, or of rights in or over, the deposits, shall, notwithstanding anything in section twenty-five of the Income Tax Act, 1945, be expenditure to which Part III of that Act applies, and that Act shall have effect accordingly.

(2) In relation to expenditure to which subsection (1) of this section applies—

- (a) the references in the Income Tax Act, 1945, to the appointed day shall be deemed to be references to the sixth day of April, nineteen hundred and forty-nine ;
- (b) Part III of the First Schedule to that Act shall not apply ;
- (c) references in Part II of that Schedule to the expenditure to which Part III of that Act applies shall not include references to expenditure to which Part III of that Act applies otherwise than by virtue of this section ; and
- (d) in applying sub-paragraph (b) of paragraph 5 of the said Part II, output before the trader acquired the source shall be left out of account.



**(3) Where—**

- (a) on or after the appointed day, a person incurs expenditure to which subsection (1) of this section applies on acquiring any deposits or rights ; and
- (b) those deposits or rights had previously been acquired (whether before, on or after the appointed day) by some other person, being, or being a body corporate or partnership under the control of, a person resident in the United Kingdom ; and
- (c) the case is not one to which subsection (7) of section twenty-eight of the Income Tax Act, 1945 (which relates to sales of sources and parts of sources as going concerns) applies,

the said expenditure of the first-mentioned person shall be left out of account for the purposes of Part III of that Act so far as it exceeds the capital expenditure incurred by the said other person in acquiring the deposits or rights :

Provided that where the source in question, or the relevant part thereof, has been worked between the dates of the two acquisitions, the said capital expenditure of the said other person shall be treated for the purposes of this subsection as reduced so as to bear to the full amount thereof the same proportion as the total potential future output from the source or part, estimated as at the later of those dates, bears to the said total potential future output plus the actual output from the source or part between those dates.

**(4) Where—**

- (a) before the appointed day, a person incurs expenditure to which subsection (1) of this section applies on acquiring any deposits or rights ; and
- (b) those deposits or rights had previously been acquired by some other person, being, or being a body corporate or partnership under the control of, a person resident in the United Kingdom,

that expenditure shall, in arriving at the expenditure which, under subsection (4) of section twenty-seven of the Income Tax Act, 1945, the first-mentioned person is to be treated as having incurred on the appointed day, be left out of account so far as it exceeds the capital expenditure incurred by the said other person in acquiring the deposits or rights :

Provided that where the source in question or the relevant part thereof has been worked between the dates of the two acquisitions, the capital expenditure of the said other person on acquiring the deposits or rights shall be treated for the purposes of this subsection as reduced so as to bear to the full amount thereof the same proportion as the actual total output

**PART II**  
—*cont.*

from the source or part from the later of those dates to the appointed day plus the total potential future output from the source or part, estimated as at the appointed day, bears to the actual total output from the source or part from the earlier of those dates up to the appointed day plus the said total potential future output.

(5) In the cases specified in this subsection, the two last preceding subsections shall have effect subject to the following provisions, that is to say—

- (a) if there is more than one such other person as is therein mentioned (that is to say, more than one person who, being, or being a body corporate or partnership under the control of, a person resident in the United Kingdom, previously acquired the deposits or rights in question), regard shall be had only to that one of those other persons who first acquired the deposits or rights ;
- (b) where any such other person as aforesaid carried on a trade which consisted of or included the buying and selling of, or of rights in or over, mineral deposits, references to capital expenditure shall, in relation to him, be deemed to include expenditure which would have been capital expenditure if his trade had been the working of the deposits or rights in question and had not included such buying and selling as aforesaid ;
- (c) in computing the expenditure of any such other person, liabilities undertaken by him which, in connection with the disposal by him of the deposits or rights in question, have been taken over by some other person may, notwithstanding anything in subsection (2) of section sixty-four of the Income Tax Act, 1945, be taken into account.

(6) References in this section to expenditure on the acquisition of deposits or rights shall not in any event include—

- (a) expenditure which, apart from this section, is, within the meaning of section twenty-five of the Income Tax Act, 1945, expenditure to which Part III of that Act applies ; or
- (b) expenditure on machinery or plant, or on any asset which has been treated for any year of assessment as machinery or plant ; or
- (c) expenditure on any building or structure.

(7) References in this section to capital expenditure include references to any payments of minimum royalties or dead rents, or any other similar payments, being payments of royalties or rents or other payments which cannot be taken into account

as deductions in computing profits or gains for income tax purposes by reason of the fact that no trade, or no relevant trade, was being carried on at the relevant time by the person making the payments.

**PART II**  
—cont.

(8) In no case shall the amount on which a balancing charge is made upon a person be increased by virtue of the provisions of this section by more than the total amount by which annual allowances made to that person are increased by virtue thereof.

(9) This section shall be construed as if it were contained in Part III of the Income Tax Act, 1945, and the reference in subsection (1) of section fifty-eight of that Act to expenditure incurred on the provision or the purchase of property shall, in relation to this section, be deemed to include a reference to expenditure on the acquisition of, or of rights in or over, mineral deposits.

23.—(1) Subject to the provisions of this section, in computing under the Rules applicable to Cases I and II of Schedule D the profits or gains of, or the loss sustained in, a trade carried on by a person residing in the United Kingdom, annual interest in the case of which all the following conditions are fulfilled, that is to say—

Interest payable abroad to be deductible in computing profits in certain cases.

- (a) that the liability to pay the interest was incurred exclusively for the purposes of the trade ;
- (b) that the payment of the interest is secured mainly upon assets outside the United Kingdom which are employed in the trade and belong to the person by whom the trade is carried on ;
- (c) that, under the terms of the contract under which the interest is payable, the interest is to be paid, or may be required to be paid, outside the United Kingdom ;
- (d) that the interest is in fact paid outside the United Kingdom ; and
- (e) that the interest is paid to a person not resident in the United Kingdom and without any deduction of United Kingdom income tax,

may be deducted notwithstanding anything in Rule 3 of those Rules.

(2) This section shall not apply to any interest falling to be deducted from any income of the person carrying on the trade under Rule 1 of the Rules applicable to Case IV of Schedule D or under Rule 1 of the Rules applicable to Case V of that Schedule.

(3) Where the trade is carried on by a partnership, this section shall not apply to any interest which is payable to any of the partners or is payable in respect of the share of any partner in the partnership capital.

**PART II**  
—*cont.*

(4) This section shall not apply where—

- (a) the trade is carried on by a body of persons over whom the person entitled to the interest has control ; or
- (b) the person entitled to the interest is a body of persons over whom the person carrying on the trade has control ; or
- (c) the person carrying on the trade and the person entitled to the interest are both bodies of persons, and some other person has control over both of them.

In this subsection, the references to a body of persons include references to a partnership, and the expression “ control ” has the meaning assigned to it by subsection (1) of section sixty-eight of the Income Tax Act, 1945.

Amendment  
of Finance  
Act, 1946,  
s. 27.

**24.**—(1) Subsection (2) of section twenty-seven of the Finance Act, 1946 (which charges to income tax payments of benefit under the National Insurance Act, as defined in that section) shall not apply to unemployment benefit, sickness benefit or maternity benefit, and relief under subsection (1) of that section shall not, in the case of a contribution other than an employer's contribution, be given in respect of so much of the contribution as is referable to unemployment benefit, sickness benefit or maternity benefit.

(2) The payments which, under the said subsection (2), are to be charged to income tax under Schedule E shall be deemed for all the purposes of the Income Tax Acts (and, in particular, for the purposes of the Income Tax (Employments) Act, 1943) to be emoluments chargeable under that Schedule.

(3) Accordingly, the following amendments shall be made in the said section twenty-seven—

- (a) in subsection (1), after the words “ the National Insurance Act ” there shall be inserted the words “ except, in the case of a contribution other than an employer's contribution, so much thereof as is referable to unemployment benefit, sickness benefit or maternity benefit ” ;
- (b) in subsection (2), for the words “ maternity grant ” there shall be substituted the words “ unemployment benefit, sickness benefit, maternity benefit ”, for the words “ on the amounts thereof for the year of assessment and shall be deemed to be earned income for all the purposes of the Income Tax Acts ” there shall be substituted the words “ and shall be deemed for all the purposes of the Income Tax Acts to be emoluments chargeable under that Schedule and to be earned

income” and the words “ unless it is payable by way of unemployment benefit, sickness benefit or maternity allowance ” shall be repealed ;

PART II  
—cont.

- (c) in subsection (3) for the words “ ‘ maternity allowance ’ , ‘ maternity grant ’ ” there shall be substituted the words “ ‘ maternity benefit ’ ”.

**25.—(1) Where—**

- (a) under any contract or arrangements made on or after the seventh day of April, nineteen hundred and forty-nine, provision is made for the making to any person, at intervals until the happening of an event or contingency dependent on human life, of payments by way of loan ; and

Borrowings  
against life  
policies to be  
treated as  
income in  
certain cases.

- (b) under the contract or arrangements, the loans are secured upon a policy of life assurance which assures moneys payable on the happening of such an event or contingency and need not be repaid until the policy moneys become payable ; and

- (c) the amount of the moneys payable on the happening of the event or contingency is made by the policy to increase by reference to the length of a period ending on the happening thereof.

the payments by way of loan shall be treated for all the purposes of the Income Tax Acts as annual payments falling within Case III of Schedule D, or, if they are made to a person residing in the United Kingdom and the contract or arrangements were made outside the United Kingdom, as income from a possession out of the United Kingdom falling within Rule 1 of Case V of Schedule D.

(2) The amount of the moneys payable under a policy of life assurance shall not be deemed for the purposes of this section to be made to increase by reference to the length of a period ending on the happening of an event or contingency dependent on human life by reason only that those moneys are to increase from time to time if profits are made by the persons liable under the policy.

(3) This section shall not apply to any payments by way of loan if the Commissioners of Inland Revenue are satisfied as respects those payments that it is not one of the objects of the contract or arrangements under which the payments are made that the recipient thereof should enjoy the advantages which would, apart from any question of liability to income tax, be enjoyed by a person in receipt of payments of the same amounts paid at the same times by way of annuity.

**PART II**  
—cont.

Amendment  
as to double  
taxation  
relief.

26. Subsection (4) of section fifty-two of the Finance (No. 2) Act, 1945 (which requires any balance of tax deducted from annual payments payable out of dividends affected by double taxation relief to be assessed under Rule 21 of the General Rules and paid over to the Crown) shall have effect and be deemed always to have had effect as if, at the end of that subsection, there were added the following proviso—

“ Provided that section nineteen of the Finance Act, 1928 (which enables the amount of an assessment under the said Rule 21 to be allowed in certain cases as a loss for certain purposes) shall not apply for the year 1949-50 or any subsequent year of assessment to any assessment made under the said Rule 21 by virtue of this subsection.”

**PART III**

**DEATH DUTIES AND CORPORATION DUTY**

Abolition of  
duties.

27.—(1) Legacy duty and succession duty shall not be chargeable on a legacy derived from a testator or intestate dying after the commencement of this Part of this Act, or on a succession conferred after that commencement, nor on any other legacy or succession in so far as the duty would apart from this section be payable in connection with any such event as is mentioned in the next following subsection.

(2) The events referred to in the foregoing subsection are any of the following events happening after the commencement of this Part of this Act, that is to say—

- (a) the death of any person ;
- (b) the determination or failure of any charge, estate, interest or trust ;
- (c) the exercise of a power of appointment ;
- (d) the making of any payment or the application of any property, if the duty would apart from this section be chargeable—

(i) under section eleven of the Legacy Duty Act, 1796, or under that section as applied by section thirty-two of the Succession Duty Act, 1853 (which deal with benefits of uncertain amount receivable from time to time) ; or

(ii) under section twenty-five of the Succession Duty Act, 1853 (which deals with premiums for the renewal of a lease or the grant of a reversionary lease) ;

- (e) any other event which, under the provisions of the relevant will or disposition or the rules governing the distribution of the intestate's estate, affects the right to the legacy or succession or to the enjoyment thereof or which changes the nature of the property comprised therein or any part of that property.

(3) The reference in subsection (1) of this section to duty being payable in connection with an event shall, in relation to legacy duty, include its being payable when the legacy is paid, delivered, retained, satisfied or discharged in connection with that event, and for the purposes of this section the expression "legacy" includes residue and share of residue.

(4) Where this section applies to the succession duty on a succession, it shall apply also to any temporary estate duty which would otherwise be chargeable thereon under section six of the Customs and Inland Revenue Act, 1889.

**28.**—(1) In the case of persons dying after the commencement of this Part of this Act, the scale set out in the Seventh Schedule to this Act shall be substituted for the scale set out in Part I of the Tenth Schedule to the Finance Act, 1946, as the scale of rates of estate duty, and the scale in accordance with which estate duty is to be charged on the agricultural value of agricultural property under section twenty-three of the Finance Act, 1925, shall (instead of being that referred to in that section) be the same scale as applies in other cases with a reduction of forty-five per cent. in each of the rates.

Increase in estate duty and modification of provisions related to legacy or succession duty.

(2) As respects property passing on the death of a person dying after the commencement of this Part of this Act, subsection (2) of section two of the Finance Act, 1894 (which exempts from estate duty property situate abroad and not chargeable with legacy duty or succession duty), and section twenty-four of the Finance Act, 1936 (which restricts the exemption conferred by the said subsection (2)), shall not have effect; but that property shall be deemed for the purposes of estate duty not to include any property passing on the death which is situate out of Great Britain if it is shown that the proper law regulating the devolution of the property so situate, or the disposition under or by reason of which it passes, is the law neither of England nor of Scotland and that one at least of the following conditions is satisfied, namely,—

- (a) that the deceased did not die domiciled in any part of Great Britain;
- (b) that the property so situate passes under or by reason of a disposition—

**PART III**  
—cont.

(i) made by a person who, at the date at which the disposition took effect, was domiciled elsewhere than in some part of Great Britain ; and

(ii) not made, directly or indirectly, on behalf of, or at the expense of, or out of funds provided by, a person who at that date was domiciled in some part of Great Britain ;

(c) that the property so situate is, by the law of the country in which it is situate, immovable property ;

or if the property so situate passes only by virtue of paragraph (c) of subsection (1) of section two of the Finance Act, 1894, as having been the subject of a gift inter vivos and it is shown that one at least of the said conditions is satisfied.

(3) In the case of persons dying after the commencement of this Part of this Act, the enactments relating to estate duty (including the provisions of section nine of the Finance Act, 1894, as to the charge of duty and the facilities for raising it) shall apply to lands and chattels so settled by Act of Parliament or royal grant that no one of the persons successively in possession thereof is capable of alienating the same as those enactments apply to other settled property, and subsection (5) of section five of the Finance Act, 1894 (which provides that estate duty on lands and chattels so settled shall be leviable on the successor's interest valued as for succession duty), shall accordingly not apply.

Allowance for, or repayment of, legacy or succession duty paid on capital of settled fund.

**29.—(1) Where—**

(a) legacy duty or succession duty in respect of interests under a settlement has been satisfied by the payment (whether before or after the commencement of this Part of this Act) of the duty on the capital value of the settled property ; and

(b) estate duty becomes leviable on that property or any part thereof (hereafter in this section referred to as "the property passing") by reason of its passing under the settlement on the death after that commencement of a person not competent to dispose of the property passing ; and

(c) the property passing has not previously passed as aforesaid ;

then, subject to the provisions of this section, the estate duty on the property passing shall be payable at the reduced rate obtained by deducting from the rate at which it would be payable apart from this section the rate at which the legacy or succession duty was paid, or if the second of the two last mentioned rates is the higher shall be treated as satisfied.



(2) Where by virtue of the foregoing subsection the estate duty which would otherwise be payable on the property passing is treated as satisfied, and the amount of that duty is less than the amount of the legacy or succession duty paid on the property passing, then subject to the following provisions of this section the Commissioners shall on a claim being made and on production of such evidence as they may require of the title of the claimant repay the difference between those amounts.

(3) Any sums falling to be repaid under the last foregoing subsection shall be deemed to be an accretion, as at the date at which they become payable, to the fund out of which the legacy or succession duty was paid, and the persons entitled to the repayment shall be determined accordingly:

Provided that where that fund has been vested in a person or persons beneficially entitled thereto the repayment may be made to, or to the executors of, that person or (as the case may be) any of those persons for the benefit of those entitled to the repayment.

(4) Where the property passing includes part only of the property on the capital value of which the legacy or succession duty was paid, the duty shall be apportioned for the purposes of subsection (2) of this section in such manner as the Commissioners think just.

(5) Where on a death any of the property on the capital value of which the legacy or succession duty was paid is deemed to pass to a limited extent, the foregoing subsections shall apply (whether on that or a subsequent death) as if a proportionate part of that property had passed on the first mentioned death.

(6) Any reference in this section to the rate at which the estate duty on the property passing would be payable apart from this section shall be taken as a reference to the rate per cent. representing the proportion which the amount of the duty (after allowing for any reduction or relief under any other enactment) bears to the principal value of the property passing; and any reference in this section to the rate at which legacy or succession duty was paid shall be taken as a reference to the rate per cent. representing the proportion which the total duty paid bore to the value on which it was paid.

30.—(1) Section eleven of the Customs and Inland Revenue Corporation Act, 1885. (which imposes corporation duty on certain bodies whose property does not become liable to death duties), shall have effect as respects property acquired by a body corporate or unincorporate after the commencement of this Part of this Act with the substitution, for the exemption in paragraph (7) Corporation duty (modification of provisions related to legacy or succession duty).

**PART III**  
—*cont.*

thereof for certain property on the acquisition of which legacy or succession duty was paid, of the following exemption:—

“(7) Property acquired by any body corporate or unincorporate within a period of thirty years immediately preceding, if it was acquired under a testamentary gift (including a donatio mortis causa) or under a settlement within the meaning of Part I of the Finance Act, 1894, or otherwise in such circumstances that it passed or was deemed to pass on a death for purposes of estate duty.”

(2) In the following provisions of the Customs and Inland Revenue Act, 1885, that is to say, paragraph (5) of the said section eleven, section twelve, section thirteen and section seventeen, for any reference to legacy duty or succession duty or to succession duty there shall be substituted a reference to estate duty, and in section nineteen of that Act (which applies for the purposes of corporation duty certain enactments relating to succession duty) for the words “in relation to succession duty under the law now in force” there shall be substituted the words “in relation to estate duty under the law for the time being in force”.

Exemption  
from estate  
duty of main-  
tenance funds  
given to  
National Trust.

**31.**—(1) Any exemption from estate duty conferred by section thirty-one of the Finance Act, 1937, in relation to an estate or interest in land given, devised or bequeathed by any person to the National Trust shall, in the case of duty leviable on or with reference to a death occurring after the commencement of this Part of this Act, be granted also, and to the like extent, to any other property given, devised or bequeathed by him with that estate or interest as a source of income for the upkeep of the land.

(2) Property shall not be deemed for the purposes of this section to be given, devised or bequeathed with an estate or interest in land if either is subject to an interest or power of appointment created by the gift, devise or bequest to which the other is not subject:

Provided that for the purposes of this subsection any trust to apply income of the property for the upkeep of the land or in meeting liabilities or expenses accruing in respect of the land or the property (including a trust to accumulate income for any such purpose) shall be treated as creating the like interests in the property as may from time to time subsist in the land.

(3) Where property given, devised or bequeathed with an estate or interest in land is in the opinion of the Commissioners more than enough to provide (with a reasonable margin) for the upkeep of the land out of the income of the property, so

much only as is in their opinion enough for that purpose shall be deemed to be given, devised or bequeathed as mentioned in subsection (1) of this section.

PART III  
—cont.

(4) In this section the expression “National Trust” means the National Trust for Places of Historic Interest or Natural Beauty or, in relation to Scotland, the National Trust for Scotland for Places of Historic Interest or Natural Beauty.

32.—(1) Where an interest in land is acquired as mentioned in subsection (1) of section fifty-seven of the Finance (No. 2) Act, 1945 (which gives partial relief from death duties on land subsequently acquired by government departments, local authorities, etc.), and the date of acquisition falls after the end of the period so mentioned but before the first day of January, nineteen hundred and fifty-four (being the terminal date for the provisions enacted in section fifty-two of the Planning Act to eliminate values attributable to vacant possession), then, subject to subsection (3) of this section, the said section fifty-seven shall apply as if the date of acquisition had fallen within the period mentioned in subsection (1) thereof.

Extension of  
relief on  
compulsory  
acquisitions.

(2) Subject as aforesaid, the said section fifty-seven (hereafter in this section referred to as “the principal section”) shall apply also in relation to acquisitions by any persons to whom the Acquisition of Land (Assessment of Compensation) Act, 1919, is extended by subsection (1) of section fifty-seven of the Planning Act, as if those persons were a local or public authority within the meaning of the said Act of 1919, and shall so apply notwithstanding that the date of acquisition fell before the commencement of this Part of this Act, if it did not fall before the passing of the Planning Act.

(3) Where either of the foregoing subsections applies to an acquisition, any reduction supposed by subsection (2) of the principal section to be made in the principal value for purposes of duty of the interest acquired shall be limited so as not to exceed the amount by which, in the opinion of the Commissioners, the compensation or price paid for the purchase of the interest would have been increased if section fifty-two of the Planning Act had not been passed; and subsections (3) and (4) of the principal section shall have effect accordingly.

(4) In this section the expression “the date of acquisition” has the same meaning as in the principal section, and the expression “the Planning Act” means the Town and Country Planning Act, 1947.

(5) In the application of this section to Scotland, for references to the Town and Country Planning Act, 1947, and to

**PART III**  
—*cont.*

sections fifty-two and fifty-seven thereof there shall respectively be substituted references to the Town and Country Planning (Scotland) Act, 1947, and to sections forty-nine and fifty-four thereof.

**Extension of exemption of small gifts inter vivos.**

**33.**—(1) So much of paragraph (c) of subsection (1) of section two of the Finance Act, 1894, as makes gifts inter vivos property which is deemed to pass on the death of the deceased shall not apply to gifts which, in the case of any donee, do not exceed in the aggregate five hundred pounds in value or amount, if it is shown to the satisfaction of the Commissioners—

(a) that the property taken by the donee did not include any interest in settled property; and

(b) that bona fide possession or enjoyment of the property so taken was assumed by the donee immediately upon the gift and thenceforward retained to the entire exclusion of the deceased or of any benefit to him by contract or otherwise.

(2) Where the foregoing subsection would apply in the case of any donee except that the Commissioners are satisfied of the facts mentioned in paragraphs (a) and (b) thereof as respects some only of the gifts to him, it shall apply to any of the gifts as respects which they are so satisfied.

(3) This section shall not be taken as affecting the relief given by subsection (2) of section fifty-nine of the Finance (1909-10) Act, 1910, where in the case of any donee the gifts do not exceed one hundred pounds in value or amount.

**PART IV**

**STAMP DUTIES**

**Abolition of duty on bonus issues of securities.**

**34.**—(1) Sections sixty to sixty-two of the Finance Act, 1947 (which charge duty on bonus issues of securities, etc.), shall cease to have effect as from the seventh day of April, nineteen hundred and forty-nine, except that—

(a) in so far as they relate to issues of securities, they shall continue to have effect in relation—

(i) to securities to which subsection (8) of section sixty-one applies, if the sale took place before that day; and

(ii) to other securities, if the allotment took place before that day; and

(b) in so far as they relate to the variation of the rights or liabilities attached to any securities, they shall continue to have effect in relation to any variation becoming effective before that day.

(2) Where it is shown to the satisfaction of the Commissioners that any duty which, by virtue of this section, is not chargeable has in fact been paid, they shall repay the duty.

35.—(1) In relation to instruments made or executed on or after the date of the passing of this Act, the Stamp Act, 1891, shall have effect as if it had been enacted—

Abolition of  
and exemp-  
tions from  
other duties.

(a) without the headings or parts of headings in the First Schedule thereto which are mentioned in Part I of the Eighth Schedule to this Act (and are not so mentioned only in an exemption); but

(b) with the exemptions provided for by the said Part I.

(2) The composition mentioned in Part II of the said Eighth Schedule shall no longer be payable, and the duties so mentioned are abolished.

(3) At the end of the heading Policy of Sea Insurance in the First Schedule to the Stamp Act, 1891, there shall be inserted the following exemption:—

*“ Exemption*

Policy of insurance on baggage or personal and household effects only, if made or executed out of Great Britain ”;

and section ninety-seven of that Act (which imposes penalties for assuring without a duly stamped policy) shall not apply in relation to a sea insurance which is within that exemption.

36.—(1) Any sale or contract or agreement for the sale of goods, wares or merchandise shall be disregarded for the purpose of the provisions mentioned in subsection (2) of this section in their application—

Amendments  
as to convey-  
ances on sale.

(a) to any instrument chargeable under the heading “ Conveyance or transfer on sale ” in the First Schedule to the Stamp Act, 1891, other than an actual conveyance or transfer of the goods, wares or merchandise (with or without other property); or

(b) to any instrument chargeable by reference to that heading under section fifty-nine of that Act (which makes a contract or agreement for sale of certain property chargeable with duty as if it were an actual conveyance on sale).

**PART IV**  
—cont.

(2) The said provisions are those contained in the proviso to section seventy-three of the Finance (1909-10) Act, 1910, and subsections (3) and (4) of section fifty-four of the Finance Act, 1947 (which give lower rates of duty in the case of small transactions, subject to conditions as to their not forming part of a larger transaction or series of transactions).

(3) Any statement included in an instrument in terms of the proviso to section seventy-three of the Finance (1909-10) Act, 1910, or subsection (3) of section fifty-four of the Finance Act, 1947, shall be construed as leaving out of account any matter which may be disregarded under the foregoing subsections.

(4) Section twelve of the Finance Act, 1895 (which relates to duty on property vested by Act or purchased under statutory powers), shall not require any person who is authorised after the coming into force of this section to purchase any property as mentioned in the said section twelve to include in the instrument of conveyance required by that section to be produced to the Commissioners any goods, wares or merchandise forming part of the property nor, if the property consists wholly of goods, wares or merchandise, to produce any instrument of conveyance thereof to the Commissioners.

**PART V**  
**LAND TAX**

Stabilisation of  
charge for tax,  
and procedure  
for assessment.

37.—(1) Land tax shall remain chargeable where, and only where, it was chargeable on a property for the land tax year 1948-49 (hereafter in this section referred to as “the basic year”), and only in so far as the property has not been exonerated therefrom by this Act or by the redemption of the tax, whether under this Act or otherwise; and the amount of the tax chargeable for any subsequent year (hereafter in this Part of this Act referred to as “the annual charge”) shall be determined in accordance with the following provisions of this section.

(2) The amount fixed as that of the land tax attributable to any property for the basic year shall be the annual charge for the property subject to the provision hereafter made in this section for reduction and apportionment.

(3) Where in any land tax parish there was in the basic year a surplus of the aggregate charge over the parish quota, the annual charge for any property in that parish shall be reduced so as to bear to the amount mentioned in the last foregoing subsection the same proportion as the amount of that quota, reduced by one twenty-fifth of the surplus, bears to the amount of that aggregate charge.

In this subsection the expressions “parish quota” and “aggregate charge” mean respectively, in relation to any land tax

parish, the amount of the unredeemed quota of land tax charged against the parish and the amount assessed in the parish on account of that quota.

PART V  
—cont.

(4) Subject to the following provisions of this Act, land tax for land tax years after the year 1949-50 shall be payable on assessments made for that year, and assessments shall not be made for land tax years after that year.

(5) The annual charge for any property may be apportioned, on an assessment made for the land tax year 1949-50 or any subsequent year, between any part of the property which at the beginning of the year in question is separately owned or occupied and the remainder thereof, and (subject to any further assessment under this or the next following subsection) for that and subsequent years the amount so apportioned to any part of the property shall be the annual charge for that part and the tax shall be payable on that assessment accordingly.

(6) Where it is shown that—

(a) in the basic year any mine or quarry, or the right to any tolls, was assessed to land tax as a separate property; and

(b) in the land tax year 1949-50 or any subsequent year the rateable value of the property or, if the annual charge for the property has been apportioned, of a part thereof separately assessed to land tax is less than in the basic year;

then for the year in question the annual charge for the property or for that part thereof, as the case may be, shall be reduced on an assessment made for that year, so that the annual charge and the rateable value in question shall bear the same proportion to one another in that year as those of the property did in the basic year, and the tax shall be payable on that assessment accordingly.

(7) For the purposes of the last foregoing subsection, references to the rateable value of any property in a land tax year shall be taken as referring to the valuation list as in force immediately after the beginning of the corresponding rating year, with any necessary apportionment of the values shown therein.

(8) The assessments for the land tax year 1949-50 and any subsequent assessment shall be made by the inspector of taxes, and when so made shall be of the same effect as if signed and allowed by the land tax commissioners:

Provided that any person aggrieved by an assessment so made, or by a refusal of the inspector of taxes to make an assessment for the purpose of an apportionment or reduction of the annual charge as provided by this Part of this Act, may appeal within the prescribed time and in the prescribed manner to the land tax commissioners.

**PART V**  
—cont.

(9) Section one hundred and sixty-seven of the Land Tax Redemption Act, 1802, and the third rule in Schedule E to the Land Tax Redemption Act, 1813 (which relate to default in making payment for the voluntary redemption of land tax), shall cease to have effect in so far as they would invalidate any contract for redemption or would revive the land tax redeemed by such a contract; and section thirty-three of the Taxes Management Act, 1880 (which provides that assessments and other documents relating to land tax shall belong to and be kept by the land tax commissioners), shall also cease to have effect.

**Exoneration  
of certain  
properties.**

**38.—(1)** The following properties shall be exonerated from land tax, namely—

- (a) any Crown property not occupied by some other person;
- (b) any property in respect of which, if not exonerated, the annual charge for the land tax year 1949-50 would be less than ten shillings;
- (c) any property which becomes liable to redemption on a death, if it is shown to the satisfaction of the Commissioners of Inland Revenue that for purposes of estate duty the principal value of the estate of which the relevant interest forms part, or is for this purpose to be treated as forming part, is less than two thousand pounds.

(2) The exoneration of any property under this section shall, subject to the next following subsection, have effect from the beginning of the land tax year 1949-50 or, in the case of a property not satisfying any of the conditions for exoneration before the end of that year, from the beginning of the land tax year in which it does satisfy one of those conditions.

(3) An assessment apportioning the annual charge for any property between parts thereof separately owned or occupied at the beginning of the land tax year 1949-50 may for the purpose of subsection (1) of this section be made at any time, but if the charge is apportioned on an application made after the end of that year the condition in paragraph (b) of that subsection shall not by virtue of the apportionment be deemed to be satisfied as respects any part of the property before the date of the application.

(4) For the purpose of paragraph (c) of subsection (1) of this section the relevant interest in a property shall be treated as forming part of an estate for purposes of estate duty if it would do so but for any exemption from that duty applying to that interest with or without other property, and where the interest



is so treated by virtue of this subsection the principal value of the estate shall be determined as if there were no such exemption.

PART V  
—cont.

39.—(1) A property chargeable with land tax shall become liable to redemption if on or after the first day of April, nineteen hundred and fifty,— Liability to and date for compulsory redemption.

- (a) the property is Crown property but is occupied by some other person ; or
- (b) the estate owner in respect of the relevant interest—
  - (i) disposes of that interest ; or
  - (ii) grants out of that interest a lease for a term of twenty-one years or more (not being a lease by way of security only) ; or
- (c) the relevant interest comes to an end ; or
- (d) the sole beneficial owner in possession of the relevant interest dies ; or
- (e) the beneficial owner in possession of the relevant interest is a corporate or unincorporated body of persons or the sole trustee of a trust established for charitable or public purposes only.

(2) The date for compulsory redemption in the case of any property shall be that on which it becomes liable to redemption or, in the case of a property becoming liable before the first day of January, nineteen hundred and fifty-four, by virtue only of paragraph (e) of the foregoing subsection, the said first day of January.

(3) For the purposes of subsection (1) of this section—

- (a) the expression “ property ” includes any part of a property ;
- (b) the expression “ beneficial owner in possession ” means the person who by virtue of the relevant interest or any trust thereof is for the time being beneficially entitled (subject or not to any charge, annuity or other incumbrance) to possession of the property or to any income arising therefrom, so, however, that for the purposes of this definition any assignment of a life interest under a settlement or trust shall be disregarded so long as the life interest subsists ;
- (c) any reference to disposing of the relevant interest includes any disposition of the whole of that interest as for the time being vested in the estate owner, except that a disposition by an estate owner acting in a fiduciary capacity is included only if made on a sale ;

and in this subsection the expression “ beneficially entitled ” includes entitled as trustee of a trust established for charitable

**PART V**  
—*cont.*

or public purposes only or otherwise entitled for the benefit of the public or any section of the public.

(4) Notwithstanding anything in the last foregoing subsection, paragraph (d) of subsection (1) of this section shall not apply where the interest of the deceased was as trustee of a trust established as aforesaid or as holder of any office or recipient of the benefits of a charity or as a corporation sole.

Amount of, and liability and charge for, redemption money.

**40.**—(1) Where a property becomes liable to redemption, and is not exonerated from land tax under the foregoing provisions of this Part of this Act, then subject to the provisions of this section there shall become payable to His Majesty a sum equal to twenty-five times the annual charge for the property and land tax shall cease to be payable in respect of the property as from the quarter day last before the date on which that sum becomes due.

(2) The said sum (hereafter in this section referred to as “the redemption money”) shall be payable by the person who immediately after the property becomes liable to redemption is the estate owner in respect of the relevant interest or, in the case of property becoming liable to redemption on the termination of that interest, the estate owner in respect of the reversion immediately expectant thereon:

Provided that the redemption money payable in respect of any property by or on behalf of the Crown shall be deemed to be paid on the date on which it becomes due.

(3) The redemption money in respect of any property shall be due on such date (not being earlier than the date for compulsory redemption) as may be prescribed.

(4) The redemption money for which the estate owner in respect of an estate in any property is made liable by this section shall until payment be charged on that estate, and the charge created by this subsection—

- (a) shall be deemed to be a land charge of class B within the meaning of the Land Charges Act, 1925, but not an Inland Revenue charge within the meaning of section fifty-nine of the Land Registration Act, 1925; and
- (b) shall be enforceable by the Commissioners of Inland Revenue under the Law of Property Act, 1925, and otherwise as if they were mortgagees by deed having powers of sale and lease and of appointing a receiver.

(5) Where a property becomes liable to redemption on the death of the estate owner in respect of the relevant interest, the persons on whom that interest devolves as his personal representatives, whether appointed by his will or not, shall be deemed

for the purposes of this section to become estate owners in respect of that interest immediately on his death.

PART V  
—cont.

(6) Where a property becoming liable to redemption is not separately assessed to land tax, the annual charge for the property shall be determined for the purposes of this section by an apportionment made as in the case of a property separately owned or occupied at the beginning of a land tax year.

(7) Where a property becomes liable to redemption, notice of that fact shall be given by the person liable for the redemption money (or who would be so liable if the property were not exonerated) to such person as may be prescribed.

(8) Where the person liable (or who would be liable as aforesaid) for the redemption money in respect of any property fails to give notice under this section within the prescribed time or to pay the redemption money (if any) on the date on which it becomes due, he shall be liable to a penalty of fifty pounds recoverable by action as a debt due to the Crown and, in the case of a failure to pay the redemption money, shall also be liable to pay in addition to the redemption money interest thereon at the rate of two per cent. per annum without any deduction for income tax:

Provided that the Commissioners of Inland Revenue may mitigate or remit any penalty under this subsection, either before or after judgment.

(9) Regulations may provide for applying with or without modifications and extending in relation to the compulsory redemption of land tax all or any of the enactments relating to the voluntary redemption of land tax and in particular those specified in the Ninth Schedule to this Act (which relate respectively to the matters mentioned in the second column of that Schedule), but save as provided by any such regulations none of the enactments referred to in this subsection shall apply in relation to a compulsory redemption.

(10) Subsection (3) of section two of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (which provides among other things for disregarding increases of rent in respect of the transfer of a liability from tenant to landlord), shall apply in relation to any increase of rent in respect of land tax compulsorily redeemed by the landlord, being tax previously borne by the tenant, as it applies to an increase in respect of a transfer to the landlord of a liability so borne.

41. The capital sum to be paid under section thirty-two of the Finance Act, 1896, by the owner of a property for the voluntary redemption of land tax charged thereon shall, except in the case of any contract entered into before the first day of

Payment for  
voluntary  
redemption.

**PART V**  
—cont.

Land tax  
redeemed  
but not  
exonerated.

April, nineteen hundred and fifty, be a sum equal to twenty-five times the annual charge for the property (as in the case of a compulsory redemption), instead of a sum equal to twenty-five times the sum assessed thereon for the land tax year 1939-40 as provided by section forty-three of the Finance Act, 1942.

**42.—**(1) Any annuity payable by the Commissioners of Inland Revenue under the Land Tax Perpetuation Act, 1798, in respect of land tax redeemed but not exonerated shall cease to be payable on the fifth day of April, nineteen hundred and fifty.

(2) Any person who immediately before that day is entitled to such an annuity shall in lieu thereof be entitled to have transferred to him by the Commissioners of Inland Revenue government stock of such class as the Treasury may determine and of such an amount that the dividends thereon are equal to the amount of the annuity.

(3) Any transfer of stock under this section shall be made as at the said fifth day of April and accordingly, if any dividends on the stock have become payable between that day and the transfer, shall be accompanied by a payment of interest in lieu of and equal to those dividends.

(4) Stock transferred in lieu of an annuity under this section shall be held in the same right and on the same trusts and subject to the same powers, privileges, provisions, charges, restraints and liabilities as those in, on, or subject to which the annuity is held immediately before the said fifth day of April, and so as to give effect to and not revoke any deed, will, disposition or other instrument disposing of or affecting that annuity, and every such disposition or instrument shall take effect with reference to the whole or a proportionate part, as the case may be, of the stock:

Provided that no provision of the Land Tax Acts entitling any person to a transfer of the annuity shall apply to the stock.

(5) Any sums required by the Commissioners of Inland Revenue for the purchase of stock to be transferred under this section, or for the making of payments thereunder, shall be issued out of the Consolidated Fund or the growing produce thereof.

**Regulations.**

**43.—**(1) Provision may be made by regulations—

(a) for regulating the procedure for the assessment of the annual charge on any property and matters incidental to or arising out of the making of an assessment (including the time within which applications to apportion or reduce the annual charge are to be made, the making of appeals against assessments, the notice to be given of any assessment and the right to inspect or receive copies thereof, and the duties of the collectors of land tax);

(b) for regulating the procedure for the redemption (whether voluntary or compulsory) of land tax and matters incidental thereto.

PART V  
—cont.

(2) Any such regulations so far as they relate to the duties of collectors, or to the procedure for voluntary redemption and matters incidental thereto, shall have effect notwithstanding anything contained in any Act passed before this Act.

(3) Any regulations under this Part of this Act shall be made by the Commissioners of Inland Revenue by statutory instrument, which shall be subject to annulment by resolution of either House of Parliament.

44.—(1) In this Part of this Act the following expressions have the meanings hereby respectively assigned to them, that is to say—

Interpretation  
of Part V.

(a) “Crown property” means a property the relevant interest in which belongs to His Majesty in right of the Crown or to the Duchy of Cornwall, or belongs to a Government department or is held in trust for His Majesty for the purposes of a Government department, and references to a property being occupied by a person other than the Crown, or to redemption money being payable by or on behalf of the Crown, shall be construed accordingly;

(b) “inspector of taxes” has the same meaning as in the Income Tax Acts;

(c) “land tax year” means a period of twelve months ending with the twenty-fourth day of March;

(d) “prescribed” means prescribed by regulations;

(e) “relevant interest” means—

(i) in the case of a property which on the first day of April, nineteen hundred and fifty, is comprised in a lease for a term having not less than fifty years unexpired (not being a lease by way of security only), the term under that lease or, if there are more than one, that one on which the others are reversionary; and

(ii) in any other case the legal estate in fee simple.

(2) References in this Part of this Act to the annual charge for a property, in a case in which the charge may vary under subsection (6) of section thirty-seven of this Act, shall (except in so far as the context otherwise requires)—

(a) in relation to the exoneration of the property under paragraph (b) of subsection (1) of section thirty-eight of this Act be taken as referring to the annual charge apart from any such variation; and

**PART V**  
—cont.

- (b) in relation to the redemption of the tax on that property be taken as referring to the charge for the land tax year in which the date for compulsory redemption falls or, in the case of a voluntary redemption, the land tax year in which the tax is redeemed.

Application of  
Part V to  
Scotland.

45.—(1) The following provisions of this section shall have effect for the purpose of the application of this Part of this Act to Scotland.

(2) For any reference to a life interest there shall be substituted a reference to a liferent; for any reference to the reversion immediately expectant on an interest there shall be substituted a reference to the interest of a landlord in property subject to a lease.

(3) Section thirty-seven of this Act shall have effect as if—

(a) subsections (3), (6) and (7) were omitted; and

(b) for subsection (8) there were substituted the following subsection:—

“(8) The assessments for the land tax year 1949-50 and any subsequent assessment shall be made by the collector of taxes:

Provided that any person aggrieved by an assessment so made or by the refusal of the collector of taxes to make an assessment for the purpose of an apportionment of the annual charge as provided by this Part of this Act, may appeal within the prescribed time and in the prescribed manner to the sheriff whose decision on any such appeal shall be final.”

(4) Section forty of this Act shall have effect as if for subsections (4) and (5) there were substituted the following subsections:—

“(4) The redemption money due in respect of any property may be charged on the property by means of a charging order made by the Commissioners of Inland Revenue in favour of themselves, and recorded in the appropriate register of sasines, and any such order when so recorded shall have priority over all other estates, interests and incumbrances other than those incident to tenure.

(5) Where a property becomes liable to redemption on the death of the estate owner in respect of the relevant interest, the following persons shall be deemed for the purposes of this section to become estate owners in respect of that interest immediately on his death, namely—

(a) if the property is subject to any testamentary disposition, the persons entitled under that disposition; and

(b) in any other case, the heir at law.”

(5) Section forty-four of this Act shall have effect as if for the definition of the expression "relevant interest" the following definition were substituted—

PART V  
—cont.

"relevant interest" means—

(i) in the case of a property which on the first day of April, nineteen hundred and fifty, is comprised in a lease (not being a lease by way of security only) for a period the unexpired portion of which is fifty years or more, the interest of the tenant under that lease or, if there is more than one such lease, the interest of such one of the tenants under those leases as is entitled to possession; and

(ii) in any other case the interest of the proprietor of the *dominium utile* or, if the property is other than feudal property, the interest of the owner.

## PART VI

### NATIONAL DEBT

46.—(1) The permanent annual charge for the National Debt for the financial year ending with the thirty-first day of March, nineteen hundred and fifty, shall be the sum of four hundred and eighty five million pounds instead of the sum of three hundred and fifty-five million pounds.

Provisions as to permanent annual charge for the National Debt and as to the Old Sinking Fund.

(2) Any amount applied out of revenue during the said year in redeeming or paying off any description of debt shall be deemed to be expenditure within the meaning of sections four and five of the Sinking Fund Act, 1875.

38 & 39 Vict. c. 45.

47.—(1) Of the stock standing, at the commencement of this Act, to the credit of the National Debt Commissioners' account of unclaimed dividends under Part VII of the National Debt Act, 1870—

Unclaimed dividends account.

(a) stock to the value of one hundred thousand pounds shall be sold (the proceeds being placed to the credit of the said account); and

(b) the remainder shall be cancelled together with any dividends accrued or accruing thereon.

(2) Section fifty-four of the said Act shall cease to have effect in so far as it requires that any sums shall be invested in stock to be placed to the credit of the said account, and sums which would, but for this provision, be required by virtue of that section or of section sixty-one of that Act to be so invested shall instead be placed direct to the credit of that account.

(3) Where the sums standing to the credit of the said account at the end of any financial year exceed one hundred thousand

R

PART VI.  
—cont.

pounds or such other figure as the Treasury may from time to time determine, the excess shall be applied in such manner as the Treasury may direct towards the redemption of the National Debt.

(4) Subsection (2) of this section shall not affect the manner in which unclaimed redemption moneys are to be dealt with under paragraph 6 of the Third Schedule to the Finance Act, 1921 ; and accordingly the said paragraph 6 shall have effect with the substitution for the words "and when so paid shall be held and dealt with by the said Commissioners in like manner as dividends paid to them under section sixty-one of the National Debt Act, 1870" of the words "and when so paid shall be invested by the said Commissioners in the purchase of such Government stock as the Treasury may from time to time direct, and the provisions of Part VII of the National Debt Act, 1870, as to stock transferred thereunder shall apply to those moneys and the stock for the time being representing them with such modifications as may be necessary to give effect to the right to those moneys instead of to a right to stock transferred and the dividends thereon".

(5) Section three of the National Debt Reduction Act, 1866 (which provides for the issue out of the growing produce of the Consolidated Fund to the Bank of England of any amounts required to pay claims on the said account if the Bank certify that the amount of cash in the account is insufficient for the purpose), shall have effect with the substitution of a reference to the insufficiency being certified by the National Debt Commissioners for the reference to its being certified by the Bank.

Transfer of  
Government  
stock on  
production of  
Isle of Man or  
Channel  
Islands  
probates, etc.

48.—(1) Upon the death of anyone who is the holder of any Government stock, the production of probate or letters of administration granted to any person by a court in the Isle of Man or in any of the Channel Islands having authority to make the grant, or of a certified copy of probate or letters of administration so granted, shall be of the same effect to authorise the Bank of England to transfer the stock as production of probate or letters of administration granted to that person in England:

Provided that the Bank of England shall not transfer any Government stock in pursuance of this section except on production to the Bank of a certificate from the Commissioners of Inland Revenue showing either that all death duties payable in Great Britain in respect of the stock have been paid or that no duty is payable in Great Britain in respect thereof.

(2) Where any stock is transferred in pursuance of this section, the Bank of England shall be indemnified and protected notwithstanding any defect or circumstance whatsoever affecting the validity of the probate or letters of administration in question.



(3) In this section the expression "Government stock" has the same meaning as in the Savings Banks Act, 1893.

PART VI  
—cont.

(4) This section so far as it relates to probates and letters of administration granted by a court in the Isle of Man shall be deemed to have had effect as from the twenty-ninth day of January, nineteen hundred and forty-one (being the date on which similar provision was made in relation thereto by regulation 7B of the Defence (Finance) Regulations, 1939), and accordingly that regulation is hereby repealed.

## PART VII

### MISCELLANEOUS

49.—(1) Part V of the Finance Act, 1948 (which relates to the special contribution), shall, notwithstanding anything in subsection (9) of section eighty-two of that Act, extend to Northern Ireland.

Extension of  
special  
contribution  
to Northern  
Ireland.

(2) The Government of Ireland Act, 1920, shall have effect as if the special contribution were one of the taxes mentioned in subsection (1) of section twenty-two of that Act (which relates to reserved taxes).

(3) This section shall be deemed to have had effect from the commencement of the said Act of 1948:

Provided that notwithstanding anything in the said Part V or regulations made thereunder, where in the case—

- (a) of an assessment on, or on the personal representatives of, a person resident in Northern Ireland made before the passing of this Act; or
- (b) of contribution recoverable from, or required to be paid by, a person so resident in consequence of an assessment so made; or
- (c) of contribution assessed by an assessment so made, being contribution charged by reference to income arising, or deemed to arise, under a trust the administration of which is governed by the law of Northern Ireland;

the time limited for the doing of any of the following things, that is to say—

- (i) the making of an appeal under any of the provisions of section sixty of the said Act of 1948 (which relates to appeals); or
- (ii) the making of an application or the giving of a notice under subsection (5) of section fifty-eight of that Act (which relates to the separate assessment of husband and wife); or

PART VII  
—cont.

- (iii) the making of an application under section sixty-one, sixty-two or sixty-four of that Act (which provide respectively for relief where income attributable to a period of years was received in the year 1947-48, for an allowance for maintenance and repairs, and for relief in the case of capital subject to death duties) ;

would have expired before the passing of this Act or within twenty-eight days after the passing thereof, that time shall expire at the end of the said twenty-eight days.

(4) It is hereby declared that this section extends to Northern Ireland.

Taxation of  
Lloyd's and  
other  
underwriters  
who set up  
special reserve  
funds.

**50.**—(1) If, in the case of Lloyd's or any approved association of underwriters—

(a) arrangements are made for the setting up, in relation to each underwriting member who elects to take advantage of the arrangements, of such a special reserve fund as is referred to in the Tenth Schedule to this Act ; and

(b) the arrangements comply with the requirements of that Schedule, are approved by the Commissioners of Inland Revenue and are certified by the Board of Trade to be in the public interest,

then, subject to the provisions of that Schedule relating to the cancellation by the said Commissioners or the Board of Trade of their approval or certificate, the provisions of that Schedule relating to taxation shall have effect in relation to any such underwriting member who duly elects as aforesaid.

(2) In this section, the expression “ approved association of underwriters ” means an association of underwriters to whom the Assurance Companies Act, 1909, does not apply by virtue of subsection (2) of section twenty-eight of that Act.

Settling of  
appeals etc.,  
by agreement.

**51.**—(1) Subject to the provisions of this section, where, whether before or after the passing of this Act, a person gives notice of appeal to the General Commissioners, the Special Commissioners or the Board of Referees against an assessment to, or a decision of any kind with respect to, income tax other than surtax, surtax, the profits tax, excess profits tax or the special contribution, and, before the appeal is determined by the Commissioners or Board, the surveyor or other proper officer of the Crown and the appellant come to an agreement, whether in writing or otherwise, that the assessment or decision should be treated as upheld without variation, or as varied in a particular manner or as discharged or cancelled, the like consequences shall ensue for all purposes as would have ensued if, at the time

when the agreement was come to, the Commissioners or Board had determined the appeal and had upheld the assessment or decision without variation, had varied it in that manner or had discharged or cancelled it, as the case may be.

(2) Subject to the provisions of this section, where, whether before or after the passing of this Act, a person claims relief from excess profits tax for a deficiency of profits and, before the claim is determined by the Commissioners of Inland Revenue, the surveyor or other proper officer of the Crown and the claimant come to an agreement, whether in writing or otherwise, that the claim should be allowed, or should be allowed with a variation, or should be disallowed, the like consequences shall ensue for all purposes as would have ensued if, at the time when the agreement was come to, the said Commissioners had allowed the claim, or had allowed it with that variation, or had disallowed it, as the case may be.

(3) The preceding provisions of this section shall not apply where, within twenty-one days from the date when the agreement was come to, the appellant or claimant gives notice in writing to the surveyor or other proper officer of the Crown that he desires to repudiate or resile from the agreement.

(4) The preceding provisions of this section shall, in relation to an agreement which is come to after the passing of this Act and is not in writing, have effect subject to the following provisions, that is to say—

- (a) the said preceding provisions shall not apply unless the fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the surveyor or other proper officer of the Crown to the appellant or claimant, or by the appellant or claimant to the surveyor or other proper officer; and
- (b) the references in the said preceding provisions to the time when the agreement was come to shall be construed as references to the time of the giving of the said notice of confirmation.

(5) Where, whether before or after the passing of this Act, a person who has given such a notice of appeal as is mentioned in subsection (1) of this section, or has made such a claim as is mentioned in subsection (2) thereof, notifies the surveyor or other proper officer of the Crown, whether orally or in writing, that he desires not to proceed with the appeal or, as the case may be, that he desires to withdraw the claim, and, in the case of a notification with respect to an appeal, twenty-one days have elapsed since the giving of the notification without the surveyor or other proper officer giving to the appellant notice in writing indicating that he is unwilling that the appeal should be treated

**PART VII**  
—cont.

as withdrawn, the preceding provisions of this section shall have effect as if, at the date of the appellant's or claimant's notification, the appellant or claimant and the surveyor or other proper officer had come to an agreement, orally or in writing, as the case may be, that the assessment or decision should be upheld without variation or that the claim should be disallowed.

(6) The references in this section to an agreement being come to with an appellant or claimant and the giving of notice or notification to or by an appellant or claimant include references to an agreement being come to with, and the giving of notice or notification to or by, a person acting on behalf of the appellant or claimant in relation to the appeal or claim.

(7) This section shall not apply in relation to any appeal or claim for relief which has in fact been duly determined before the sixth day of April, nineteen hundred and forty-nine, by the Commissioners having jurisdiction in the matter or by the Board of Referees, as the case may be.

Short title,  
construction,  
extent and  
repeals.

**52.**—(1) This Act may be cited as the Finance Act, 1949.

(2) Part I of this Act—

(a) so far as it relates to duties of customs, shall be construed as one with the Customs Consolidation Act, 1876, except that the expression “the United Kingdom” does not include the Isle of Man; and

(b) so far as it relates to duties of excise, shall be construed as one with the Acts which relate to the duties of excise and to the management of those duties;

and in the said Part I the expression “the Commissioners” means the Commissioners of Customs and Excise.

(3) Part II of this Act shall be construed as one with the Income Tax Acts.

(4) Part III of this Act shall be construed as one with Part I of the Finance Act, 1894.

(5) Part IV of this Act shall be construed as one with the Stamp Act, 1891.

(6) Part V of this Act shall be construed as one with Part VI of the Finance Act, 1896.

(7) Part VII of this Act—

(a) so far as it relates to income tax, shall be construed as one with the Income Tax Acts; and

(b) so far as it relates to the profits tax, shall be construed as one with Part III of the Finance Act, 1937, and the other enactments relating to the profits tax.

(8) Any reference in this Act to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment, including this Act.

(9) Save as otherwise expressly provided, such of the provisions of this Act as relate to matters with respect to which the Parliament of Northern Ireland has power to make laws shall not extend to Northern Ireland.

(10) The enactments specified in the Eleventh Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule:

Provided that the repeals effected by any Part of that Schedule shall be subject to the savings (if any) provided for at the end of that Part.

(11) The inclusion of express savings in this Act shall not be taken as affecting the application thereto of any provision of the Interpretation Act, 1889, as to the effect of repeals.

## SCHEDULES

### FIRST SCHEDULE

Section 2.

#### BEER (RATES OF DUTY AND DRAWBACK)

##### PART I

##### RATE OF EXCISE DUTY

|                                                                              | £ | s. | d.  |
|------------------------------------------------------------------------------|---|----|-----|
| For every 36 gallons of worts of a specific gravity of 1,027 degrees or less | 7 | 17 | 10½ |
| For every 36 gallons of worts of a specific gravity exceeding 1,027 degrees— |   |    |     |
| For the first 1,027 degrees                                                  | 7 | 17 | 10½ |
| For every additional degree in excess of 1,027 degrees                       | 6 | 7½ |     |

And so in proportion for any less number of gallons.

##### PART II

##### RATE OF EXCISE DRAWBACK

|                                                                                                                  | £ | s. | d. |
|------------------------------------------------------------------------------------------------------------------|---|----|----|
| For every 36 gallons the worts whereof were, before fermentation, of a specific gravity of 1,027 degrees or less | 7 | 18 | 0½ |
| For every 36 gallons the worts whereof were, before fermentation, of a specific gravity exceeding 1,027 degrees— |   |    |    |
| For the first 1,027 degrees                                                                                      | 7 | 18 | 0½ |
| For every additional degree in excess of 1,027 degrees                                                           | 6 | 7½ |    |

And so in proportion for any less number of gallons.

As respects beer the worts whereof were, before fermentation, of a specific gravity of less than 1,027 degrees the amount of drawback allowable shall not exceed by more than twopence for every 36 gallons the amount of duty which is shown to the satisfaction of the Commissioners to have been paid.

1st Sch.  
—cont.

## PART III

## RATE OF CUSTOMS DUTY IN CASE OF BEER BEING AN EMPIRE PRODUCT

|                                                                                                                            | £ | s. | d. |
|----------------------------------------------------------------------------------------------------------------------------|---|----|----|
| For every 36 gallons the worts whereof were, before fermentation,<br>of a specific gravity of 1,027 degrees or less ... .. | 7 | 18 | 3½ |
| For every 36 gallons the worts whereof were, before fermentation,<br>of a specific gravity exceeding 1,027 degrees—        |   |    |    |
| For the first 1,027 degrees ... ..                                                                                         | 7 | 18 | 3½ |
| For every additional degree in excess of 1,027 degrees ...                                                                 |   | 6  | 7½ |

And so in proportion for any less number of gallons.

## PART IV

RATE OF CUSTOMS DUTY IN CASE OF BEER  
NOT BEING AN EMPIRE PRODUCT

|                                                                                                                            | £ | s. | d. |
|----------------------------------------------------------------------------------------------------------------------------|---|----|----|
| For every 36 gallons the worts whereof were, before fermentation,<br>of a specific gravity of 1,027 degrees or less ... .. | 8 | 18 | 3½ |
| For every 36 gallons the worts whereof were, before fermentation,<br>of a specific gravity exceeding 1,027 degrees—        |   |    |    |
| For the first 1,027 degrees ... ..                                                                                         | 8 | 18 | 3½ |
| For every additional degree in excess of 1,027 degrees ...                                                                 |   | 6  | 7½ |

And so in proportion for any less number of gallons.

## PART V

RATE OF CUSTOMS DRAWBACK IN CASE OF BEER  
BEING AN EMPIRE PRODUCT

|                                                                                                                            | £ | s. | d. |
|----------------------------------------------------------------------------------------------------------------------------|---|----|----|
| For every 36 gallons the worts whereof were, before fermentation,<br>of a specific gravity of 1,027 degrees or less ... .. | 7 | 18 | 0½ |
| For every 36 gallons the worts whereof were, before fermentation,<br>of a specific gravity exceeding 1,027 degrees—        |   |    |    |
| For the first 1,027 degrees ... ..                                                                                         | 7 | 18 | 0½ |
| For every additional degree in excess of 1,027 degrees ...                                                                 |   | 6  | 7½ |

And so in proportion for any less number of gallons.

As respects beer the worts whereof were, before fermentation, of a specific gravity of less than 1,027 degrees, the amount of drawback allowable shall not exceed the amount of duty which is shown to the satisfaction of the Commissioners to have been paid, less threepence for every 36 gallons.

## PART VI

1ST SCH.  
—cont.RATE OF CUSTOMS DRAWBACK IN CASE OF BEER  
NOT BEING AN EMPIRE PRODUCT

|                                                                                                                         | £ | s. | d. |
|-------------------------------------------------------------------------------------------------------------------------|---|----|----|
| For every 36 gallons the worts whereof were, before fermentation, of a specific gravity of 1,027 degrees or less ... .. | 8 | 18 | 0½ |
| For every 36 gallons the worts whereof were, before fermentation, of a specific gravity exceeding 1,027 degrees—        |   |    |    |
| For the first 1,027 degrees ... ..                                                                                      | 8 | 18 | 0½ |
| For every additional degree in excess of 1,027 degrees ... ..                                                           | 6 | 7½ |    |

And so in proportion for any less number of gallons.

As respects beer the worts whereof were, before fermentation, of a specific gravity of less than 1,027 degrees, the amount of drawback allowable shall not exceed the amount of duty which is shown to the satisfaction of the Commissioners to have been paid, less threepence for every 36 gallons.

## SECOND SCHEDULE

Section 4.

## WINES (RATES OF CUSTOMS DUTY)

| Description of wine                                                                                                                                      | Rate of duty per gallon |                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|----------------|
|                                                                                                                                                          | Non-Empire product      | Empire product |
|                                                                                                                                                          | £ s. d.                 | £ s. d.        |
| <b>Light wines:—</b>                                                                                                                                     |                         |                |
| <b>Still—</b>                                                                                                                                            |                         |                |
| not in bottle at ... ..                                                                                                                                  | 13 0                    | 11 0           |
| in bottle at ... ..                                                                                                                                      | 1 7 6                   | 1 4 6          |
| Sparkling at ... ..                                                                                                                                      | 1 17 6                  | 1 15 6         |
| <b>Other wines:—</b>                                                                                                                                     |                         |                |
| <b>Still—</b>                                                                                                                                            |                         |                |
| not in bottle at ... ..                                                                                                                                  | 2 10 0                  | 2 0 0          |
| in bottle at ... ..                                                                                                                                      | 2 12 6                  | 2 1 6          |
| Sparkling at ... ..                                                                                                                                      | 3 2 6                   | 2 12 6         |
| together, in the case of wine exceeding 42 degrees proof spirit, with an additional duty for each degree or fraction of a degree of the excess at ... .. | 4 2                     | 3 4            |

For the purposes of this Schedule, the expression "light wine" means wine not exceeding 25 degrees or, in the case of wine being an Empire product, 27 degrees of proof spirit.

## THIRD SCHEDULE

Section 5.

## SWEETS (RATES OF EXCISE DUTY)

| Description of Sweets                         | Rate of duty per gallon |
|-----------------------------------------------|-------------------------|
|                                               | £ s. d.                 |
| <b>Not exceeding 27 degrees proof spirit—</b> |                         |
| Still at ... ..                               | 10 6                    |
| Sparkling at ... ..                           | 1 8 6                   |
| <b>Exceeding 27 degrees proof spirit—</b>     |                         |
| Still at ... ..                               | 1 10 6                  |
| Sparkling at ... ..                           | 1 16 6                  |
|                                               | R*                      |

## Section 6.

## FOURTH SCHEDULE

## SUGAR, ETC. (RATES OF DUTY AND DRAWBACK)

## PART I

FULL RATES OF CUSTOMS DUTY AND OF GENERAL  
PREFERENTIAL REDUCTIONS

| Article                                                                                                                                                                                                | Rate of<br>Customs<br>duty | General<br>Preferential<br>Reduction |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|--------------------------------------|
|                                                                                                                                                                                                        | s. d.                      | s. d.                                |
| Sugar of a polarisation exceeding 99° the cwt.                                                                                                                                                         | 11 8                       | 5 10                                 |
| Sugar of a polarisation exceeding—                                                                                                                                                                     |                            |                                      |
| 98° but not exceeding 99° ... ..                                                                                                                                                                       | 11 8                       | 6 10·8                               |
| 97° " " 98° ... ..                                                                                                                                                                                     | 8 7                        | 3 11·3                               |
| 96° " " 97° ... ..                                                                                                                                                                                     | 8 4·3                      | 3 10·0                               |
| 95° " " 96° ... ..                                                                                                                                                                                     | 8 1·6                      | 3 8·8                                |
| 94° " " 95° ... ..                                                                                                                                                                                     | 7 10·9                     | 3 7·6                                |
| 93° " " 94° ... ..                                                                                                                                                                                     | 7 8·2                      | 3 6·3                                |
| 92° " " 93° ... ..                                                                                                                                                                                     | 7 5·6                      | 3 5·1                                |
| 91° " " 92° ... ..                                                                                                                                                                                     | 7 2·9                      | 3 3·9                                |
| 90° " " 91° ... ..                                                                                                                                                                                     | 7 0·2                      | 3 2·6                                |
| 89° " " 90° ... ..                                                                                                                                                                                     | 6 9·5                      | 3 1·4                                |
| 88° " " 89° ... ..                                                                                                                                                                                     | 6 6·8                      | 3 0·2                                |
| 87° " " 88° ... ..                                                                                                                                                                                     | 6 4·6                      | 2 11·1                               |
| 86° " " 87° ... ..                                                                                                                                                                                     | 6 2·3                      | 2 10·1                               |
| 85° " " 86° ... ..                                                                                                                                                                                     | 6 0·3                      | 2 9·2                                |
| 84° " " 85° ... ..                                                                                                                                                                                     | 5 10·3                     | 2 8·3                                |
| 83° " " 84° ... ..                                                                                                                                                                                     | 5 8·3                      | 2 7·3                                |
| 82° " " 83° ... ..                                                                                                                                                                                     | 5 6·3                      | 2 6·4                                |
| 81° " " 82° ... ..                                                                                                                                                                                     | 5 4·5                      | 2 5·6                                |
| 80° " " 81° ... ..                                                                                                                                                                                     | 5 2·7                      | 2 4·8                                |
| 79° " " 80° ... ..                                                                                                                                                                                     | 5 0·9                      | 2 4·0                                |
| 78° " " 79° ... ..                                                                                                                                                                                     | 4 11·1                     | 2 3·1                                |
| 77° " " 78° ... ..                                                                                                                                                                                     | 4 9·3                      | 2 2·3                                |
| 76° " " 77° ... ..                                                                                                                                                                                     | 4 7·5                      | 2 1·5                                |
| Sugar of a polarisation not exceeding 76° ... ..                                                                                                                                                       | 4 6                        | 2 0½                                 |
| Molasses (except when delivered to a licensed distiller for use in the manufacture of spirits or yeast, or to a person for use in the manufacture of yeast in premises used solely for that purpose):— |                            |                                      |
| if containing—                                                                                                                                                                                         |                            |                                      |
| 70 per cent. or more of sweetening matter ... .. the cwt.                                                                                                                                              | 7 5                        | 3 8½                                 |
| less than 70 per cent. and more than 50 per cent. of sweetening matter ... ..                                                                                                                          | 5 4                        | 2 8                                  |
| not more than 50 per cent. of sweetening matter ... ..                                                                                                                                                 | 2 7                        | 1 3½                                 |
| Glucose—                                                                                                                                                                                               |                            |                                      |
| Solid ... ..                                                                                                                                                                                           | 7 5                        | 3 8½                                 |
| Liquid ... ..                                                                                                                                                                                          | 5 4                        | 2 8                                  |
| Saccharin (including substances of a like nature or use) ... .. the oz.                                                                                                                                | 7 6                        | 1 10½                                |



## PART II

4TH SCH.  
—cont.

## RATES OF CUSTOMS DUTY ON CERTIFICATED COLONIAL SUGAR

| <i>Article</i>                            |     |     | <i>Rate of Duty</i> |       |
|-------------------------------------------|-----|-----|---------------------|-------|
|                                           |     |     | s.                  | d.    |
| Sugar of a polarisation exceeding 99°     | ... | ... | the cwt.            | 2 4·7 |
| Sugar of a polarisation exceeding—        |     |     |                     |       |
| 98° but not exceeding 99°                 | ... | ... | „                   | 1 6·3 |
| 97°                                       | „   | „   | „                   | 1 5·8 |
| 96°                                       | „   | „   | „                   | 1 5·3 |
| 95°                                       | „   | „   | „                   | 1 4·8 |
| 94°                                       | „   | „   | „                   | 1 4·4 |
| 93°                                       | „   | „   | „                   | 1 3·9 |
| 92°                                       | „   | „   | „                   | 1 3·5 |
| 91°                                       | „   | „   | „                   | 1 3·0 |
| 90°                                       | „   | „   | „                   | 1 2·6 |
| 89°                                       | „   | „   | „                   | 1 2·1 |
| 88°                                       | „   | „   | „                   | 1 1·6 |
| 87°                                       | „   | „   | „                   | 1 1·3 |
| 86°                                       | „   | „   | „                   | 1 0·8 |
| 85°                                       | „   | „   | „                   | 1 0·5 |
| 84°                                       | „   | „   | „                   | 1 0·2 |
| 83°                                       | „   | „   | „                   | 11·8  |
| 82°                                       | „   | „   | „                   | 11·5  |
| 81°                                       | „   | „   | „                   | 11·2  |
| 80°                                       | „   | „   | „                   | 10·9  |
| 79°                                       | „   | „   | „                   | 10·5  |
| 78°                                       | „   | „   | „                   | 10·2  |
| 77°                                       | „   | „   | „                   | 9·9   |
| 76°                                       | „   | „   | „                   | 9·6   |
| Sugar of a polarisation not exceeding 76° | ... | ... | „                   | 9·6   |

4TH SCH.  
—cont.

PART III  
RATES OF EXCISE DUTY

1. Sugar

| Article                                   | Rate of Duty |      |
|-------------------------------------------|--------------|------|
|                                           | s.           | d.   |
| Sugar of a polarisation exceeding 99°     | 4            | 7    |
| 98° but not exceeding 99°                 | 3            | 7-1  |
| 97° " " 98°                               | 3            | 6-0  |
| 96° " " 97°                               | 3            | 4-9  |
| 95° " " 96°                               | 3            | 3-8  |
| 94° " " 95°                               | 3            | 2-7  |
| 93° " " 94°                               | 3            | 1-6  |
| 92° " " 93°                               | 3            | 0-6  |
| 91° " " 92°                               | 2            | 11-5 |
| 90° " " 91°                               | 2            | 10-4 |
| 89° " " 90°                               | 2            | 9-3  |
| 88° " " 89°                               | 2            | 8-2  |
| 87° " " 88°                               | 2            | 7-3  |
| 86° " " 87°                               | 2            | 6-3  |
| 85° " " 86°                               | 2            | 5-5  |
| 84° " " 85°                               | 2            | 4-7  |
| 83° " " 84°                               | 2            | 3-9  |
| 82° " " 83°                               | 2            | 3-1  |
| 81° " " 82°                               | 2            | 2-3  |
| 80° " " 81°                               | 2            | 1-6  |
| 79° " " 80°                               | 2            | 0-9  |
| 78° " " 79°                               | 2            | 0-1  |
| 77° " " 78°                               | 1            | 11-4 |
| 76° " " 77°                               | 1            | 10-6 |
| Sugar of a polarisation not exceeding 76° | 1            | 10-2 |

2. Molasses, etc.

| Article                                                                | Rate of Duty |      |
|------------------------------------------------------------------------|--------------|------|
|                                                                        | s.           | d.   |
| Molasses, if containing—                                               |              |      |
| 70 per cent. or more of sweetening matter...                           | the cwt.     | 2 11 |
| less than 70 per cent. and more than 50 per cent. of sweetening matter | "            | 2 1½ |
| not more than 50 per cent. of sweetening matter                        | "            | 1 0½ |
| Glucose—                                                               |              |      |
| Solid                                                                  | "            | 2 11 |
| Liquid                                                                 | "            | 2 1½ |
| Saccharin (including substances of a like nature or use)               | the oz.      | 5 2½ |

**PART IV**  
**RATES OF DRAWBACK**

4TH SCH.  
—cont.

**TABLE 1**

SCALE APPLICABLE IN THE CASE OF SUGAR PRODUCED IN THE UNITED KINGDOM FROM MATERIAL ON WHICH DUTY HAS BEEN PAID

| Nature of Sugar                                                                                                                                                                                                                                                                                                     | Rate of Duty Paid |          | Rate or Amount of Drawback                                                |          |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|----------|---------------------------------------------------------------------------|----------|
|                                                                                                                                                                                                                                                                                                                     | s. d.             | per cwt. | s. d.                                                                     | per cwt. |
| Sugar of a polarisation exceeding 98° produced from material on which the full duties of customs have been paid.                                                                                                                                                                                                    | Less than 11 8    | „        | 9 4                                                                       | „        |
| Sugar of a polarisation exceeding 99° produced from material on which customs duty at the general preferential rates has been paid.                                                                                                                                                                                 | 5 10              | „        | 5 10                                                                      | „        |
|                                                                                                                                                                                                                                                                                                                     | 5 10              | „        | 5 0½                                                                      | „        |
| Sugar of a polarisation exceeding 99° produced from material on which customs duty at the certificated colonial rates has been paid.                                                                                                                                                                                | 2 4·7             | „        | 2 4·7                                                                     | „        |
|                                                                                                                                                                                                                                                                                                                     | 2 4·7             | „        | 1 7·4                                                                     | „        |
| Sugar of a polarisation exceeding 99° produced from material on which excise duty has been paid.                                                                                                                                                                                                                    | 4 7               | „        | 4 7                                                                       | „        |
|                                                                                                                                                                                                                                                                                                                     | 4 7               | „        | 3 9½                                                                      | „        |
| Sugar of a polarisation not exceeding 98° produced from material on which the full duties of customs have been paid and sugar of a polarisation not exceeding 99° produced from material on which customs duty at the general preferential rates or the certificated colonial rates, or excise duty, has been paid. | Any rate of duty  |          | A drawback equal to the duty chargeable on sugar of the like polarisation |          |

4TH SCH.  
—cont.

TABLE 2

SCALE APPLICABLE IN THE CASE OF MOLASSES PRODUCED IN THE UNITED KINGDOM FROM MATERIAL ON WHICH DUTY HAS BEEN PAID

| Nature of Molasses                                                                                                         | Amount of Drawback per cwt.                                     |                                                                                              |                                                                                               |                                                           |
|----------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|-----------------------------------------------------------|
|                                                                                                                            | Produced from material on which full customs duty has been paid | Produced from material on which customs duty at the general preferential rates has been paid | Produced from material on which customs duty at the certificated colonial rates has been paid | Produced from material on which excise duty has been paid |
|                                                                                                                            | s. d.                                                           | s. d.                                                                                        | s. d.                                                                                         | s. d.                                                     |
| Containing more than 80 per cent. of sweetening matter ... ..                                                              | 7 0                                                             | 3 9½                                                                                         | 1 2½                                                                                          | 2 10                                                      |
| Containing more than 70 per cent. but not more than 80 per cent. of sweetening matter ...                                  | 6 2                                                             | 3 4                                                                                          | 1 0½                                                                                          | 2 6                                                       |
| Containing more than 60 per cent. but not more than 70 per cent. of sweetening matter ...                                  | 4 6                                                             | 2 5                                                                                          | 9                                                                                             | 1 10                                                      |
| Containing more than 50 per cent. but not more than 60 per cent. of sweetening matter ...                                  | 3 4½                                                            | 1 9½                                                                                         | 7                                                                                             | 1 4½                                                      |
| Containing not more than 50 per cent. of sweetening matter and weighing not less than fourteen pounds to the gallon ... .. | 2 3                                                             | 1 2½                                                                                         | 4½                                                                                            | 11                                                        |

In this Part of this Schedule—

- (a) the expression “the general preferential rates” means the full rates of duty reduced by the amounts of the general preferential reductions specified in Part I of this Schedule;
- (b) the expression “the certificated colonial rates” means the rates of duty specified in Part II of this Schedule.

## FIFTH SCHEDULE

Section 7.

## MATCHES (RATES OF DUTY)

## PART I

## RATES OF CUSTOMS DUTIES

|                                                                                                        | £ | s. | d. |
|--------------------------------------------------------------------------------------------------------|---|----|----|
| For every 1,000 containers in which there are not more than 10 matches ... ..                          | 0 | 19 | 11 |
| For every 1,000 containers in which there are more than 10 matches, but not more than 20 matches... .. | 1 | 19 | 10 |
| For every 1,000 containers in which there are more than 20 matches, but not more than 30 matches... .. | 2 | 19 | 9  |
| For every 144 containers in which there are more than 30 matches, but not more than 50 matches ... ..  | 0 | 14 | 5  |
| For every 144 containers in which there are more than 50 matches—                                      |   |    |    |
| For the first 50 matches ... ..                                                                        | 0 | 14 | 5  |
| For every additional 5 matches or part of 5 matches in excess of 50 matches ... ..                     | 0 | 1  | 5½ |

And so in proportion for any less number of containers.

## PART II

## RATES OF EXCISE DUTIES

|                                                                                                        | £ | s. | d. |
|--------------------------------------------------------------------------------------------------------|---|----|----|
| For every 1,000 containers in which there are not more than 10 matches ... ..                          | 0 | 19 | 2  |
| For every 1,000 containers in which there are more than 10 matches, but not more than 20 matches... .. | 1 | 18 | 4  |
| For every 1,000 containers in which there are more than 20 matches, but not more than 30 matches... .. | 2 | 17 | 6  |
| For every 144 containers in which there are more than 30 matches, but not more than 50 matches ... ..  | 0 | 13 | 9  |
| For every 144 containers in which there are more than 50 matches—                                      |   |    |    |
| For the first 50 matches ... ..                                                                        | 0 | 13 | 9  |
| For every additional 5 matches or part of 5 matches in excess of 50 matches ... ..                     | 0 | 1  | 4½ |

And so in proportion for any less number of containers.

Section 21.

**SIXTH SCHEDULE**  
**ALLOWANCES IN RESPECT OF MACHINERY OR PLANT**

**PART I**

**CALCULATION OF ANNUAL ALLOWANCES**

*The normal method*

1.—(1) Subject to the provisions of this Schedule, the annual allowance in respect of any machinery or plant for any year of assessment shall, except in the cases in which an election under paragraph 2 or paragraph 5 of this Part of this Schedule has effect,—

- (a) be computed by reference to the amount by which the capital expenditure of the person to whom the allowance is to be made in providing the machinery or plant exceeds the total amount of any initial allowance, annual allowances, relevant exceptional depreciation allowances and scientific research allowances made to him in respect of that machinery or plant for previous years of assessment; and
- (b) be five-fourths of the percentage of that amount specified in sub-paragraph (2) of this paragraph.

(2) The said percentage is such percentage as may be determined by the Commissioners of Inland Revenue to be appropriate to be applied for the purposes of this paragraph in relation to machinery or plant of the class in question for the year of assessment in question:

Provided that it shall not be necessary for the said Commissioners to redetermine every such percentage yearly, and any determination of a percentage under this sub-paragraph for any year of assessment shall apply also to subsequent years except so far as it is superseded by any subsequent determination.

(3) In determining the said percentage in relation to machinery or plant of any class, the Commissioners of Inland Revenue shall have regard to the anticipated normal working life of machinery or plant of that class, and shall select the percentage which in their opinion may fairly be taken as that which, if applied year by year throughout that life as a writing down percentage applicable, in the first year to the cost of such machinery or plant, in the second year to that cost as written down in the first year, in the third year to that cost as written down in the first and second years, and so on, would, at the end of that life, have caused that cost to be written down to one-tenth thereof.

(4) If, in the case of machinery or plant of any class—

- (a) annual allowances for the year 1948–49 were commonly arrived at by applying five-fourths of some percentage—
  - (i) in the case of the first year, to the cost of the machinery or plant; and
  - (ii) in the case of subsequent years, to a sum less than that cost; and
- (b) a particular percentage was commonly in use for so arriving at those allowances,

6TH SCH.  
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that percentage shall, unless the Commissioners of Inland Revenue determine that it is no longer an appropriate percentage, be deemed to be a percentage determined by them in relation to machinery or plant of that class under sub-paragraph (2) of this paragraph for the year 1949-50, and the said sub-paragraph (2), including the proviso thereto, shall have effect accordingly; and if it is shown to the satisfaction of the said Commissioners that that percentage, if applied as a writing down percentage in the manner specified in sub-paragraph (3) of this paragraph, would, at the end of the anticipated normal working life of the machinery or plant of that class (estimated as if during the year 1948-49), cause the cost to be written down to a fraction thereof which is smaller than one-tenth, the said sub-paragraph (3) shall have effect in relation to machinery or plant of that class as if a reference to that smaller fraction were substituted therein for a reference to one-tenth.

In this sub-paragraph, and in the subsequent provisions of this Schedule, the expression "the first year" means the year of the acquisition of the machinery or plant or other the first year for which an annual allowance could be made to the person in question in respect of the machinery or plant.

(5) If, in the case of any machinery or plant not falling within any class with respect to which a determination of the Commissioners of Inland Revenue has been or is deemed to have been made under sub-paragraph (2) of this paragraph for the year of assessment in question—

- (a) a percentage was in use for determining the annual allowance in respect thereof for the year 1948-49; and
- (b) that percentage is one which, multiplied by five-fourths, was intended to be applied to an amount which, except in the case of the first year, is less than the cost of providing the machinery or plant,

that percentage, or, if the Commissioners of Inland Revenue determine, as respects any year of assessment, that that percentage is no longer an appropriate percentage, such other percentage as the said Commissioners may determine, shall be deemed, in relation to that machinery or plant, to be a percentage determined by the Commissioners of Inland Revenue under the said sub-paragraph (2) for the year 1949-50 or the year as respects which the determination is made, as the case may be, and the said sub-paragraph (2), including the proviso thereto, shall, in relation to that machinery or plant, have effect accordingly.

(6) In this paragraph, the expression "the anticipated normal working life" means, in relation to machinery or plant of any class, the period which might be expected, when machinery or plant of that class is first put into use, to be going to elapse before it is finally put out of use as being unfit for further use, it being assumed that it is going to be used in the normal manner and to the normal extent and is going to be so used throughout that period.

(7) The reference to annual allowances in paragraph (a) of sub-paragraph (1) of this paragraph shall not include a reference to any deduction allowed for the year 1945-46 or any previous year of assessment under section eighteen of the Finance Act, 1932, or under that section as amended by section twenty-two of the Finance Act, 1938.

6TH SCH.  
—cont.

*Alternative method*

2.—(1) Subject to the provisions of this Schedule, the annual allowance in respect of any machinery or plant for any year of assessment—

- (a) may, if the person to whom the allowance is to be made so elects when he makes his claim for the allowance, be computed by reference to the amount of his capital expenditure in providing the machinery or plant; and
- (b) shall in that event be five-fourths of the percentage of that amount specified in sub-paragraph (2) of this paragraph.

(2) Subject to the provisions of sub-paragraph (3) of this paragraph, the said percentage is such percentage as may be determined by the Commissioners of Inland Revenue in relation to machinery or plant of the class in question for the year of assessment in question, being a percentage which is in their opinion equal to nine-tenths of the fraction of which the numerator is one and the denominator is the number of years in the anticipated normal working life of machinery or plant of that class:

Provided that it shall not be necessary for the said Commissioners to redetermine every such percentage yearly, and every such determination of a percentage under this sub-paragraph for any year of assessment shall apply also to subsequent years except so far as it is superseded by any subsequent determination.

(3) If, in the case of machinery or plant of any class—

- (a) annual allowances for the year 1948–49 were commonly arrived at by applying five-fourths of some percentage to the cost of the machinery or plant; and
- (b) a particular percentage was commonly in use for so arriving at those allowances,

that percentage shall, unless the Commissioners of Inland Revenue determine that it is no longer an appropriate percentage, be deemed to be a percentage determined by them in relation to machinery or plant of that class under sub-paragraph (2) of this paragraph for the year 1949–50, and the said sub-paragraph (2), including the proviso thereto, shall have effect accordingly; and if it is shown to the satisfaction of the said Commissioners that that percentage bears to the fraction specified in the said sub-paragraph (2) (computed by reference to an anticipated normal working life estimated as if during the year 1948–49) a higher proportion than nine-tenths, the said sub-paragraph (2) shall have effect in relation to machinery or plant of that class as if for the reference therein to nine-tenths there were substituted a reference to the said higher proportion.

(4) Machinery or plant may be treated for the purposes of this paragraph as being of a different class from other machinery or plant where the one is new when it is acquired and the other is not new when it is acquired, or, in the case of machinery or plant which is not new when it is acquired, where different periods have elapsed between the date when the machinery or plant was made or first put into use and the date of the acquisition thereof.



(5) In this paragraph, the expression "the anticipated normal working life" has the meaning assigned to it by sub-paragraph (6) of paragraph 1 of this Part of this Schedule, except that, in relation to a class consisting of machinery or plant which is not new when it is acquired, the reference in the said sub-paragraph (6) to the first putting into use of the machinery or plant shall be construed as a reference to the first putting into use thereof after the acquisition thereof.

3. An election under paragraph 2 of this Part of this Schedule shall not be effective for any year of assessment in relation to any machinery or plant unless the Commissioners of Inland Revenue are satisfied that the person making the election is keeping, and will keep and make available for inspection, all such records as are necessary to secure that the Commissioners, surveyors and other officers concerned can ensure that the total annual allowances made to him for all years of assessment in respect of that machinery or plant do not exceed the limit imposed by paragraph (6) of Rule 6 of the Rules applicable to Cases I and II of Schedule D, due regard being had to any initial allowance, relevant exceptional depreciation allowances and scientific research allowances made to him in respect thereof, and to any deductions allowed to him in respect thereof for the year 1945-46 or any previous year of assessment under section eighteen of the Finance Act, 1932, or under that section as amended by section twenty-two of the Finance Act, 1938.

4.—(1) Where an election under paragraph 2 of this Part of this Schedule has effect with respect to any machinery or plant, and the annual allowance in respect of the same machinery or plant made to the same person for any previous year of assessment has been calculated in accordance with paragraph 1 of this Part of this Schedule, the annual allowance for that machinery or plant for the year of assessment with respect to which the election has effect shall be computed in accordance with the following provisions, that is to say—

- (a) instead of being computed by reference to the amount of the person's expenditure in providing the machinery or plant, it shall be computed by reference to the amount by which that amount exceeds any initial allowance, annual allowances, relevant exceptional depreciation allowances and scientific research allowances made to that person in respect of that machinery or plant for the years of assessment up to and including the said previous year or, if the annual allowance was calculated in accordance with the said paragraph 1 in the case of more than one previous year, up to and including the last of those previous years; and
- (b) it shall be computed as if for the percentage mentioned in sub-paragraph (2) of the said paragraph 2 there were substituted such other percentage as the Commissioners of Inland Revenue may determine.

(2) The expression "annual allowances", in paragraph (a) of sub-paragraph (1) of this paragraph, does not include any deduction allowed for the year 1945-46 or any previous year of assessment under section eighteen of the Finance Act, 1932, or under that section as amended by section twenty-two of the Finance Act, 1938.

6TH SCH.  
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(3) The references in sub-paragraph (1) of this paragraph to allowances calculated in accordance with paragraph 1 of this Part of this Schedule shall be deemed to include references to allowances for the year 1948-49 or any previous year of assessment calculated by the application of, or of five-fourths of, a percentage intended for application, or for application when multiplied by five-fourths, to a sum which, except in the case of the first year, is less than the cost of the machinery or plant.

(4) Any reference in this paragraph to paragraph 1 of this Part of this Schedule shall be deemed to include a reference to that paragraph as modified by the subsequent paragraphs of this Schedule.

*Special method for machinery or plant used in connection  
with mines, etc.*

5.—(1) Subject to the provisions of this Schedule, the annual allowance for any year of assessment in respect of any machinery or plant used for the purposes of a trade which consists of or includes the working of a mine, oil well or other source of mineral deposits of a wasting nature, being machinery or plant used in connection with the working of the source, shall, if the person to whom the allowance is to be made so elects when he makes his claim for the allowance,—

- (a) be computed by reference to the amount specified in paragraph (a) of sub-paragraph (1) of paragraph 1 or paragraph (a) of sub-paragraph (1) of paragraph 2 of this Part of this Schedule; but
- (b) be the percentage of that amount specified in sub-paragraph (2) of this paragraph.

(2) The said percentage is such percentage as the Commissioners of Inland Revenue may determine having regard to the date when the source is likely to cease to be worked and the probable value of the machinery or plant at that date to the person carrying on the trade.

(3) The references in sub-paragraphs (1) and (4) of paragraph 4 of this Part of this Schedule to paragraph 1 of this Part of this Schedule shall be deemed to include references to this paragraph where the election thereunder is that the allowance shall be computed by reference to the amount specified in paragraph (a) of sub-paragraph (1) of the said paragraph 1; and the references in sub-paragraph (1) of the said paragraph 4 to paragraph 2 of this Part of this Schedule shall be deemed to include references to this paragraph where the election thereunder is that the allowance shall be computed by reference to the amount specified in paragraph (a) of sub-paragraph (1) of the said paragraph 2.

*Adjustments for special circumstances*

6. If the Commissioners of Inland Revenue are satisfied that the manner in which or the extent to which any machinery or plant is used in any year of assessment is such that the wear and tear thereof is greater or less than that which might be expected to be caused by the use thereof in the normal manner and to the normal extent, they may direct that the annual allowance in respect of that machinery or plant for that year of assessment shall be ascertained as if, for the

percentage specified in sub-paragraph (2) of paragraph 1, sub-paragraph (2) of paragraph 2 or sub-paragraph (2) of paragraph 5 of this Part of this Schedule, as the case may be, there were substituted such other percentage as they may determine.

6TH SCH.  
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7.—(1) If an annual allowance falls to be made to any person in respect of any machinery or plant in charging the profits or gains of any trade, profession, employment, vocation or office which is carried on or held by him for part only of the year of assessment, the said allowance, as computed in accordance with the preceding provisions of this Schedule, shall be proportionately reduced.

(2) If an annual allowance falls to be made to the lessor of any machinery or plant under section twenty of the Income Tax Act, 1945, and the letting continues for part only of the year of assessment, the said allowance, as computed in accordance with the preceding provisions of this Schedule, shall be proportionately reduced.

*Applications to Commissioners of Inland Revenue or  
Board of Referees*

8.—(1) If, within such time and in such manner as may be prescribed by regulations made by the Commissioners of Inland Revenue under this paragraph, an application is made to the said Commissioners by or on behalf of—

- (a) a considerable number of the persons engaged in or holding any class of trade, profession, employment, vocation or office; or
- (b) a considerable number of the persons who use machinery or plant of any class for the purposes of any trade, profession, employment, vocation or office carried on or held by them respectively; or
- (c) any particular person concerned,

for the increase, as respects any year of assessment, of any percentage determined or deemed to be determined by the said Commissioners for any of the purposes of this Part of this Schedule in connection with any class of machinery or plant used in the class of trade, profession, employment, vocation or office in question, in connection with the class of machinery or plant in question, or in connection with any machinery or plant, or class of machinery or plant, used by the applicant, as the case may be, the said Commissioners shall consider the application and may, if they think fit, determine or redetermine the percentage in question.

(2) Where an application has been made under sub-paragraph (1) of this paragraph, and the Commissioners do not determine or redetermine the percentage in question or the applicant or applicants are dissatisfied with the Commissioners' determination or redetermination thereof, the Commissioners, if required so to do by the applicant or applicants, shall refer the application to the Board of Referees and the Board shall consider the application:

Provided that where the application is made under paragraph (c) of the said sub-paragraph (1), the Board may, if they think fit, require the applicant to satisfy them, as respects the machinery or plant to which the application relates, that in all the circumstances it is reasonable

6TH SCH.  
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(3) The references in sub-paragraph (1) of this Schedule shall be deemed to include references for the year 1948-49 or any previous year of the application, or of five-fourths of, a sum which, except in the case of the first machinery or plant.

(4) Any reference in this paragraph of this Schedule shall be deemed to be as modified by the subsequent paragraph.

*Special method for machinery or plant*

5.—(1) Subject to the allowance for any year or plant used for the working of a wasting asset with the work allowance is

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under this paragraph are to be made and the procedure to be followed in dealing with any such application. The power conferred by this sub-paragraph to make regulations shall be exercisable by statutory instrument, and any statutory instrument made in the exercise of that power shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) No appeal shall lie to the General or Special Commissioners in respect of any matter which may be made or might have been made the subject of an application under this paragraph.

*Amendments of existing enactments*

9.—(1) In paragraph (1) of Rule 6 of the Rules applicable to Cases I and II of Schedule D, for the words "such deduction may be allowed as the Commissioners having jurisdiction in the matter may consider just and reasonable as representing the diminished value by reason of wear and tear" there shall be substituted the words "a deduction shall be allowed on account of the wear and tear".

(2) In paragraph (2) of the said Rule 6, after the words "for the purpose of this rule" there shall be inserted the words "and that person shall be deemed for that purpose to have incurred, at the time of the letting, capital expenditure equal to so much of the capital expenditure on the provision of the machinery or plant as may appear to the Commissioners having jurisdiction in the matter to be just and reasonable".

(3) In paragraph (4) of the said Rule 6, for the words "such allowance in respect thereof as they think just and reasonable" there shall be substituted the words "the proper allowance in respect thereof".

Finance Act, 1949

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ph (7) of the said Rule 6, down to the words "determine to be allowed", is hereby repealed and, in the remainder the references to that Rule shall be deemed to include paragraph 8 of this Part of this Schedule.

(1) of section sixteen of the Income Tax Act, in respect of the diminished value of machinery wear and tear" there shall be substituted the words "wear and tear of machinery or plant".

said section sixteen is hereby repealed and no additional deductions shall no longer be allowed under the Finance Act, 1932.

tion (3) of the said section sixteen, in respect of machinery or plant equal to" are

section sixteen, for the words "under which first occur, there shall be substituted the words "paragraph (6) of the said

to subsection (1) of section seventeen of the Income Tax Act, 1945, the reference to the proviso to subsection (2) of section seventeen of that Act shall be construed as a reference to paragraph 5 of this Part of this Schedule.

(10) In sub-paragraph (ii) of paragraph (b) of subsection (1) of section eighteen of the Income Tax Act, 1945, after the words "the said expenditure" there shall be inserted the words "and the amount of any deduction to be allowed under the said Rule 6", and sub-paragraph (iii) of that paragraph is hereby repealed.

(11) In subsection (1) of section twenty of the Income Tax Act, 1945, for the words "equal to five-fourths of the amount considered by the Commissioners having jurisdiction in the matter to be just and reasonable as representing the diminished value by reason of wear and tear, during so much of the period of the letting as falls within the year, of" there shall be substituted the words "on account of the wear and tear of".

(12) Subsection (1) of section sixty-six of the Income Tax Act, 1945, shall not apply to the interpretation of the expression "expenditure" where it occurs in the preceding paragraphs of this Schedule.

(13) Nothing in paragraph (c) of subsection (1) of section twenty-nine of the Finance Act, 1944 (which provides that in certain circumstances the actual cost, cost or net cost of an asset shall be treated for the purposes of, amongst other things, annual allowances, as reduced by the amount of certain scientific research allowances) shall be construed as applying to the references in this Part of this Schedule to the expenditure of a person in providing machinery or plant.

10. Save as aforesaid, all the enactments relating to the computation of annual allowances shall, with any necessary adaptations, continue to have effect in relation to annual allowances to which this Part of this Schedule applies.

*Finance Act, 1949*  
*Paragraph (2) of paragraph 1, sub-paragraph (2) of paragraph 5 may be there substituted*  
*in any person in*  
*of*  
*the said*  
*the said*

6TH SCH.  
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that an application should be made otherwise than under paragraph (a) or paragraph (b) of that sub-paragraph and, in that event, the Board shall consider the application only in so far as it relates to machinery or plant as respects which they are so satisfied.

(3) On the consideration of an application under sub-paragraph (1) of this paragraph, either as respects all or as respects some only of the machinery or plant to which it relates, the Board of Referees may, if they think fit, direct that, as respects the year of assessment to which the application relates, such percentage as the Board may determine to be appropriate shall be substituted, either wholly or in such cases or classes of cases as the Board may direct, for the percentage determined or deemed to be determined by the Commissioners, and the liability of all persons concerned to income tax shall be determined accordingly and all such amendments of assessments, additional assessments and repayments of tax shall be made as may be necessary to give effect to the direction.

The preceding paragraphs of this Schedule shall, in relation to the exercise by the Board of their powers under this sub-paragraph, have effect as if the references to the Commissioners of Inland Revenue included references to the Board.

(4) The Commissioners of Inland Revenue may make regulations with respect to the time within which and the manner in which applications under this paragraph are to be made and the procedure to be followed in dealing with any such application.

The power conferred by this sub-paragraph to make regulations shall be exercisable by statutory instrument, and any statutory instrument made in the exercise of that power shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) No appeal shall lie to the General or Special Commissioners in respect of any matter which may be made or might have been made the subject of an application under this paragraph.

#### *Amendments of existing enactments*

9.—(1) In paragraph (1) of Rule 6 of the Rules applicable to Cases I and II of Schedule D, for the words “such deduction may be allowed as the Commissioners having jurisdiction in the matter may consider just and reasonable as representing the diminished value by reason of wear and tear” there shall be substituted the words “a deduction shall be allowed on account of the wear and tear”.

(2) In paragraph (2) of the said Rule 6, after the words “for the purpose of this rule” there shall be inserted the words “and that person shall be deemed for that purpose to have incurred, at the time of the letting, capital expenditure equal to so much of the capital expenditure on the provision of the machinery or plant as may appear to the Commissioners having jurisdiction in the matter to be just and reasonable”.

(3) In paragraph (4) of the said Rule 6, for the words “such allowance in respect thereof as they think just and reasonable” there shall be substituted the words “the proper allowance in respect thereof”.

(4) Paragraph (7) of the said Rule 6, down to the words “ determine the deduction to be allowed ”, is hereby repealed and, in the remainder of that paragraph, the references to that Rule shall be deemed to include references to paragraph 8 of this Part of this Schedule.

(5) In subsection (1) of section sixteen of the Income Tax Act, 1945, for the words “ in respect of the diminished value of machinery or plant by reason of wear and tear ” there shall be substituted the words “ on account of the wear and tear of machinery or plant ”.

(6) Subsection (2) of the said section sixteen is hereby repealed except so far as it provides that additional deductions shall no longer be made under section eighteen of the Finance Act, 1932.

(7) In paragraph (a) of subsection (3) of the said section sixteen, the words “ a proportion of the machinery or plant equal to ” are hereby repealed.

(8) In subsection (4) of the said section sixteen, for the words “ under the said Rule 6 ”, where those words first occur, there shall be substituted the words “ having regard to paragraph (6) of the said Rule 6 ”.

(9) In proviso (i) to subsection (1) of section seventeen of the Income Tax Act, 1945, the reference to the proviso to subsection (2) of section sixteen of that Act shall be construed as a reference to paragraph 5 of this Part of this Schedule.

(10) In sub-paragraph (ii) of paragraph (b) of subsection (1) of section eighteen of the Income Tax Act, 1945, after the words “ the said expenditure ” there shall be inserted the words “ and the amount of any deduction to be allowed under the said Rule 6 ”, and sub-paragraph (iii) of that paragraph is hereby repealed.

(11) In subsection (1) of section twenty of the Income Tax Act, 1945, for the words “ equal to five-fourths of the amount considered by the Commissioners having jurisdiction in the matter to be just and reasonable as representing the diminished value by reason of wear and tear, during so much of the period of the letting as falls within the year, of ” there shall be substituted the words “ on account of the wear and tear of ”.

(12) Subsection (1) of section sixty-six of the Income Tax Act, 1945, shall not apply to the interpretation of the expression “ expenditure ” where it occurs in the preceding paragraphs of this Schedule.

(13) Nothing in paragraph (c) of subsection (1) of section twenty-nine of the Finance Act, 1944 (which provides that in certain circumstances the actual cost, cost or net cost of an asset shall be treated for the purposes of, amongst other things, annual allowances, as reduced by the amount of certain scientific research allowances) shall be construed as applying to the references in this Part of this Schedule to the expenditure of a person in providing machinery or plant.

10. Save as aforesaid, all the enactments relating to the computation of annual allowances shall, with any necessary adaptations, continue to have effect in relation to annual allowances to which this Part of this Schedule applies.

6TH SCH.  
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## PART II

### MISCELLANEOUS AMENDMENTS AS TO INITIAL, ANNUAL AND BALANCING ALLOWANCES, AND BALANCING CHARGES

#### *Initial allowances*

1. An initial allowance may be made to a person in respect of any machinery or plant in charging the profits or gains of a trade, profession, employment, vocation or office carried on or held by him notwithstanding that it appears that, during the period during which the machinery or plant will be used for the purposes of the trade, profession, employment, vocation or office, it will also be used for other purposes, but the allowance in any such case shall be so much only of the allowance that would be made if the machinery or plant were to be used only for the purposes of the trade, profession, employment, vocation or office as may be just and reasonable having regard to all the relevant circumstances of the case and, in particular, to the extent to which it appears that the machinery or plant is likely to be used for the said other purposes during that period.

2. Subject to the provisions of this paragraph, no initial allowance shall be made to a person in respect of any machinery or plant in charging the profits or gains of a trade, profession, employment, vocation or office, if it appears that, during the period during which the machinery or plant will be used by him for the purposes of the trade, profession, employment, vocation or office, sums which are in respect of, or take account of, the wear and tear to that machinery or plant occasioned by its use for those purposes and do not fall to be taken into account as his income or in computing the profits or gains of any trade, profession, employment, vocation or office carried on or held by him are, or are to be, payable to him directly or indirectly by the Crown, or by any government or public or local authority, whether in the United Kingdom or elsewhere, or by any person other than the person carrying on or holding the trade, profession, employment, vocation or office:

Provided that where the sums referred to in this paragraph are in respect of, or take account of, part only of the wear and tear therein referred to—

- (a) the preceding provisions of this paragraph shall not apply; but
- (b) the amount of the allowance shall be reduced to such extent as may be just and reasonable having regard to all the relevant circumstances of the case.

#### *Annual allowances*

3. An annual allowance may be made in respect of any machinery or plant in charging the profits or gains of a trade, profession, employment, vocation or office for any year of assessment notwithstanding that the machinery or plant is also used in that year for purposes other than those of the trade, profession, employment, vocation or office, but where, in the basis period for any year of assessment, machinery or plant is used for purposes other than those of the trade, profession, employment, vocation or office, the annual allowance to be made in respect thereof shall be so much only of the allowance



that otherwise would be made as may be just and reasonable having regard to all the relevant circumstances of the case and, in particular, to the extent of the use for the said other purposes during the said basis period.

4. Subject to the provisions of this paragraph, no annual allowance shall be made to a person in respect of any machinery or plant in charging the profits or gains of a trade, profession, employment, vocation or office for any year of assessment if any sums which are in respect of, or take account of, the wear and tear to that machinery or plant occasioned by its use during the basis period for that year of assessment for the purposes of the trade, profession, employment, vocation or office and do not fall to be taken into account as his income or in computing the profits or gains of any trade, profession, employment, vocation or office carried on or held by him are, or are to be, payable to him directly or indirectly by the Crown, or by any government or public or local authority, whether in the United Kingdom or elsewhere, or by any person other than the person carrying on or holding the trade, profession, employment, vocation or office:

Provided that where the sums referred to in this paragraph are in respect of, or take account of, part only of the wear and tear therein referred to—

- (a) the preceding provisions of this paragraph shall not apply; but
- (b) the amount of the allowance shall be reduced to such extent as may be just and reasonable having regard to all the relevant circumstances of the case.

5. Where an initial allowance has been made to a person in respect of any machinery or plant, but the amount thereof has been reduced under paragraph 1 or the proviso to paragraph 2 of this Part of this Schedule, any annual allowance falling to be made in respect of that machinery or plant to that person shall be calculated as if the reduction had not been made.

6.—(1) In determining whether any, and if so what, annual allowance falls to be made to a person for any year of assessment in respect of any machinery or plant which has been used by him during any previous year of assessment, there shall be deemed to have been made to him for every previous year of assessment (including years before the year 1949–50, years during which the machinery or plant was not used for the purposes of the trade, profession, employment, vocation or office, and years during which the trade, profession, employment, vocation or office was not carried on or held by him) such annual allowance or greater annual allowance, if any, as would have fallen to be made to him if all the conditions specified in sub-paragraph (2) of this paragraph had been fulfilled in relation to every such previous year.

(2) The said conditions are as follows, that is to say—

- (a) that the trade, profession, employment, vocation or office had been carried on or held by the person in question ever since the date on which he acquired the machinery or plant and had been so carried on or held by him in such circumstances that the profits or gains or emoluments thereof were liable to assessment to income tax;

6TH SCH.  
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- (b) that the machinery or plant had been used by him for the purposes of the trade, profession, employment, vocation or office ever since that date;
- (c) that a proper claim had been duly made by him for an annual allowance in respect of the machinery or plant for every relevant year of assessment; and
- (d) that no question arose in connection with any year of assessment as to the machinery or plant having been wholly or partly used by him otherwise than for the purposes of the trade, profession, employment, vocation or office, or as to there being payable to him, directly or indirectly, any sums in respect of, or taking account of, the wear and tear of the machinery or plant.

(3) Notwithstanding anything in sub-paragraph (1) of this paragraph, the years for which an annual allowance is to be deemed thereunder to have been made shall not include years during which machinery or plant was used only for the purposes of activities carried on by the person in question before the commencement by him of the working of a mine, oil well, or other source of mineral deposits of a wasting nature, being activities consisting of—

- (a) searching for or discovering and testing deposits, or winning access thereto; or
- (b) the construction of any works which are likely to be of little or no value when the source is no longer worked, or, where the source is worked under a foreign concession, which are likely to become valueless when the concession comes to an end to the person working the source immediately before the concession comes to an end.

#### *Balancing allowances and charges*

7. Where any machinery or plant which has been used by a person for the purposes of a trade, profession, employment, vocation or office carried on or held by him, has also been used by him for other purposes, then, in determining whether a balancing allowance or balancing charge falls to be made to or on him in charging the profits or gains of the trade, profession, employment, vocation or office, and in determining the amount of the allowance or, as the case may be, the amount on which the charge is to be made, regard shall be had to all the relevant circumstances of the case and, in particular, to the extent of the use for the said other purposes, and there shall be made to or on him an allowance of such an amount, or, as the case may be, a charge on such an amount, as may be just and reasonable.

8. Subject to the provisions of this paragraph, no balancing allowance or balancing charge shall be made to or on any person in respect of any machinery or plant in charging the profits or gains of a trade, profession, employment, vocation or office if any sums which are in respect of, or take account of, the wear and tear to that machinery or plant occasioned by its use for the purposes of the trade, profession, employment, vocation or office, and do not fall to be taken into account as his income or in computing the profits or gains of any trade, profession, employment, vocation or office carried on or held by him, were paid, or are or are to be payable, to

him directly or indirectly by the Crown, or by any government or public or local authority, whether in the United Kingdom or elsewhere, or by any person other than the person carrying on or holding the trade, profession, employment, vocation or office:

Provided that where the sums referred to in this paragraph are in respect of, or take account of, part only of the wear and tear therein referred to—

- (a) the preceding provisions of this paragraph shall not apply; but
- (b) in determining whether it is an allowance or a charge which is to be made and the amount of the allowance or, as the case may be, the amount on which the charge is to be made, regard shall be had to all the relevant circumstances of the case and there shall be made an allowance of such an amount or, as the case may be, a charge on such an amount, as may be just and reasonable.

9.—(1) Subject to the provisions of this paragraph, the provisions of paragraph 6 of this Part of this Schedule shall apply for the purpose of determining whether any, and if so what, balancing allowance or balancing charge falls to be made to or on a person as they apply for the purpose of determining whether any, and if so what, annual allowance falls to be made to a person.

(2) The only years for which an annual allowance is to be deemed for the purposes of this paragraph to have been made shall be years during which the machinery or plant was not used by the person in question for the purposes of the trade, profession, employment, vocation or office, and years during which the trade, profession, employment, vocation or office was not carried on or held by him, or was not carried on or held by him in such circumstances that the profits or gains or emoluments thereof were liable to assessment to income tax.

(3) Nothing in this paragraph shall affect the provisions of subsection (4) of section seventeen, or of the proviso to section nineteen, or of subsection (2) of section twenty-three, of the Income Tax Act, 1945, but where an allowance is deemed, by virtue of the proviso to the said section nineteen, or by virtue of subsection (2) of the said section twenty-three, to have been made for any year of assessment, an allowance shall not also be deemed to have been made for the same year by virtue of this paragraph.

### PART III

#### SPECIAL PROVISIONS AS TO ANNUAL ALLOWANCES FOR 1947-48 AND 1948-49

1. Any annual allowance in respect of machinery or plant for the year 1947-48 or the year 1948-49 shall be computed, subject to the provisions of this Part of this Schedule, in accordance with the provisions of Parts I and II of this Schedule.

2. So much of the said Part I as requires any election to be made in claiming an annual allowance shall not apply to any allowance for the year 1947-48 or the year 1948-49 which has been claimed before the passing of this Act.

6TH SCH.  
—cont.

3. Where—

- (a) an annual allowance for the year 1947–48 or the year 1948–49 falls to be made in accordance with paragraph 1 of Part I of this Schedule; and
- (b) there was, for the year of assessment in question, a percentage commonly in use in relation to machinery or plant of the class in question, being a percentage which (multiplied by five-fourths) was intended to be applied to an amount which, except in the case of the first year, is less than the cost of providing the machinery or plant,

that percentage shall be deemed to be the percentage referred to in paragraph (b) of sub-paragraph (1) of the said paragraph 1.

4. Where—

- (a) an annual allowance for the year 1947–48 or the year 1948–49 falls to be made in accordance with paragraph 2 of Part I of this Schedule; and
- (b) there was, for the year of assessment in question, a percentage commonly in use in the case of machinery or plant of the class in question, being a percentage which (multiplied by five-fourths) was intended to be applied, in all years, to the cost of the machinery or plant,

that percentage shall be deemed to be the percentage referred to in paragraph (b) of sub-paragraph (1) of the said paragraph 2.

Machinery or plant may be treated for the purposes of this paragraph as being of a different class from other machinery or plant where the one is new when it is acquired and the other is not new when it is acquired or, in the case of machinery or plant which is not new when it is acquired, where different periods have elapsed between the date when the machinery or plant was made or first put into use and the date of the acquisition thereof.

5. The references to the years 1948–49 and 1949–50 in sub-paragraph (5) of paragraph 1 of Part I of this Schedule shall be construed, in relation to an allowance for the year 1947–48, as references to the years 1946–47 and 1947–48, and, in relation to an allowance for the year 1948–49, as references to the years 1947–48 and 1948–49.

6. The preceding provisions of this Part of this Schedule shall not apply to any allowance which was made in an assessment which became final and conclusive before the sixth day of April, nineteen hundred and forty-nine, but no relief shall be granted under section twenty-four of the Finance Act, 1923, or section thirty-five of the Finance (No. 2) Act, 1945, on the ground of any error or mistake made in connection with any such allowance so as to reduce the tax borne by the person to whom the relief is granted below the amount which would have fallen to be borne by him if the assessment in which the allowance was made had not become final and conclusive before that date.

## SEVENTH SCHEDULE

Section 28.

## GENERAL SCALE OF RATES OF ESTATE DUTY

|           |           | <i>Principal value of estate</i> |     |           |     | <i>Rate per cent. of duty</i> |  |
|-----------|-----------|----------------------------------|-----|-----------|-----|-------------------------------|--|
|           |           | £                                |     | £         |     |                               |  |
|           |           | Not exceeding                    |     | 2,000     | ... | Nil                           |  |
| Exceeding | 2,000     | and not exceeding                |     | 3,000     | ... | 1                             |  |
| "         | 3,000     | "                                | "   | 5,000     | ... | 2                             |  |
| "         | 5,000     | "                                | "   | 7,500     | ... | 3                             |  |
| "         | 7,500     | "                                | "   | 10,000    | ... | 4                             |  |
| "         | 10,000    | "                                | "   | 12,500    | ... | 6                             |  |
| "         | 12,500    | "                                | "   | 15,000    | ... | 8                             |  |
| "         | 15,000    | "                                | "   | 17,500    | ... | 10                            |  |
| "         | 17,500    | "                                | "   | 20,000    | ... | 12                            |  |
| "         | 20,000    | "                                | "   | 25,000    | ... | 15                            |  |
| "         | 25,000    | "                                | "   | 30,000    | ... | 18                            |  |
| "         | 30,000    | "                                | "   | 35,000    | ... | 21                            |  |
| "         | 35,000    | "                                | "   | 40,000    | ... | 24                            |  |
| "         | 40,000    | "                                | "   | 45,000    | ... | 28                            |  |
| "         | 45,000    | "                                | "   | 50,000    | ... | 31                            |  |
| "         | 50,000    | "                                | "   | 60,000    | ... | 35                            |  |
| "         | 60,000    | "                                | "   | 75,000    | ... | 40                            |  |
| "         | 75,000    | "                                | "   | 100,000   | ... | 45                            |  |
| "         | 100,000   | "                                | "   | 150,000   | ... | 50                            |  |
| "         | 150,000   | "                                | "   | 200,000   | ... | 55                            |  |
| "         | 200,000   | "                                | "   | 300,000   | ... | 60                            |  |
| "         | 300,000   | "                                | "   | 500,000   | ... | 65                            |  |
| "         | 500,000   | "                                | "   | 750,000   | ... | 70                            |  |
| "         | 750,000   | "                                | "   | 1,000,000 | ... | 75                            |  |
| "         | 1,000,000 | ...                              | ... | ...       | ... | 80                            |  |

## Section 35.

**EIGHTH SCHEDULE**  
**STAMP DUTIES ABOLISHED**

**PART I**

**CHARGES UNDER STAMP ACT, 1891, AND CONSEQUENTIAL EXEMPTIONS**

1. All headings relating to Admissions.
2. The heading Affidavit and Statutory Declaration.
3. The heading Appraisalment or Valuation.
4. The heading Apprenticeship, instrument of; (an instrument of apprenticeship shall be exempt from all stamp duties).
5. The heading Articles of Clerkship; (articles of clerkship to a solicitor shall be exempt from all stamp duties).
6. The headings Award, and Award or Decree Arbitral.
7. The heading Bill of Lading.
8. The headings Bond given pursuant to the directions of any Act and Bond on obtaining letters of administration; (an instrument described in either of these headings shall be exempt from all stamp duties).
9. The heading Charter Party; (a charter party shall be exempt from all stamp duties).
10. The heading Commission of Lunacy.
11. The heading Conditional Surrender.
12. Both headings relating to Copies or Extracts.
13. The heading Copyhold and Customary Estates—instruments relating thereto.
14. The heading Deputation or Appointment of a gamekeeper.
15. Both headings relating to Exemplifications.
16. The heading Grant or Licence and the three following headings relating to Grants.
17. The headings Letter of Allotment and Letter of Renunciation, and Scrip Certificate, Scrip or other document; (an instrument described in either of these headings shall be exempt from duty under the heading Agreement or any Memorandum of an Agreement or under the heading Deed of any kind whatsoever not described in this Schedule and no other instrument shall be chargeable with duty under the heading Agreement or any Memorandum of an Agreement as being an agreement or memorandum of an agreement for the issue, allotment or sale of any stock or marketable security).
18. Paragraph (1) of the heading Letter or Power of Attorney; (an instrument described in this paragraph shall be exempt from duty under any other paragraph of this heading).
19. The heading Letters of Marque and Reprisal.
20. The headings relating to Licences.
21. The heading Memorial.
22. The heading Notarial Act.
23. The heading Passport.
24. The heading Protest.

25. The heading Transfer, any request or authority to the purser or other officer of any mining company.

8TH SCH.  
—cont.

26. The heading Voting Paper.

27. The heading Warrant for Goods; (a warrant for goods shall be exempt from duty under the heading Agreement or any Memorandum of an Agreement).

## PART II

### CHARGES UNDER OTHER ACTS

1. The composition payable by the Bank of England under section twenty-one of the Stamp Act, 1815, in respect of its bank post bills.

2. The duties charged under section twenty-eight of the Lunacy (Scotland) Act, 1857, on licences granted under section twenty-seven of that Act.

3. The duties charged under section nine of the Charitable Trustees Incorporation Act, 1872, on certificates of incorporation under that Act and on applications therefor.

4. The duties charged under section fourteen of the Habitual Drunkards Act, 1879, on licences to keep a retreat under that Act and on renewals thereof.

5. The duties charged under section two hundred and sixteen of the Lunacy Act, 1890, on licences granted or renewed under that Act.

6. The duty charged under subsection (2) of section five of the Deeds of Arrangement Act, 1914, on deeds registered under that Act.

## NINTH SCHEDULE

Section 40.

### PROVISIONS WHICH MAY BE APPLIED TO COMPULSORY REDEMPTION OF LAND TAX

| <i>Enactment</i>                                | <i>Subject matter</i>                                        |
|-------------------------------------------------|--------------------------------------------------------------|
| The Land Tax Redemption Act, 1802:—             |                                                              |
| Section 126 ... ..                              | Addition to rent in respect of tax redeemed by landlord.     |
| Section 127 ... ..                              | Deduction from rentcharge, etc., in respect of tax redeemed. |
| Sections 141 and 149 ...                        | Addition to rent in case of Crown lands.                     |
| The Finance Act, 1896:—                         |                                                              |
| Paragraph (b) of section 33.                    | Moneys applicable for redemption.                            |
| The Settled Land Act, 1925:—                    |                                                              |
| Paragraph (ii) of subsection (1) of section 73. | Application of capital money for redemption.                 |

## Section 50.

## TENTH SCHEDULE

PROVISIONS AS TO ARRANGEMENTS FOR SPECIAL RESERVE FUNDS  
IN RELATION TO LLOYD'S AND OTHER UNDERWRITERS*Adherence to, and withdrawal from, arrangements*

1.—(1) The arrangements must provide that an underwriting member who wishes to elect to take advantage of the arrangements shall do so by giving notice in writing to the surveyor and to such other persons as may be specified in the arrangements.

(2) Any such notice as aforesaid is referred to in the subsequent provisions of this Schedule as a notice of adherence, and, in the said provisions, the expression "the underwriter" means an underwriting member who has given such a notice.

2.—(1) The arrangements must enable the underwriter, if he thinks fit so to do, by giving notice in writing to the surveyor and to such other persons as may be specified in the arrangements, to withdraw from the arrangements to the extent appearing from the subsequent provisions of this Schedule.

(2) Any such notice as aforesaid is referred to in the subsequent provisions of this Schedule as a notice of withdrawal.

3. Where the underwriter has given a notice of withdrawal, he shall not be entitled to give another notice of adherence.

*Setting up and management of, and payments into and out of, special reserve funds*

4. The arrangements must provide for the setting up, in relation to the underwriter, of a special reserve fund vested in trustees who have control over it and power to invest the capital thereof and to vary the investments :

Provided that where part of the business of the underwriter is carried on through an underwriting agent and part thereof is not so carried on, or where different parts of his business are carried on through different underwriting agents, the arrangements may provide for separate special reserve funds being constituted in relation to the different parts of his business.

5. The arrangements must provide for the income arising from the investments of the underwriter's special reserve fund or funds being held on trust for the underwriter, his personal representatives or assigns.

6.—(1) The arrangements must be such as to secure that if, for an underwriting year corresponding to a year of assessment to which this paragraph applies, the underwriter makes a profit from his business, he has the right to make, into his special reserve fund or funds, payments the gross amount of which is not in the aggregate greater



than one thousand five hundred pounds or one-quarter of that profit, whichever is the less :

10TH SCH.  
—cont.

Provided that—

- (a) no such payment shall be made after the expiration of six months from the date as at which the accounts of the business for that underwriting year are deemed by the Commissioners of Inland Revenue for the purposes of the arrangements to be closed, or such longer period as those Commissioners may allow ;
- (b) where the underwriter carries on his business during part only of that year of assessment, the maximum gross amount of the said payments shall be reduced by the application thereto of the proportion which the part of that year of assessment for which he is entitled to profits from the business bears to a full year.

(2) Subject to the provisions of paragraph 12 of this Schedule (which relates to the effect of the cancellation by the Commissioners of Inland Revenue or the Board of Trade of their approval or certificate with respect to the arrangements) the years of assessment to which this paragraph applies are—

- (a) where the notice of adherence is given before the end of the year nineteen hundred and forty-nine, the year 1949-50 and all subsequent years of assessment during the whole or any part of which the underwriter continues to carry on his business ;
- (b) where the notice of adherence is given after the end of the year nineteen hundred and forty-nine, all years of assessment during the whole or any part of which the underwriter continues to carry on his business subsequent to the year of assessment during which the notice of adherence is given :

Provided that—

- (i) in no case shall this paragraph apply to the year of assessment in which the underwriter commences to carry on his business, or to the year of assessment next following that year ;
- (ii) where the underwriter gives a notice of withdrawal, the last year of assessment to which this paragraph applies shall, subject to the provisions of the said paragraph 12, be the year of assessment corresponding to the underwriting year the accounts for which are deemed by the Commissioners of Inland Revenue for the purposes of the arrangements to be closed as at a date falling within the year of assessment preceding that in which the notice of withdrawal is given.

(3) In sub-paragraph (1) of this paragraph, the expression " profit " means a profit computed in the manner in which the profits or gains of the business of the underwriting year in question would fall to be computed under Case I of Schedule D if—

- (a) income arising from the investments forming part of the premiums trust fund of the underwriter, his special reserve fund or funds and any other fund required or authorised by

10TH SCH.  
—cont.

the rules of Lloyd's or the association in question, or required by the underwriting agent through whom the business or any part thereof is carried on, to be kept in connection with the business fell to be taken into account ; and

- (b) all shares of the profits of the business and all charges related to those profits or to the said income, being shares and charges payable to persons other than the underwriter and not otherwise taken into account, fell to be deducted.

7.—(1) The arrangements must be such as to secure that, if it is certified that the underwriter has sustained a loss in his business for an underwriting year subsequent to that which corresponds to the first year of assessment to which paragraph 6 of this Schedule applies, there shall be made into his premiums trust fund, out of the capital of his special reserve fund or funds, payments the gross amount of which is equal in the aggregate to the certified amount of the loss :

Provided that if the capital of his special reserve fund or funds, reduced by so much thereof as represents sums paid into it or them as a consequence of a profit for a year later than the year of the loss, is less than the net amount of the payments required to be made by this sub-paragraph, the said payments shall be reduced so that the net amount thereof is equal to the capital of the said fund or funds as so reduced.

(2) In this paragraph, the expression "loss" means a loss computed in the manner in which the profits or gains of the business of the underwriting year in question would fall to be computed under sub-paragraph (3) of the last preceding paragraph :

Provided that where, under any arrangement between the underwriter and another person which provides for the sharing of losses, any amount is paid to the underwriter by that person as that person's share of a loss for that year, the loss, as computed for the purposes of this paragraph, shall be reduced by that amount.

(3) In this paragraph, the expression "certified" means certified by a certificate of the surveyor :

Provided that—

- (a) no certificate shall be given by the surveyor until twenty-eight days have elapsed from the date on which he has given to the underwriter or his personal representatives notice in writing stating his intention to give a certificate and stating the amount which he proposes to specify therein as the amount of the loss ;
- (b) the underwriter or his personal representatives may, on giving notice in writing to the surveyor within the said twenty-eight days, appeal to the Special Commissioners ;
- (c) where notice is so given by the underwriter or his personal representatives, the surveyor shall not without the consent of the underwriter or his personal representatives give any certificate until after the hearing of the appeal ; and

10TH SCH.  
—cont.

- (d) on the hearing of the appeal, the Special Commissioners may direct the surveyor not to give a certificate or to give it with such an amount specified therein as the amount of the loss as may be specified in the direction.

8. The arrangements must provide that, on the underwriter ceasing to carry on his business, the capital of his special reserve fund or funds, so far as not required for giving effect to the requirements of the last preceding paragraph, shall be paid over to the underwriter or his personal representatives or assigns.

*Income tax consequences*

9.—(1) Where such a payment as is mentioned in sub-paragraph (1) of paragraph 6 of this Schedule is made into a special reserve fund of an underwriter by reason of the making by him of a profit for an underwriting year—

- (a) the payment shall be deemed for all the purposes of the Income Tax Acts to be an annual payment chargeable to income tax by way of deduction and payable and paid in the year of assessment corresponding to that underwriting year ; and
- (b) the sum actually paid shall be deemed for the purposes of this Schedule and for all the purposes of the Income Tax Acts to be a net amount corresponding to a gross amount from which income tax has been duly deducted at the standard rate for that year of assessment.

(2) Where such a payment as is mentioned in sub-paragraph (1) of paragraph 7 of this Schedule is made out of a special reserve fund of an underwriter into a premiums trust fund of his by reason that he has sustained a loss for an underwriting year—

- (a) the payment shall be deemed for all the purposes of the Income Tax Acts—
- (i) to be an annual payment chargeable to income tax by way of deduction and paid out of profits or gains brought into charge to tax ; and
- (ii) to have been payable and paid to the underwriter ; and
- (iii) to have been payable and paid to him on the last day of the year of assessment which immediately preceded the year of assessment corresponding to that underwriting year or, if he ceased to carry on his business before that day, on the last day on which he carried on his business ; and
- (b) the sum actually paid shall be deemed for the purposes of this Schedule and for all the purposes of the Income Tax Acts to be a net amount corresponding to a gross amount from which income tax has been duly deducted at the standard rate for the year of assessment in which the payment is deemed as aforesaid to have been payable and paid.

10TH SCH.  
—cont.

(3) Where the underwriter ceases to carry on his business before his death and, under so much of the arrangements as gives effect to paragraph 8 of this Schedule, a sum is paid to him or his personal representatives or assigns—

(a) the payment shall be deemed for all the purposes of the Income Tax Acts—

(i) to be an annual payment chargeable to income tax by way of deduction and paid out of profits or gains brought into charge to tax ;

(ii) to have been payable and paid to the underwriter ; and

(iii) to have been payable and paid to him on the last day on which he carried on his business ; and

(b) the sum actually paid shall be deemed for the purposes of this Schedule and for all the purposes of the Income Tax Acts to be a net amount corresponding to a gross amount from which income tax has been duly deducted at the standard rate for the year of assessment in which the payment is deemed as aforesaid to have been payable and paid.

(4) Neither the arrangements, nor any disposition, trust, covenant, agreement or arrangement entered into for the purposes thereof, shall be treated as included in the expression “settlement” for the purposes of Part IV of the Finance Act, 1938, or section twenty-eight of the Finance Act, 1946, and nothing in section thirty-four of the Finance Act, 1927, shall be construed as applying to the payments referred to in sub-paragraphs (2) and (3) of this paragraph.

#### *Profits tax consequences*

10.—(1) Section thirty-one of the Finance Act, 1947 (which exempts individuals from the profits tax) shall not apply in relation to the business of the underwriter carried on in, or in any part of, an underwriting year which ends in any such year of assessment as is hereafter referred to in this sub-paragraph, and, accordingly, any accounting periods of that business which consist of or fall within any such underwriting year as aforesaid (hereafter in this paragraph referred to as “chargeable accounting periods to which this paragraph applies”) shall be chargeable accounting periods.

The years of assessment hereinbefore referred to are those which respectively correspond to an underwriting year as to which the following conditions are fulfilled, that is to say—

(a) that the underwriter was carrying on his business therein ; and

(b) that either—

(i) by reason of making a profit therefor, he had a right to make a payment or payments into his special reserve fund or funds ; or

(ii) he would have had such a right if he had made such a profit,

(2) In computing for profits tax purposes the profits of the business of the underwriter for a chargeable accounting period to which this paragraph applies, a deduction shall be made (as if for the

remuneration of a person employed for the purposes of the business) of two thousand five hundred pounds or fifteen per cent. of the profits of the business computed apart from the deduction, whichever is the greater, so, however, that the deduction shall not exceed fifteen thousand pounds :

10TH SCH.  
—cont.

Provided that in relation to a chargeable accounting period of less than twelve months any reference in this sub-paragraph to two thousand five hundred pounds or fifteen thousand pounds shall be construed as a reference to a sum which bears the same proportion to two thousand five hundred pounds or fifteen thousand pounds, as the case may be, as the length of the period bears to twelve months.

(3) The reference to income from investments or other property in the opening words of sub-paragraph (1) of paragraph 7 of the Fourth Schedule to the Finance Act, 1937 (as amended by section thirty-two of the Finance Act, 1947) shall, in relation to the business of the underwriter for a chargeable accounting period to which this paragraph applies, be construed as a reference to the income arising from investments in his premiums trust fund, his special reserve fund or funds and any other fund required or authorised by the rules of Lloyd's or the association in question, or required by the underwriting agent through whom the business or any part thereof is carried on, to be kept in connection with the business, and paragraph (c) of that sub-paragraph shall not apply to any such income.

(4) Notwithstanding anything in paragraph (b) of sub-paragraph (3) of paragraph 2 of the said Fourth Schedule, the expression "relevant accounting period" in sub-paragraph (2) of that paragraph shall, in relation to the business of the underwriter for any chargeable accounting period to which this paragraph applies, mean any chargeable accounting period to which this paragraph applies.

(5) Subject to the provisions of this sub-paragraph, the references in section thirty of the Finance Act, 1947, to the net relevant distributions to proprietors shall, in relation to the business of the underwriter for a chargeable accounting period to which this paragraph applies, be construed as if—

- (a) the references in section thirty-four of that Act to any body corporate, unincorporated society or other body included references to the underwriter; but
- (b) the reference in the said section thirty-four to the gross relevant distributions to proprietors (as defined by section thirty-five of that Act) were a reference to the amount of the profits for that chargeable accounting period, computed without abatement and including franked investment income, less the profits tax payable for that period, and less also the gross amount of any payment into a special reserve fund made by reason of a profit for that period :

Provided that where there has been a loss for any previous chargeable accounting period to which this paragraph applies, the reference in paragraph (b) of this sub-paragraph to the amount of the profits computed without abatement and including franked investment income shall be construed as a reference to what that amount

10TH SCH.  
—cont.

would have been if sub-paragraph (2) of paragraph 2 of the Fourth Schedule to the Finance Act, 1937 (which authorises losses to be carried forward and deducted from profits for subsequent chargeable accounting periods) had applied only to losses if and in so far as they exceeded the aggregate of the gross amounts of the payments, if any, made out of special reserve funds into premiums trust funds as the result of losses sustained in the business for the years in question.

(6) Nothing in paragraph 9 of this Schedule shall be construed as requiring or authorising any payment into or out of a special reserve fund to be taken into account in computing for profits tax purposes the profits for a chargeable accounting period to which this paragraph applies.

#### *Supplemental*

11. The arrangements may from time to time be varied with the consent of the Commissioners of Inland Revenue and the Board of Trade.

12. If, after giving notice in writing of their intention so to do to the Committee of Lloyd's or the managing body of whatever other association of underwriters is in question, the Commissioners of Inland Revenue or the Board of Trade cancel the approval or certificate which they have given with respect to the arrangements—

- (a) no underwriting member may give a notice of adherence to the arrangements after the date of the cancellation ; and
- (b) paragraph 6 of this Schedule shall not apply, in the case of any underwriter, to any year of assessment after the year of assessment in which the approval or certificate is cancelled.

13.—(1) In this Schedule—

“business”, in relation to the underwriter, means his underwriting business as a member of Lloyd's or of whatever other association of underwriters is in question, whether carried on personally or through an underwriting agent, and does not include any other business carried on by him, and in particular, where he is himself an underwriting agent, does not include his business as such an agent ;

“net amount” and “gross amount”, in relation to any payment, mean respectively the sum actually paid and the sum which, after deduction of income tax, is equal to the sum actually paid ;

“premiums trust fund” means such a trust fund as is referred to in paragraph 1 of the Eighth Schedule to the Assurance Companies Act, 1909, as amended by paragraph 3 of Part II of the Second Schedule to the Assurance Companies Act, 1946 ;

“underwriting year” means, in relation to the business of the underwriter as a member of Lloyd's, the calendar year, and, in relation to the business of the underwriter as a member of any other association of underwriters, the period of twelve months for which, under the rules or practice of that association, the accounts of the business of the underwriter fall to be made up.

(2) For the purpose of construing any reference in this Schedule to the year of assessment which corresponds to an underwriting year or to the underwriting year which corresponds to a year of assessment, an underwriting year and a year of assessment shall be deemed to correspond to each other in the case of an underwriter if, assuming that there were no question arising in connection with the commencement or cessation of the business of that underwriter, that underwriting year is the period on the profits or gains of which income tax for that year of assessment would fall to be computed under Case I of Schedule D in respect of that business.

10TH SCH.  
—cont.

## ELEVENTH SCHEDULE

Section 32.

### PART I

#### REPEALS OF PROVISIONS AS TO APPRAISERS ETC.

| Session and Chapter          | Short Title                               | Extent of Repeal                                                                                                                                                                                                                          |
|------------------------------|-------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 46 Geo. 3. c. 43             | The Appraisers Licences Act, 1806.        | The whole Act.                                                                                                                                                                                                                            |
| 6 Geo. 4. c. 81              | The Excise Licences Act, 1825.            | In section seven the words “(except in the case of auctioneers)” and the words from “save” onwards; and in section ten the words “auctioneers and”.                                                                                       |
| 10 Geo. 4. c. 50             | The Crown Lands Act, 1829                 | Section seventy-eight.                                                                                                                                                                                                                    |
| 7 Will. 4 and 1 Vict. c. 41. | The Small Debt (Scotland) Act, 1837.      | In section twenty the words from “and no officer” to “notwithstanding”.                                                                                                                                                                   |
| 8 & 9 Vict. c. 15.           | The Auctioneers Act, 1845                 | Sections two to six and section eight.                                                                                                                                                                                                    |
| 8 & 9 Vict. c. 76.           | The Revenue Act, 1845 ...                 | Section one.                                                                                                                                                                                                                              |
| 24 & 25 Vict. c. 21.         | The Revenue (No. 1) Act, 1861.            | The whole Act.                                                                                                                                                                                                                            |
| 27 & 28 Vict. c. 56.         | The Revenue (No. 2) Act, 1864.            | In section six the words “Appraisers” and “House agents” and in section fourteen the words from the beginning to “Provided that”, the words “such licensed”, the words “provided also that” and the word “licensed” where last occurring. |
| 30 & 31 Vict. c. 90.         | The Revenue Act, 1867 ...                 | Sections one to six.                                                                                                                                                                                                                      |
| 33 & 34 Vict. c. 32.         | The Customs and Inland Revenue Act, 1870. | The whole Act.                                                                                                                                                                                                                            |
| 51 & 52 Vict. c. 8.          | The Customs and Inland Revenue Act, 1888. | Subsection (2) of section nine.                                                                                                                                                                                                           |
| 51 & 52 Vict. c. 41.         | The Local Government Act, 1888.           | In the First Schedule the words “Appraisers” “Auctioneers” “House agents” and “Plate dealers”.                                                                                                                                            |

11TH SCH.  
—cont.

| Session and Chapter       | Short Title                                                | Extent of Repeal                                                           |
|---------------------------|------------------------------------------------------------|----------------------------------------------------------------------------|
| 53 & 54 Vict.<br>c. 8.    | The Customs and Inland Revenue Act, 1890.                  | In section nine the words "appraiser, auctioneer or".                      |
| 15 & 16 Geo. 5.<br>c. 49. | The Supreme Court of Judicature (Consolidation) Act, 1925. | Section two hundred and twenty-one.                                        |
| 12 & 13 Geo. 6.<br>c. 21. | The Solicitors, Public Notaries, etc. Act, 1949.           | So much of the First Schedule as relates to the Revenue (No. 1) Act, 1861. |

## PART II

## REPEALS AS TO TRANSFERRED EXCISE LICENCES

| Session and Chapter       | Short Title                               | Extent of Repeal                                                                                                      |
|---------------------------|-------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|
| 23 & 24 Vict.<br>c. 27.   | The Refreshment Houses Act, 1860.         | In section ten the words from the first "by" to "behalf".                                                             |
| 24 & 25 Vict.<br>c. 91.   | The Revenue (No. 2) Act, 1861.            | In section nine the words from "the following duties" to "upwards" where next occurring, and the scale of abatements. |
| 35 & 36 Vict.<br>c. 93.   | The Pawnbrokers Act, 1872                 | In section thirty-seven the words "and shall determine on the thirty-first day of July".                              |
| 39 & 40 Vict.<br>c. 16.   | The Customs and Inland Revenue Act, 1876. | The whole Act.                                                                                                        |
| 51 & 52 Vict.<br>c. 33.   | The Hawkers Act, 1888 ...                 | In subsection (2) of section three the words "and shall expire on the thirty-first day of March in each year".        |
| 51 & 52 Vict.<br>c. 41.   | The Local Government Act, 1888.           | In the First Schedule the words "Refreshment house keepers", "Hawkers" and "Pawnbrokers".                             |
| 17 & 18 Geo. 5.<br>c. 21. | The Moneylenders Act, 1927                | In section one, in subsection (2) the words from the first "by" to "them".                                            |

*Saving*

The repeal of any enactment by this Part of this Schedule shall not affect its operation as respects licences of any description for a period before the date of the transfer of the duties on those licences under section fifteen of this Act.



## PART III

11TH SCH.

## MISCELLANEOUS CUSTOMS AND EXCISE REPEALS

—cont.

| Session and Chapter                  | Short Title                      | Extent of Repeal                                                                                                                                                                                                               |
|--------------------------------------|----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 30 & 31 Vict.<br>c. 5.               | The Dog Licences Act, 1867       | Section five, from the second "and," onwards.                                                                                                                                                                                  |
| 22 & 23 Geo. 5.<br>c. 53.            | The Ottawa Agreements Act, 1932. | Section three.                                                                                                                                                                                                                 |
| 26 Geo. 5 and<br>1 Edw. 8.<br>c. 34. | The Finance Act, 1936 ...        | Sections one and four.                                                                                                                                                                                                         |
| 1 & 2 Geo. 6.<br>c. 46.              | The Finance Act, 1938 ...        | Section five.                                                                                                                                                                                                                  |
| 2 & 3 Geo. 6.<br>c. 109.             | The Finance (No. 2) Act, 1939.   | Section three; in section six, in subsection (1) the words "sugar, molasses, glucose and" and paragraph (b), and subsection (2); the Third Schedule; the Fifth Schedule except the entries as to saccharin in Parts I and III. |
| 3 & 4 Geo. 6.<br>c. 29.              | The Finance Act, 1940 ...        | Sections four and five and the Fourth Schedule.                                                                                                                                                                                |
| 6 & 7 Geo. 6.<br>c. 28.              | The Finance Act, 1943 ...        | Subsection (2) of section ten.                                                                                                                                                                                                 |
| 8 & 9 Geo. 6.<br>c. 24.              | The Finance Act, 1945 ...        | Section one.                                                                                                                                                                                                                   |
| 11 & 12 Geo. 6.<br>c. 49.            | The Finance Act, 1948 ...        | Section two; subsections (1) and (2) of section four; subsection (1) of section five; the Second, Fourth and Fifth Schedules.                                                                                                  |

*Saving*

The repeal of any enactment by this Part of this Schedule shall not affect its operation as respects any drawback of duty, where it is shown to the satisfaction of the Commissioners of Customs and Excise that the duty was paid at the rate in force at the beginning of the sixth day of April, nineteen hundred and forty-nine.

## PART IV

## DEATH DUTY REPEALS

| Session and Chapter   | Short Title                              | Extent of Repeal                            |
|-----------------------|------------------------------------------|---------------------------------------------|
| 36 Geo. 3. c.<br>52.  | The Legacy Duty Act, 1796.               | The whole Act, except section thirty-seven. |
| 39 Geo. 3. c.<br>73.  | The Legacy Duty Act, 1799.               | The whole Act.                              |
| 45 Geo. 3. c.<br>28.  | The Legacy Duty Act, 1805.               | The whole Act.                              |
| 48 Geo. 3. c.<br>149. | The Probate and Legacy Duties Act, 1808. | Section forty-four.                         |

S\*

11TH SCH.  
—cont.

| Session and Chapter         | Short Title                                                | Extent of Repeal                                                                                                                                                                                                                                                                                                                  |
|-----------------------------|------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 55 Geo. 3. c. 184.          | The Stamp Act, 1815                                        | Section two, so far as relates to legacy duty; Part III of the Schedule from the beginning of the heading "Legacies and Successions" onwards.                                                                                                                                                                                     |
| 8 & 9 Vict. c. 76.          | The Revenue Act, 1845                                      | Section four.                                                                                                                                                                                                                                                                                                                     |
| 16 & 17 Vict. c. 51.        | The Succession Duty Act, 1853.                             | The whole Act except sections forty-seven, forty-nine and fifty-three.                                                                                                                                                                                                                                                            |
| 24 & 25 Vict. c. 92.        | The Probate Duty Act, 1861.                                | Section one.                                                                                                                                                                                                                                                                                                                      |
| 26 & 27 Vict. c. 87.        | The Trustee Savings Banks Act, 1863.                       | In section forty-one, the words from "nor upon any legacy" to "administration" where next occurring.                                                                                                                                                                                                                              |
| 31 & 32 Vict. c. 124.       | The Inland Revenue Act, 1868.                              | Section nine.                                                                                                                                                                                                                                                                                                                     |
| 43 Vict. c. 14.             | The Customs and Inland Revenue Act, 1880.                  | Sections eleven to thirteen.                                                                                                                                                                                                                                                                                                      |
| 44 & 45 Vict. c. 12.        | The Customs and Inland Revenue Act, 1881.                  | Sections forty-one to forty-three.                                                                                                                                                                                                                                                                                                |
| 46 & 47 Vict. c. 47.        | The Provident Nominations and Small Intestacies Act, 1883. | Subsection (1) of section ten.                                                                                                                                                                                                                                                                                                    |
| 51 & 52 Vict. c. 8.         | The Customs and Inland Revenue Act, 1888.                  | Sections twenty-one and twenty-two.                                                                                                                                                                                                                                                                                               |
| 52 & 53 Vict. c. 7.         | The Customs and Inland Revenue Act, 1889.                  | Section six; in section seven, the words "or in respect of the value of any succession upon the death of any person so dying"; section ten.                                                                                                                                                                                       |
| 57 & 58 Vict. c. 30.        | The Finance Act, 1894                                      | Subsection (2) of section two; subsection (5) of section five; in subsection (3) of section thirteen, the words "and the legacy and succession duties"; subsection (4) of section fifteen from "which" onwards; section eighteen; paragraphs 3 and 5 of the First Schedule and in paragraph 4 of that Schedule the words "and 6". |
| 59 & 60 Vict. c. 25.        | The Friendly Societies Act, 1896.                          | Subsections (3) and (4) of section fifty-seven.                                                                                                                                                                                                                                                                                   |
| 10 Edw. 7 & 1 Geo. 5. c. 8. | The Finance (1909-10) Act, 1910.                           | In subsection (1) of section fifty-six, the words "or succession duty in respect of any real (including leasehold) property"; section fifty-eight; subsection (5) of section sixty-one from "This subsection shall apply" onwards.                                                                                                |

| Session and Chapter                | Short Title                                                   | Extent of Repeal                                                                                                                                        |
|------------------------------------|---------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3 & 4 Geo. 5.<br>c. 31.            | The Industrial and Provident Societies (Amendment) Act, 1913. | In section six, the words " and a duly stamped receipt for the succession or legacy duty " and the words " succession or legacy " where last occurring. |
| 4 & 5 Geo. 5.<br>c. 10.            | The Finance Act, 1914                                         | Subsection (2) of section thirteen.                                                                                                                     |
| 5 & 6 Geo. 5.<br>c. 89.            | The Finance (No. 2) Act, 1915.                                | Section forty-six.                                                                                                                                      |
| 7 & 8 Geo. 5.<br>c. 31.            | The Finance Act, 1917                                         | In section twenty-nine, the words " and section forty-six of the Finance (No. 2) Act, 1915 ".                                                           |
| 12 & 13 Geo. 5.<br>c. 17.          | The Finance Act, 1922                                         | Section forty-four.                                                                                                                                     |
| 13 & 14 Geo. 5.<br>c. 14.          | The Finance Act, 1923                                         | Section thirty-seven.                                                                                                                                   |
| 15 & 16 Geo. 5.<br>c. 18.          | The Settled Land Act, 1925.                                   | In the definition of " death duty " in subsection (1) of section one hundred and seventeen, the words " succession duty, legacy duty ".                 |
| 15 & 16 Geo. 5.<br>c. 20.          | The Law of Property Act, 1925.                                | In the definition of " death duty " in subsection (1) of section two hundred and five, the words " succession duty, legacy duty ".                      |
| 15 & 16 Geo. 5.<br>c. 21.          | The Land Registration Act, 1925.                              | In the definition of " death duty " in section three, the words " succession duty, legacy duty ".                                                       |
| 15 & 16 Geo. 5.<br>c. 36.          | The Finance Act, 1925                                         | Section twenty-four.                                                                                                                                    |
| 16 & 17 Geo. 5.<br>c. 29.          | The Adoption of Children Act, 1926.                           | In subsection (3) of section five, the words " succession, legacy or other ".                                                                           |
| 16 & 17 Geo. 5.<br>c. 60.          | The Legitimacy Act, 1926.                                     | In section seven, the words " succession, legacy or other ".                                                                                            |
| 17 & 18 Geo. 5.<br>c. 10.          | The Finance Act, 1927                                         | Section fifty-two.                                                                                                                                      |
| 20 & 21 Geo. 5.<br>c. 28.          | The Finance Act, 1930                                         | Section forty, except as respects estate duty.                                                                                                          |
| 20 & 21 Geo. 5.<br>c. 37.          | The Adoption of Children (Scotland) Act, 1930.                | In subsection (4) of section five the words " succession, legacy or other ".                                                                            |
| 26 Geo. 5 &<br>1 Edw. 8.<br>c. 34. | The Finance Act, 1936                                         | Section twenty-four.                                                                                                                                    |
| 1 Edw. 8 &<br>1 Geo. 6.<br>c. 54.  | The Finance Act, 1937                                         | Subsection (4) of section thirty-one.                                                                                                                   |
| 1 & 2 Geo. 6.<br>c. 45.            | The Inheritance (Family Provision) Act, 1938.                 | In subsection (1) of section five, the words " succession duty, legacy duty ".                                                                          |
| 7 & 8 Geo. 6.<br>c. 23.            | The Finance Act, 1944                                         | Section forty-three; in the Fourth Schedule, Part III and paragraph 3 of Part IV from the first " and " onwards.                                        |
| 9 & 10 Geo. 6.<br>c. 13.           | The Finance (No. 2) Act, 1945.                                | Subsection (4) of section fifty-seven.                                                                                                                  |

11TH SCH.  
—cont.

| Session and Chapter    | Short Title                                                | Extent of Repeal                                                                                                                                                                                                                                                               |
|------------------------|------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 9 & 10 Geo. 6. c. 64.  | The Finance Act, 1946                                      | In section forty-six, paragraphs (a) and (b); section forty-nine, except the words "in subsection (1) of the said section fifty-six" and the words following the last "and"; in the Tenth Schedule, Parts I and II, and in Part III paragraph 3 from "and the legacy" onwards. |
| 10 & 11 Geo. 6. c. 35. | The Finance Act, 1947                                      | Section forty-nine; in section fifty, paragraph (b) of subsection (1), and the words from "and accordingly" in that subsection to the end of the section.                                                                                                                      |
| 11 & 12 Geo. 6. c. 39. | The Industrial Assurance and Friendly Societies Act, 1948. | In subsection (3) of section eighteen, paragraphs (a) and (c).                                                                                                                                                                                                                 |

*Saving*

The repeal of any enactment by this Part of this Schedule shall not affect its operation in relation to estate duty leviable on or by reference to a death occurring before the commencement of this Act, or in relation to any legacy duty, succession duty or temporary estate duty under section six of the Customs and Inland Revenue Act, 1889, to which section twenty-seven of this Act does not apply.

PART V  
STAMP DUTY REPEALS

| Session and Chapter   | Short Title                                     | Extent of Repeal                                                                                                |
|-----------------------|-------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|
| 42 Geo. 3. c. 116.    | The Land Tax Redemption Act, 1802.              | In section one hundred and seventy-three, the words from the last "nor" to the last "Act".                      |
| 48 Geo. 3. c. 149.    | The Probate and Legacy Duties Act, 1808.        | In section thirty-eight, the words "and which oath or affirmation shall not be chargeable with any stamp duty". |
| 53 Geo. 3. c. 123.    | The Land Tax Redemption Act, 1813.              | Section thirty from "and no" onwards.                                                                           |
| 55 Geo. 3. c. 184.    | The Stamp Act, 1815...                          | Sections twenty-one and twenty-two.                                                                             |
| 7 Geo. 4. c. 16       | The Chelsea and Kilmainham Hospitals Act, 1826. | In section thirty-nine, the words "and affidavits".                                                             |
| 6 & 7 Will. 4. c. 86. | The Births and Deaths Registration Act, 1836.   | In section thirteen, the words "and certified copies of registers".                                             |
| 8 & 9 Vict. c. 118.   | The Inclosure Act, 1845                         | In section one hundred and sixty-three, the word "award".                                                       |

11TH SCH.  
—cont.

| Session and Chapter      | Short Title                                                            | Extent of Repeal                                                                                                                                                                                                                 |
|--------------------------|------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 17 & 18 Vict.<br>c. 80.  | The Registration of Births, Deaths and Marriages (Scotland) Act, 1854. | In section sixteen, the words from "and the" to "herein mentioned."                                                                                                                                                              |
| 20 & 21 Vict.<br>c. 71.  | The Lunacy (Scotland) Act, 1857.                                       | In section twenty-eight, the words "and shall bear a stamp denoting a duty of ten shillings", the words "exclusive of the sum to be paid for the stamp" and the words in the proviso from "and the said duty" to "stamp duties". |
| 26 & 27 Vict.<br>c. 87.  | The Trustee Savings Banks Act, 1863.                                   | Section forty-two.                                                                                                                                                                                                               |
| 28 & 29 Vict.<br>c. 111. | The Navy and Marines (Property of Deceased) Act, 1865.                 | In section fifteen, the words from the second "where" to the second "exempt":                                                                                                                                                    |
| 31 & 32 Vict.<br>c. 89.  | The Inclosure, etc., Expenses Act, 1868.                               | Section two.                                                                                                                                                                                                                     |
| 35 & 36 Vict.<br>c. 24.  | The Charitable Trustees Incorporation Act, 1872.                       | Section nine.                                                                                                                                                                                                                    |
| 35 & 36 Vict.<br>c. 26.  | The Review of Justices' Decisions Act, 1872.                           | In section two, the words "or any stamp duty thereupon".                                                                                                                                                                         |
| 42 & 43 Vict.<br>c. 19.  | The Habitual Drunkards Act, 1879.                                      | In section fourteen, the words from the beginning to "accordingly" and the words "stamp and".                                                                                                                                    |
| 45 & 46 Vict.<br>c. 50.  | The Municipal Corporations Act, 1882.                                  | Subsection (9) of section forty-five.                                                                                                                                                                                            |
| 46 & 47 Vict.<br>c. 47.  | The Provident Nominations and Small Intestacies Act, 1883.             | In section three, the word "forty-two".                                                                                                                                                                                          |
| 47 & 48 Vict.<br>c. 55.  | The Pensions and Yeomanry Pay Act, 1884.                               | In section five, the word "affidavit."                                                                                                                                                                                           |
| 52 & 53 Vict.<br>c. 7.   | The Customs and Inland Revenue Act, 1889.                              | In subsection (1) of section thirteen the words "(which shall be exempt from stamp duty)".                                                                                                                                       |
| 53 & 54 Vict.<br>c. 5.   | The Lunacy Act, 1890                                                   | In section two hundred and sixteen, the words "shall be stamped with a ten shilling stamp and", and in subsections (1) and (4) of section two hundred and seventeen the words "(exclusive of the stamp)".                        |
| 54 & 55 Vict.<br>c. 39.  | The Stamp Act, 1891...                                                 | Sections eighteen, nineteen, twenty-four, twenty-seven, forty and forty-two; subsection (2) of section forty-nine; sections fifty and fifty-one; paragraphs (a) and (b) of subsection (1) of section sixty-one; sections         |

11TH SCH.  
—cont.

| Session and Chapter          | Short Title                      | Extent of Repeal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|------------------------------|----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 54 & 55 Vict.<br>c. 39—cont. | The Stamp Act, 1891<br>—cont.    | sixty-three to sixty-eight, seventy-nine and eighty; subsections (4) and (5) of section eighty-seven; sections ninety and one hundred and ten and subsections (2) and (3) of section one hundred and eleven; in the First Schedule, the heading Bond given pursuant to the directions of any Act from the word "Where" onwards: in the heading Bond on obtaining letters of administration the figures in the second column and the exemptions: in the headings Letter of Allotment and Letter of Renunciation, and Scrip Certificate, Scrip or other document the figures in the second column: in paragraph (1) of the heading Letter or Power of Attorney the figures in the second column: the whole of the headings mentioned in Part I of the Eighth Schedule to this Act except those mentioned in the exemptions in paragraphs 8, 17, 18 and 27: and the following headings, namely, Allotment, Appointment of a Gamekeeper, Attested Copy, Constat, Cost Book Mines, Customary Estates, Declaration (Statutory), Decree Arbitral, Dock Warrant, Extract, Letters Patent, Marriage Licence, Renunciation, letter of Scrip Certificate or Scrip and Valuation: and in the heading Surrender the words "of copyholds, see Copyhold" and the word "other". |
| 57 & 58 Vict.<br>c. 60.      | The Merchant Shipping Act, 1894. | In subsection (1) of section one hundred and eight, the words "and shall be exempt from stamp duty"; in subsection (7) of section three hundred and ninety-five the words "indentures and".                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 62 & 63 Vict.<br>c. 9.       | The Finance Act, 1899            | Section nine.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 2 Edw. 7. c. 8               | The Cremation Act 1902.          | Section seven from "and the Stamp Act, 1891," onwards.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 5 Edw. 7. c. 4               | The Finance Act, 1905            | Subsection (1) of section five.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 6 Edw. 7. c. 20              | The Revenue Act, 1906            | Section nine.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 7 Edw. 7. c. 13              | The Finance Act, 1907            | Section nine.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

11TH SCH.  
—cont.

| Session and Chapter       | Short Title                                             | Extent of Repeal                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---------------------------|---------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3 & 4 Geo. 5.<br>c. 20.   | The Bankruptcy (Scotland) Act, 1913.                    | In section one hundred and eighty-nine, the words "oaths, affidavits" and the words "decrees arbitral".                                                                                                                                                                                                                                                                                                                                                    |
| 4 & 5 Geo. 5.<br>c. 47.   | The Deeds of Arrangement Act, 1914.                     | In section two, the words "ordinary and ad valorem"; in subsection (2) of section five the words from "and" to "payable under the deed".                                                                                                                                                                                                                                                                                                                   |
| 4 & 5 Geo. 5.<br>c. 59.   | The Bankruptcy Act, 1914.                               | In section one hundred and forty-eight, the word "affidavit".                                                                                                                                                                                                                                                                                                                                                                                              |
| 8 & 9 Geo. 5.<br>c. 40.   | The Income Tax Act, 1918.                               | In section two hundred and seventeen, the words from "affidavit" to "made" except the word "given".                                                                                                                                                                                                                                                                                                                                                        |
| 10 & 11 Geo. 5.<br>c. 18. | The Finance Act, 1920                                   | Section thirty-five.                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 19 & 20 Geo. 5.<br>c. 29. | The Government Annuities Act, 1929.                     | In subsection (1) of section twenty-two, the words "declaration or affidavit" and the words "or taken"; in section fifty-eight, paragraph (a) and in paragraph (b) the words "or declaration".                                                                                                                                                                                                                                                             |
| 20 & 21 Geo. 5.<br>c. 28. | The Finance Act, 1930                                   | Section forty-three.                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 23 & 24 Geo. 5.<br>c. 51. | The Local Government Act, 1933.                         | Section two hundred and sixty-five.                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 9 & 10 Geo. 6.<br>c. 62.  | The National Insurance (Industrial Injuries) Act, 1946. | In the Sixth Schedule, the words "including a statutory declaration" in paragraph 4.                                                                                                                                                                                                                                                                                                                                                                       |
| 9 & 10 Geo. 6.<br>c. 67.  | The National Insurance Act, 1946.                       | In the Seventh Schedule, the words "including a statutory declaration" in paragraph 4.                                                                                                                                                                                                                                                                                                                                                                     |
| 10 & 11 Geo. 6.<br>c. 27. | The National Health Service (Scotland) Act, 1947.       | In the Ninth Schedule, in the proviso inserted in section twenty-eight of the Lunacy (Scotland) Act, 1857, the words "to the said duty of ten shillings or".                                                                                                                                                                                                                                                                                               |
| 10 & 11 Geo. 6.<br>c. 35. | The Finance Act, 1947                                   | In section fifty-two, sub-paragraph (v) of paragraph (a) of subsection (2) and subsection (3); in subsection (2) of section fifty-five, the words from the first "under" to "or" and from the beginning of paragraph (a) to "any duty" in paragraph (b); subsection (2) of section fifty-six; section fifty-eight from the second "and" in subsection (1) onwards; and sections sixty to sixty-two except as mentioned in section thirty-four of this Act. |

11TH SCH.  
—cont.

| Session and Chapter    | Short Title                                 | Extent of Repeal                                                                                                                                                         |
|------------------------|---------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11 & 12 Geo. 6. c. 38. | The Companies Act, 1948.                    | In section three hundred and thirty-nine, in subsection (1) the word "affidavit" and in subsection (2) the words "oath, affidavit" and the words "de-<br>ceit arbitral". |
| 11 & 12 Geo. 6. c. 65. | The Representation of the People Act, 1948. | In the Eighth Schedule, the words from "exempting" to "and" in sub-paragraph (2) of paragraph 5.                                                                         |

PART VI  
LAND TAX REPEALS

| Session and Chapter | Title or Short Title                                                                                                                                                                                   | Extent of Repeal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 38 Geo. 3. c. 5     | The Land Tax Act, 1797.                                                                                                                                                                                | Sections one, two and four; in section seven the words from "and shall ascertain" to "hereby appointed commissioners"; section eight; section eighteen from "and in case" onwards; sections twenty-five to twenty-nine, thirty-four, thirty-six to thirty-eight, forty and fifty-three; in section fifty-seven the words from "and they" to "such salaries and pensions"; sections seventy and seventy-one, seventy-seven to eighty, eighty-four, one hundred and twenty-four, one hundred and twenty-eight and one hundred and twenty-nine. |
| 38 Geo. 3. c. 60    | The Land Tax Perpetuation Act, 1798.                                                                                                                                                                   | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 42 Geo. 3. c. 116.  | The Land Tax Redemption Act, 1802.                                                                                                                                                                     | Sections thirty-five and thirty-six, except as respects contracts for redemption entered into before the first day of April, nineteen hundred and fifty; sections one hundred and twenty-nine and one hundred and thirty; in section one hundred and sixty-seven the words from "and immediately" to "into; and"; sections one hundred and eighty to one hundred and eighty-two.                                                                                                                                                             |
| 48 Geo. 3. c. 141.  | An Act to amend the Acts relating to the duties of assessed taxes and of the tax upon profits of property, professions, trades and offices, and to regulate the assessment and collection of the same. | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |



11TH SCH.  
—cont.

| Session and Chapter      | Short Title                                           | Extent of Repeal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|--------------------------|-------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 53 Geo. 3.<br>c. 123.    | The Land Tax Redemption Act, 1813.                    | In Schedule E, the third rule from "and if" onwards.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 53 Geo. 3.<br>c. 142.    | The Land Tax Act, 1813.                               | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 1 & 2 Will. 4.<br>c. 21. | The Land Tax Act, 1831.                               | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 4 & 5 Will. 4.<br>c. 60. | The Land Tax Act, 1834.                               | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 1 & 2 Vict.<br>c. 58.    | The Land Tax Redemption Act, 1838.                    | Sections two, three and four.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 5 & 6 Vict.<br>c. 37.    | The Land Tax Act, 1842.                               | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 8 & 9 Vict.<br>c. 18.    | The Lands Clauses Consolidation Act, 1845.            | In section one hundred and thirty-three, the words "charged with the land tax or", the words "land tax or", the words "land tax and" and the words from "nevertheless" onwards.                                                                                                                                                                                                                                                                                                                                                                                         |
| 8 & 9 Vict.<br>c. 19.    | The Lands Clauses Consolidation (Scotland) Act, 1845. | In section one hundred and twenty-seven, the words, "charged with the land tax or", the words "land tax and" in both places and the words from "nevertheless" onwards.                                                                                                                                                                                                                                                                                                                                                                                                  |
| 41 & 42 Vict.<br>c. 15.  | The Customs and Inland Revenue Act, 1878.             | Section sixteen.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 43 & 44 Vict.<br>c. 19.  | The Taxes Management Act, 1880.                       | Section thirty-three; in section thirty-six, in subsection (1) the words "together with the quota of land tax payable by it at the time of such transfer" and in subsection (3) the words "together with the quotas to be assessed and levied on the parishes so transferred"; subsection (4) of section thirty-seven; sections sixty-one, seventy and eighty-three; subsection (1) of section eighty-five; in section one hundred and three, paragraph (c); sections one hundred and twelve and one hundred and fourteen; in the Second Schedule, forms 18, 19 and 20. |
| 59 & 60 Vict.<br>c. 28.  | The Finance Act, 1896                                 | Section thirty-one; in section thirty-two, in subsection (1) the words from "equal" to "section" and subsections (2) and (3); in section thirty-five, the definitions of "land subject to land tax" and of "annual value".                                                                                                                                                                                                                                                                                                                                              |

11TH SCH.  
—cont.

| Session and Chapter       | Short Title           | Extent of Repeal                                                                                                                                                                                                                                                                                                                                              |
|---------------------------|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 61 & 62 Vict.<br>c. 10.   | The Finance Act, 1898 | Subsection (1) of section twelve from the last "and" onwards.                                                                                                                                                                                                                                                                                                 |
| 11 & 12 Geo. 5.<br>c. 32. | The Finance Act, 1921 | In section sixty-four, subsection (1) to the word "and" and subsection (2).                                                                                                                                                                                                                                                                                   |
| 1 & 2 Geo. 6.<br>c. 46.   | The Finance Act, 1938 | In section fifty-two the words "for which that tax is assessed."                                                                                                                                                                                                                                                                                              |
| 5 & 6 Geo. 6.<br>c. 21.   | The Finance Act, 1942 | Section forty-three, except as to the sum payable for redemption in the case of a contract entered into before the first day of April, nineteen hundred and fifty; in Part II of the Tenth Schedule, paragraphs 1, 2 and 3 and in paragraph 4 the words "or return of arrears", and the words from "and in" onwards except the words "shall not have effect". |

*Saving*

The repeal of any enactment by this Part of this Schedule shall not affect its operation in relation to the assessment or appeals from the assessment of land tax for the land tax year 1948-9 or any earlier year or in relation to the collection or recovery of any such tax, or affect the area for which any land tax commissioners are to have jurisdiction.

PART VII

NATIONAL DEBT REPEALS

| Session and Chapter       | Short Title                  | Extent of Repeal                                                                                                                                                                                                                                                                                                                 |
|---------------------------|------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 33 & 34 Vict.<br>c. 71.   | The National Debt Act, 1870. | In section fifty-four, the words from "be from time to time" to the word "to" where next occurring, and the words "and the stock arising from the investment thereof"; in section sixty, the words "or from the sale of stock purchased with such dividends or accumulations"; in section sixty-one, the words "investment and". |
| 11 & 12 Geo. 5.<br>c. 32. | The Finance Act, 1921        | Subsection (1) of section forty-nine.                                                                                                                                                                                                                                                                                            |

Table of Statutes referred to in this Act

| Short Title                                                            | Session and Chapter             |
|------------------------------------------------------------------------|---------------------------------|
| Legacy Duty Act, 1796 ... ..                                           | 36 Geo. 3. c. 52.               |
| Land Tax Perpetuation Act, 1798 ... ..                                 | 38 Geo. 3. c. 60.               |
| Land Tax Redemption Act, 1802 ... ..                                   | 42 Geo. 3. c. 116.              |
| Land Tax Redemption Act, 1813 ... ..                                   | 53 Geo. 3. c. 123.              |
| Stamp Act, 1815 ... ..                                                 | 55 Geo. 3. c. 184.              |
| Succession Duty Act, 1853 ... ..                                       | 16 & 17 Vict. c. 51.            |
| Lunacy (Scotland) Act, 1857 ... ..                                     |                                 |
| Refreshment Houses Act, 1860 ... ..                                    | 23 & 24 Vict. c. 27.            |
| Revenue (No. 2) Act, 1861 ... ..                                       | 24 & 25 Vict. c. 91.            |
| National Debt Reduction Act, 1866 ... ..                               | 29 & 30 Vict. c. 11.            |
| Dog Licences Act, 1867 ... ..                                          | 30 & 31 Vict. c. 5.             |
| National Debt Act, 1870 ... ..                                         | 33 & 34 Vict. c. 71.            |
| Charitable Trustees Incorporation Act, 1872 ... ..                     | 35 & 36 Vict. c. 24.            |
| Pawnbrokers Act, 1872 ... ..                                           | 35 & 36 Vict. c. 93.            |
| Sinking Fund Act, 1875 ... ..                                          | 38 & 39 Vict. c. 45.            |
| Habitual Drunkards Act, 1879 ... ..                                    | 42 & 43 Vict. c. 19.            |
| Tavern Management Act, 1880 ... ..                                     | 43 & 44 Vict. c. 19.            |
| Customs and Inland Revenue Act, 1885 ... ..                            | 48 & 49 Vict. c. 51.            |
| Hawkers Act, 1888 ... ..                                               | 51 & 52 Vict. c. 33.            |
| Interpretation Act, 1889 ... ..                                        | 52 & 53 Vict. c. 63.            |
| Lunacy Act, 1890 ... ..                                                | 53 & 54 Vict. c. 5.             |
| Customs and Inland Revenue Act, 1890 ... ..                            | 53 & 54 Vict. c. 8.             |
| Stamp Act, 1891 ... ..                                                 | 54 & 55 Vict. c. 39.            |
| Savings Bank Act, 1893 ... ..                                          | 56 & 57 Vict. c. 69.            |
| Finance Act, 1894 ... ..                                               | 57 & 58 Vict. c. 30.            |
| Finance Act, 1895 ... ..                                               | 58 & 59 Vict. c. 16.            |
| Finance Act, 1896 ... ..                                               | 59 & 60 Vict. c. 28.            |
| Assurance Companies Act, 1909 ... ..                                   | 9 Edw. 7. c. 49.                |
| Finance (1909-10) Act, 1910 ... ..                                     | 10 Edw. 7. & 1 Geo. 5.<br>c. 8. |
| Deeds of Arrangement Act, 1914 ... ..                                  | 4 & 5 Geo. 6. c. 47.            |
| Finance (New Duties) Act, 1916 ... ..                                  | 6 & 7 Geo. 5. c. 11.            |
| Finance Act, 1919 ... ..                                               | 9 & 10 Geo. 5. c. 32.           |
| Acquisition of Land (Assessment of Compensation) Act, 1919 ... ..      | 9 & 10 Geo. 5. c. 57.           |
| Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 ... .. | 10 & 11 Geo. 5. c. 17.          |
| Government of Ireland Act, 1920 ... ..                                 | 10 & 11 Geo. 5. c. 67.          |
| Finance Act, 1921 ... ..                                               | 11 & 12 Geo. 5. c. 32.          |
| Safeguarding of Industries Act, 1921 ... ..                            | 11 & 12 Geo. 5. c. 47.          |
| Finance Act, 1923 ... ..                                               | 13 & 14 Geo. 5. c. 14.          |
| Finance Act, 1924 ... ..                                               | 14 & 15 Geo. 5. c. 21.          |
| Settled Land Act, 1925 ... ..                                          | 15 & 16 Geo. 5. c. 18.          |
| Law of Property Act, 1925 ... ..                                       | 15 & 16 Geo. 5. c. 20.          |
| Land Registration Act, 1925 ... ..                                     | 15 & 16 Geo. 5. c. 21.          |
| Land Charges Act, 1925 ... ..                                          | 15 & 16 Geo. 5. c. 22.          |
| Finance Act, 1925 ... ..                                               | 15 & 16 Geo. 5. c. 36.          |
| Finance Act, 1926 ... ..                                               | 16 & 17 Geo. 5. c. 22.          |
| Finance Act, 1927 ... ..                                               | 17 & 18 Geo. 5. c. 10.          |
| Moneylenders Act, 1927 ... ..                                          | 17 & 18 Geo. 5. c. 21.          |
| Finance Act, 1928 ... ..                                               | 18 & 19 Geo. 5. c. 17.          |
| Finance Act, 1929 ... ..                                               | 19 & 20 Geo. 5. c. 21.          |
| Import Duties Act, 1932 ... ..                                         | 22 & 23 Geo. 5. c. 8.           |
| Ottawa Agreements Act, 1932 ... ..                                     | 22 & 23 Geo. 5. c. 53.          |
| Finance Act, 1932 ... ..                                               | 22 & 23 Geo. 5. c. 25.          |

| Short Title                                                         | Session and Chapter           |
|---------------------------------------------------------------------|-------------------------------|
| Protection of Animals (Cruelty to Dogs) Act, 1933                   | 23 & 24 Geo. 5. c. 17.        |
| Finance Act, 1933 ... ..                                            | 23 & 24 Geo. 5. c. 19.        |
| Protection of Animals (Cruelty to Dogs) (Scotland) Act, 1934 ... .. | 24 & 25 Geo. 5. c. 25.        |
| Finance Act, 1934 ... ..                                            | 24 & 25 Geo. 5. c. 32.        |
| Finance Act, 1936 ... ..                                            | 26 Geo. 5. & 1 Edw. 8. c. 34. |
| Finance Act, 1937 ... ..                                            | 1 Edw. 8. & 1 Geo. 6. c. 54.  |
| Finance Act, 1938 ... ..                                            | 1 & 2 Geo. 6. c. 46.          |
| Finance (No. 2) Act, 1939 ... ..                                    | 2 & 3 Geo. 6. c. 109.         |
| Finance Act, 1940 ... ..                                            | 3 & 4 Geo. 6. c. 29.          |
| Finance Act, 1942 ... ..                                            | 5 & 6 Geo. 6. c. 21.          |
| Finance Act, 1943 ... ..                                            | 6 & 7 Geo. 6. c. 28.          |
| Income Tax (Employments) Act, 1943 ... ..                           | 6 & 7 Geo. 6. c. 45.          |
| Finance Act, 1944 ... ..                                            | 7 & 8 Geo. 6. c. 23.          |
| Finance Act, 1945 ... ..                                            | 8 & 9 Geo. 6. c. 24.          |
| Income Tax Act, 1945 ... ..                                         | 8 & 9 Geo. 6. c. 32.          |
| Finance (No. 2) Act, 1945 ... ..                                    | 9 & 10 Geo. 6. c. 13.         |
| Assurance Companies Act, 1946 ... ..                                | 9 & 10 Geo. 6. c. 28.         |
| Finance Act, 1946 ... ..                                            | 9 & 10 Geo. 6. c. 64.         |
| Finance Act, 1947 ... ..                                            | 10 & 11 Geo. 6. c. 35.        |
| Local Government (Scotland) Act, 1947 ... ..                        | 10 & 11 Geo. 6. c. 43.        |
| Town and Country Planning Act, 1947 ... ..                          | 10 & 11 Geo. 6. c. 51.        |
| Town and Country Planning (Scotland) Act, 1947                      | 10 & 11 Geo. 6. c. 53.        |
| Finance Act, 1948 ... ..                                            | 11 & 12 Geo. 6. c. 49.        |

## CHAPTER 48

An Act to apply a sum out of the Consolidated Fund to the service of the year ending on the thirty-first day of March, one thousand nine hundred and fifty, and to appropriate the Supplies granted in this Session of Parliament. [30th July 1949.]

Most Gracious Sovereign,

**WE**, Your Majesty's most dutiful and loyal subjects the Commons of the United Kingdom in Parliament assembled, towards making good the supply which we have cheerfully granted to Your Majesty in this session of Parliament, have resolved to grant unto Your Majesty the sum hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the

Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

#### GRANT OUT OF CONSOLIDATED FUND

1. The Treasury may issue out of the Consolidated Fund of the United Kingdom, and apply towards making good the supply granted to His Majesty for the service of the year ending on the thirty-first day of March, one thousand nine hundred and fifty, the sum of one thousand seven hundred and fifty-one million, six hundred and ninety-three thousand, eight hundred and eighty-one pounds.

Issue of  
£1,751,693,881  
out of the  
Consolidated  
Fund for the  
service of the  
year ending  
31st March  
1950.

2.—(1) The Treasury may borrow from any person, by the issue of Treasury Bills or otherwise, and the Bank of England and the Bank of Ireland may advance to the Treasury on the credit of the said sum, any sum or sums not exceeding in the whole one thousand seven hundred and fifty-one million, six hundred and ninety-three thousand, eight hundred and eighty-one pounds.

Power for the  
Treasury to  
borrow.

(2) The date of payment of any Treasury Bills issued under this section shall be a date not later than the thirty-first day of March, one thousand nine hundred and fifty and section six of the Treasury Bills Act, 1877 (which relates to the renewal of bills), shall not apply with respect to those bills.

40 & 41 Vict.  
c. 2.

(3) Any money borrowed otherwise than on Treasury Bills shall be repaid, with interest not exceeding three pounds per cent. per annum, out of the growing produce of the Consolidated Fund, at any period not later than the next succeeding quarter to that in which the money was borrowed.

(4) Any money borrowed under this section shall be placed to the credit of the account of the Exchequer, and shall form part of the said Consolidated Fund, and be available in any manner in which such Fund is available.

(5) The interest on any money borrowed under this section shall be paid out of the permanent annual charge for the National Debt.

#### APPROPRIATION OF GRANTS

3. All sums granted by this Act and the other Act mentioned in Schedule (A) annexed to this Act out of the said Consolidated Fund towards making good the supply granted to His Majesty, amounting, as appears by the said schedule, in the aggregate, to the sum of three thousand two hundred and seventy million,

Appropriation  
of sums voted  
for supply  
services.

seven hundred and eighteen thousand and fifty-two pounds, three shillings and sixpence are appropriated, and shall be deemed to have been appropriated as from the date of the passing of the Acts mentioned in the said Schedule (A), for the services and purposes expressed in Schedule (B) annexed hereto.

The abstract of schedules and schedules annexed hereto, with the notes (if any) to such schedules, shall be deemed to be part of this Act in the same manner as if they had been contained in the body thereof.

In addition to the said sums granted out of the Consolidated Fund, there may be applied out of any money directed, under section two of the Public Accounts and Charges Act, 1891, to be applied as appropriations in aid of the grants for the services and purposes specified in Schedule (B) annexed hereto the sums respectively set forth in the last column of the said schedule.

54 & 55 Vict.  
c. 24.

Treasury may in certain cases of exigency authorise expenditure unprovided for; provided that the aggregate grants for Navy, Army and Air Services respectively be not exceeded.

4.—(1) So long as the aggregate expenditure on Navy, Army and Air Services respectively is not made to exceed the aggregate sums appropriated by this Act for those services respectively, any surplus arising on any vote for those services, either by an excess of the sum realised on account of appropriations in aid of the vote over the sum which may be applied under this Act as appropriations in aid of that vote, or by saving of expenditure on that vote, may, with the sanction of the Treasury, be temporarily applied either in making up any deficiency in the sums realised on account of appropriations in aid of any other vote in the same department, or in defraying expenditure in the same department which is not provided for in the sums appropriated to the service of the department by this Act, and which it may be detrimental to the public service to postpone until provision can be made for it by Parliament in the usual course.

(2) A statement showing all cases in which the sanction of the Treasury has been given to the temporary application of a surplus under this section, and showing the circumstances under which the sanction of the Treasury has been given, shall be laid before the House of Commons with the appropriation accounts of the Navy, Army and Air Services for the year, in order that any temporary application of any surplus sanctioned by the Treasury under this section may be submitted for the sanction of Parliament.

Sanction for application of surpluses on certain Navy, Army and Air Votes for 1947-48.  
10 & 11  
Geo. 6. c. 52.  
11 & 12  
Geo. 6. c. 50.

5. Whereas under the powers given for the purpose by the Appropriation Acts, 1947 and 1948, surpluses arising on certain votes for Navy, Army and Air Services have been applied towards making good deficits on those services respectively as shown in the statements set out in Schedule (C) to this Act:

It is enacted that the application of those surpluses as shown in the said statements is hereby sanctioned.

6.—(1) A person shall not receive any payment out of a Declaration grant which may be made in pursuance of this Act for half-pay or Navy, Army, Air, or Civil non-effective services, until he has subscribed such declaration as may from time to time be prescribed by a warrant of the Treasury before one of the persons prescribed by the warrant: required in certain cases before receipt of sums appropriated.

Provided that the Treasury may dispense with the production of a declaration under this section in respect of any payment if either—

- (a) such a declaration has been subscribed within a period of twelve calendar months preceding the date of the payment, or such longer period as the Treasury may in any particular case or class of cases allow; or
- (b) the payment is made through a banker who has entered into an undertaking in such form as may be approved by the Treasury with respect to the notification of circumstances coming to the knowledge of the banker which might affect the right to such payments of the person to whom the payment is made.

(2) Any person who makes a declaration for the purpose of this section knowing the same to be untrue in any material particular shall be guilty of a misdemeanour.

7. This Act may be cited for all purposes as the Appropriation Short title Act, 1949.

**ABSTRACT**  
OF  
**SCHEDULES (A) and (B) to which this  
Act refers.**

Section 3.

**SCHEDULE (A)**

|                                         |               |    |    |
|-----------------------------------------|---------------|----|----|
|                                         | £             | s. | d. |
| Grants out of the Consolidated Fund - - | 3,270,718,052 | 3  | 6  |

Section 3.

**SCHEDULE (B).—APPROPRIATIONS OF GRANTS**

|                                                                          | Sums not exceeding |       |                           |       |
|--------------------------------------------------------------------------|--------------------|-------|---------------------------|-------|
|                                                                          | Supply Grants.     |       | Appropriations<br>in Aid. |       |
|                                                                          | £                  | s. d. | £                         | s. d. |
| 1947-48 and 1948-49.                                                     |                    |       |                           |       |
| Part 1. Civil (Excesses),<br>1947-48 - -                                 | 9,597              | 3 6   | 318,232                   | 11 1  |
| „ 2. Navy (Supple-<br>mentary), 1948-<br>49 - - -                        | 15,500,000         | 0 0   | 8,500,000                 | 0 0   |
| „ 3. Army (Supple-<br>mentary), 1948-<br>49 - - -                        | 55,000,000         | 0 0   | 24,650,000                | 0 0   |
| „ 4. Air (Supplemen-<br>tary), 1948-49 -                                 | 16,400,000         | 0 0   | 900,000                   | 0 0   |
| „ 5. Civil and Revenue<br>Departments<br>(Supplemen-<br>tary), 1948-49 - | 221,471,574        | 0 0   | 31,240,145                | 0 0   |
| £                                                                        | 308,381,171        | 3 6   | 65,608,377                | 11 1  |



SCHEDULE (B).—APPROPRIATIONS OF GRANTS—*cont.*

SCHED. (B).  
Appropriations  
of Grants.

|                                                   | Sums not exceeding   |          |          |                           |           |          |
|---------------------------------------------------|----------------------|----------|----------|---------------------------|-----------|----------|
|                                                   | Supply Grants.       |          |          | Appropriations<br>in Aid. |           |          |
|                                                   | £                    | s.       | d.       | £                         | s.        | d.       |
| 1949-50.                                          |                      |          |          |                           |           |          |
| <b>Part 6. Ministry of Defence</b>                | 712,695              | 0        | 0        | 5,000                     | 0         | 0        |
| „ 7. Navy - - -                                   | 189,250,000          | 0        | 0        | 19,760,000                | 0         | 0        |
| „ 8. Army - - -                                   | 304,700,000          | 0        | 0        | 51,500,000                | 0         | 0        |
| „ 9. Air - - -                                    | 207,450,000          | 0        | 0        | 29,241,600                | 0         | 0        |
| <b>TOTAL, DEFENCE</b> £                           | <b>702,112,695</b>   | <b>0</b> | <b>0</b> | <b>100,506,600</b>        | <b>0</b>  | <b>0</b> |
| <b>Part 10. Civil, Class I</b> -                  | 12,350,425           | 0        | 0        | 9,310,322                 | 0         | 0        |
| „ 11. Civil, Class II -                           | 59,020,938           | 0        | 0        | 1,899,093                 | 0         | 0        |
| „ 12. Civil, Class III -                          | 55,368,662           | 0        | 0        | 6,061,185                 | 0         | 0        |
| „ 13. Civil, Class IV -                           | 244,194,990          | 0        | 0        | 12,573,628                | 0         | 0        |
| „ 14. Civil, Class V -                            | 726,154,283          | 0        | 0        | 119,756,370               | 0         | 0        |
| „ 15. Civil, Class VI -                           | 169,493,482          | 0        | 0        | 37,519,117                | 0         | 0        |
| „ 16. Civil, Class VII -                          | 82,388,262           | 0        | 0        | 17,125,960                | 0         | 0        |
| „ 17. Civil, Class VIII                           | 95,003,100           | 0        | 0        | 2,830,943                 | 0         | 0        |
| „ 18. Civil, Class IX -                           | 617,991,404          | 0        | 0        | 256,159,140               | 0         | 0        |
| <b>TOTAL, CIVIL</b> - £                           | <b>2,061,965,546</b> | <b>0</b> | <b>0</b> | <b>463,235,758</b>        | <b>0</b>  | <b>0</b> |
| <b>Part 19. Revenue Depart-<br/>ments</b> - - - £ | 198,258,640          | 0        | 0        | 13,930,173                | 0         | 0        |
| <b>GRAND TOTAL</b> £                              | <b>3,270,718,052</b> | <b>3</b> | <b>6</b> | <b>643,280,908</b>        | <b>11</b> | <b>1</b> |

## SCHEDULE (A)

SCHED. (A).

## GRANTS OUT OF THE CONSOLIDATED FUND

|                                                                   | £              | s. d. |
|-------------------------------------------------------------------|----------------|-------|
| For the service of the year ended on the 31st day of March 1948—  |                |       |
| Under Act 12 & 13 Geo. 6. c. 24 - - -                             | 9,597          | 3 6   |
| For the service of the year ended on the 31st day of March 1949—  |                |       |
| Under Act 12 & 13 Geo. 6. c. 24 - - -                             | 308,371,574    | 0 0   |
| For the service of the year ending on the 31st day of March 1950— |                |       |
| Under Act 12 & 13 Geo. 6. c. 24 - - -                             | 1,210,643,000  | 0 0   |
| Under this Act - - - - -                                          | 1,751,693,881  | 0 0   |
|                                                                   |                |       |
| TOTAL - - - - -                                                   | £3,270,718,052 | 3 6   |

SCHED. (B).  
PART 1.  
Civil  
(Excesses),  
1947-48.

## SCHEDULE (B).—PART 1

## CIVIL (EXCESSES), 1947-48

SUMS granted, and sum which may be applied as appropriations in aid in addition thereto, to make good excesses on certain grants for Civil Services for the year ended on the 31st day of March 1948, viz. :—

| Vote.                                                | Sums not exceeding |       |                        |       |
|------------------------------------------------------|--------------------|-------|------------------------|-------|
|                                                      | Supply Grants.     |       | Appropriations in Aid. |       |
|                                                      | £                  | s. d. | £                      | s. d. |
| CLASS II.                                            |                    |       |                        |       |
| 2. Diplomatic and Consular Establishments, &c. - - - | 9,587              | 3 6   | —                      |       |
| CLASS VII.                                           |                    |       |                        |       |
| 6. Public Buildings, Great Britain -                 | 10                 | 0 0   | 318,232                | 11 1  |
| TOTAL, CIVIL (Excesses), 1947-48                     | £ 9,597            | 3 6   | 318,232                | 11 1  |

## SCHEDULE (B).—PART 2

## NAVY (SUPPLEMENTARY), 1948-49

SCHEDULE OF SUPPLEMENTARY SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to meet expenditure beyond the sum already provided in the grants for Navy Services for the year ended on the 31st day of March 1949, viz.:—

SCHED. (B).  
PART 2.  
Navy  
(Supplementary).  
1948-49.

| Vote.                                                   | Sums not exceeding  |                        |
|---------------------------------------------------------|---------------------|------------------------|
|                                                         | Supply Grants.      | Appropriations in Aid. |
|                                                         | £                   | £                      |
| 1. Pay, &c., of the Royal Navy and Royal Marines - - -  | 2,860,000           | —                      |
| 2. Victualling and Clothing for the the Navy - - - -    | 1,770,000           | *—700,000              |
| 3. Medical Establishments and Services - - - -          | 80,000              | —                      |
| 4. Civilians employed on Fleet Services - - - -         | 1,350,000           | —                      |
| 5. Educational Services - -                             | 45,000              | —                      |
| 6. Scientific Services - - -                            | <i>Cr</i> 135,000   | 100,000                |
| 7. Royal Naval Reserves - -                             | 70,000              | —                      |
| 8. Shipbuilding, Repairs, Maintenance, &c.—             |                     |                        |
| Section I.—Personnel -                                  | 2,300,000           | 280,000                |
| Section II.—Matériel -                                  | 1,700,000           | 4,400,000              |
| Section III.—Contract work -                            | 2,700,000           | 1,900,000              |
| 9. Naval Armaments - - -                                | 1,100,000           | 1,500,000              |
| 10. Works, Buildings and Repairs at Home and Abroad - - | 980,000             | 320,000                |
| 11. Miscellaneous Effective Services                    | 380,000             | 440,000                |
| 12. Admiralty Office - - -                              | 410,000             | —                      |
| 13. Non-Effective Services - -                          | 150,000             | —                      |
| 14. Merchant Shipbuilding, &c. -                        | <i>Cr</i> 260,000   | 260,000                |
| <b>TOTAL, NAVY (Supplementary) 1948-49</b>              | <b>£ 15,500,000</b> | <b>8,500,000</b>       |

\* Deficit.

SCHED. (B).  
PART 3.  
Army  
(Supple-  
mentary),  
1948-49.

SCHEDULE (B).—PART 3

ARMY (SUPPLEMENTARY), 1948-49

SCHEDULE OF SUPPLEMENTARY SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to meet expenditure beyond the sum already provided in the grants for Army Services for the year ended on the 31st day of March 1949, viz:—

| Vote.                                                    | Sums not exceeding   |                        |
|----------------------------------------------------------|----------------------|------------------------|
|                                                          | Supply Grants.       | Appropriations in Aid. |
|                                                          | £                    | £                      |
| 1. Pay, &c., of the Army - -                             | 12,939,000           | 1,567,000              |
| 3. War Office - - - -                                    | 190,000              | —                      |
| 4. Civilians - - - -                                     | 1,644,000            | 766,000                |
| 5. Movements - - - -                                     | 1,350,000            | 700,000                |
| 6. Supplies, &c. - - - -                                 | 3,950,000            | 1,840,000              |
| 7. Stores - - - - -                                      | <i>Cr</i> 19,500,000 | 18,500,000             |
| 8. Works, Buildings and Lands -                          | <i>Cr</i> 6,277,000  | 900,000                |
| 9. Miscellaneous Effective Services                      | 59,933,000           | 377,000                |
| 10. Non-effective Services - -                           | 771,000              | —                      |
| <b>TOTAL, ARMY (Supplementary)</b><br>1948-49 - - - - -£ | <b>55,000,000</b>    | <b>24,650,000</b>      |

## SCHEDULE (B).—PART 4

## AIR (SUPPLEMENTARY), 1948–49

SCHED. (B).  
PART 4.  
Air  
(Supple-  
mentary).  
1948–49.

SCHEDULE OF SUPPLEMENTARY SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to meet expenditure beyond the sum already provided in the grants for Air Services for the year ended on the 31st day of March 1949, viz.:—

| Vote.                                                  | Sums not exceeding  |                        |
|--------------------------------------------------------|---------------------|------------------------|
|                                                        | Supply Grants.      | Appropriations in Aid. |
|                                                        | £                   | £                      |
| 1. Pay, &c., of the Air Force -                        | 4,183,000           | *—100,000              |
| 2. Reserve and Auxiliary Services -                    | <i>Cr</i> 105,000   | —                      |
| 3. Air Ministry - - - -                                | 139,000             | —                      |
| 4. Civilians at Outstations - -                        | 1,175,000           | *—25,000               |
| 5. Movements - - - -                                   | 750,000             | *—160,000              |
| 6. Supplies - - - -                                    | 2,910,000           | 2,450,000              |
| 7. Aircraft and Stores - - -                           | 8,250,000           | 200,000                |
| 8. Works and Lands - - -                               | <i>Cr</i> 2,100,000 | *—500,000              |
| 9. Miscellaneous Effective Services                    | 1,430,000           | *—1,000,000            |
| 10. Non-effective Services - -                         | <i>Cr</i> 232,000   | 35,000                 |
| <b>TOTAL, AIR (Supplementary),<br/>1948–49 - - - -</b> | <b>£ 16,400,000</b> | <b>900,000</b>         |

\* Deficit.

SCHED. (B).  
PART 5.  
Civil and  
Revenue  
Departments  
(Supple-  
mentary),  
1948-49.

SCHEDULE (B).—PART 5

CIVIL AND REVENUE DEPARTMENTS (SUPPLEMENTARY), 1948-49

SCHEDULE OF SUPPLEMENTARY SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges for the Services herein particularly mentioned for the year ended on the 31st day of March 1949, viz.:—

|                                                                                                                                                                                                           | Sums not exceeding |                        |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                           | Supply Grants.     | Appropriations in Aid. |
| CIVIL.                                                                                                                                                                                                    |                    |                        |
| CLASS I.                                                                                                                                                                                                  |                    |                        |
| Vote.                                                                                                                                                                                                     | £                  | £                      |
| 2. For the salaries and expenses of the House of Commons, including a grant in aid of the Kitchen Committee - - - - -                                                                                     | 41,955             | 700                    |
| 4. For the salaries and other expenses in the Department of His Majesty's Treasury and Subordinate Departments, including additional salary payable to the Chancellor of the Duchy of Lancaster - - - - - | 130,500            | —                      |
| 8. For the salaries and expenses of the Civil Service Commission - - - - -                                                                                                                                | 14,350             | 27,425                 |
| 12. For a grant in aid of the Government Hospitality Fund - - - - -                                                                                                                                       | 60,000             | —                      |
| 18. For the salaries of the establishment under the Public Works Loan Commission and the expenses of the Commission - - - - -                                                                             | 10                 | 500                    |
| 23. For certain miscellaneous expenses, including certain grants in aid - - - - -                                                                                                                         | 10                 | 17,000                 |
| Carried forward - - - - -                                                                                                                                                                                 | £ 246,825          | 45,625                 |

SCHEDULE (B).—PART 5—*continued*

SCHED. (B).  
PART 5.  
Civil and  
Revenue  
Departments  
(Supple-  
mentary),  
1948-49.

|                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Sums not exceeding |                           |
|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|---------------------------|
|                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Supply<br>Grants.  | Appropriations<br>in Aid. |
| CIVIL— <i>cont.</i>      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | £                  | £                         |
| Brought forward - - - -  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 246,825            | 45,625                    |
| CLASS I— <i>cont.</i>    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                    |                           |
| Vote.                    | 24. For the salaries and expenses of the Office of the Secretary of State for Scotland and of the Scottish Home Department; expenses in connection with provisional orders and statutory orders subject to special procedure; a subsidy for transport services to the Western Highlands and Islands, &c.; grants and expenses in connection with services relating to children and young persons; a grant in lieu of land tax; grants towards the expenses of probation; grants in connection with physical training and recreation; grants for coast protection works; expenses in connection with the requisitioning of shop premises; miscellaneous services arising out of the war; and certain grants in aid - - - - | 130,540            | *— 2,940                  |
| CLASS II.                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                    |                           |
|                          | 2. For the expenses in connection with His Majesty's Embassies, Missions and Consular Establishments Abroad; certain special grants and payments, including grants in aid; and sundry other services - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 2,801,000          | 100,000                   |
|                          | 6. For the salaries and expenses of the Department of His Majesty's Secretary of State for Commonwealth Relations - - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 8,000              | —                         |
| Carried forward - - - -£ |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 3,186,365          | 142,685                   |

\* Deficit.

SCHED. (B).  
PART 5.  
Civil and  
Revenue  
Departments  
(Supple-  
mentary).  
1948-49.

SCHEDULE (B).—PART 5—*continued*

|                                                                                                                                                                                                                                                                                                          | Sums not exceeding |                           |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|---------------------------|
|                                                                                                                                                                                                                                                                                                          | Supply<br>Grants.  | Appropriations<br>in Aid. |
|                                                                                                                                                                                                                                                                                                          | £                  | £                         |
| <b>CIVIL—<i>cont.</i></b>                                                                                                                                                                                                                                                                                |                    |                           |
| Brought forward - - - -                                                                                                                                                                                                                                                                                  | 3,186,365          | 142,685                   |
| <b>CLASS II—<i>cont.</i></b>                                                                                                                                                                                                                                                                             |                    |                           |
| <i>Vote.</i>                                                                                                                                                                                                                                                                                             |                    |                           |
| 7. For sundry Commonwealth services, including certain grants in aid; for the salaries and expenses of Pensions Appeal Tribunals in Eire; for expenditure in connection with ex-service men and women in Eire; and for a grant in aid to Eire in respect of compensation to transferred officers - - - - | 10                 | —                         |
| 8. For the salaries and expenses of the India and Pakistan Division of the Department of His Majesty's Secretary of State for Commonwealth Relations; for sundry India and Pakistan services; and for certain remanet expenditure in connection with former Burma Services - -                           | 531,570            | 7,500                     |
| 9. For the expenses connected with Oversea Settlement- - - -                                                                                                                                                                                                                                             | 137,600            | * —2,260                  |
| 10. For the salaries and expenses of the Department of His Majesty's Secretary of State for the Colonies and the salary of the Minister of State for Colonial Affairs - - - -                                                                                                                            | 7,000              | * —27,000                 |
| 11. For sundry Colonial and Middle Eastern Services under His Majesty's Secretary of State for the Colonies, including certain non-effective services and grants in aid                                                                                                                                  | 12,695,010         | —                         |
| Carried forward - - - -                                                                                                                                                                                                                                                                                  | 16,557,555         | 120,925                   |

\* Deficit.



SCHEDULE (B).—PART 5—*continued*

SCHED. (B).  
PART 5.  
Civil and  
Revenue  
Departments  
(Supple-  
mentary),  
1948-49.

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Sums not exceeding  |                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Supply Grants.      | Appropriations in Aid. |
| <b>CIVIL—<i>cont.</i></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | £                   | £                      |
| Brought forward- - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 16,557,555          | 120,925                |
| <b>CLASS II—<i>cont.</i></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                     |                        |
| Vote.<br>12. For the salaries and expenses of the West African Produce Control Board, including the cost of trading services; and for grants in aid of sums equivalent to accumulated profits realised under the West African cocoa control scheme for allocation to the Governments of the Gold Coast, Nigeria and Sierra Leone, and to accumulated funds under the West African oils and oilseeds control scheme for allocation to those Governments and the Government of the Gambia - - | 13,000,000          | —                      |
| 13. For the development of the resources of colonies, protectorates, protected states and mandated territories, and the welfare of their peoples - -                                                                                                                                                                                                                                                                                                                                        | 1,950,000           | —                      |
| <b>CLASS III.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                     |                        |
| 1. For the salaries and expenses of the office of His Majesty's Secretary of State for the Home Department and of subordinate offices; the cost of training in civil defence; contributions towards the expenses of probation; liquidation expenses of the Royal Irish Constabulary; the cost of transport of certain Polish dependants from overseas; a grant to the Central Committee for Refugees; the cost of maintenance of certain Ukrainians; and certain grants in aid - - - - -    | 10                  | —                      |
| <b>Carried forward - - - - -</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>£ 31,507,565</b> | <b>120,925</b>         |

T

SCHED. (B).  
PART 5.  
Civil and  
Revenue  
Departments  
(Supple-  
mentary),  
1948-49.

SCHEDULE (B).—PART 5—*continued*

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Sums not exceeding |                        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | £                  | £                      |
| CIVIL— <i>cont.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                    |                        |
| Brought forward- - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 31,507,565         | 120,925                |
| CLASS III— <i>cont.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                    |                        |
| Vote.<br>3. For the salaries of the Commissioner and Assistant Commissioners of the Metropolitan Police, and of the Receiver for the Metropolitan Police District; the contribution towards the expenses of the Metropolitan Police; the salaries and expenses of the Inspectors of Constabulary; the cost of special services; and other grants in respect of Police expenditure, including a grant in aid of the Police Federation and a contribution towards the expenses of the International Criminal Police Commission - - - - - | 548,000            | 10,000                 |
| 4. For the salaries and expenses of the office of the Prison Commissioners and of the Prisons in England and Wales - - - - -                                                                                                                                                                                                                                                                                                                                                                                                           | 10                 | 313,490                |
| 5. For grants in respect of the expenses of the managers of approved schools in England and Wales; for grants to local authorities in respect of their expenditure in connection with the care and welfare of children and young persons; for grants towards the expenses of voluntary homes; and for expenses in connection with training in child care - - - -                                                                                                                                                                       | 643,000            | 40,000                 |
| Carried forward - - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | £ 32,698,575       | 484,415                |

SCHEDULE (B).—PART 5—*continued*

SCHED. (B).  
PART 5.  
Civil and  
Revenue  
Departments  
(Supple-  
mentary),  
1948-49.

|                                                                                                                                                                                                                                                                                                                                                                        | Sums not exceeding |                        |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                                                                                                                        | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                                                                                                        | £                  | £                      |
| <b>CIVIL—<i>cont.</i></b>                                                                                                                                                                                                                                                                                                                                              |                    |                        |
| Brought forward - - - -                                                                                                                                                                                                                                                                                                                                                | 32,698,575         | 484,415                |
| <b>CLASS III—<i>cont.</i></b>                                                                                                                                                                                                                                                                                                                                          |                    |                        |
| Vote.<br>7. For such of the salaries and expenses of the Supreme Court of Judicature and Court of Criminal Appeal as are not charged on the Consolidated Fund, the salaries and expenses of Pensions Appeal Tribunals and War Pensions (Special Review) Tribunals, the salaries and expenses of the department of the Judge Advocate General, and a grant in aid - - - | 10                 | —                      |
| 13. For the salary and expenses of the Inspector of Constabulary, the cost of special services, and grants in respect of Police expenditure in Scotland, including a grant in aid of the Scottish Police Federation -                                                                                                                                                  | 54,500             | 75                     |
| <b>CLASS IV.</b>                                                                                                                                                                                                                                                                                                                                                       |                    |                        |
| 11. For grants in aid of the expenses of certain Universities, Colleges, Teaching Hospitals, &c., in Great Britain, and for certain other services, including loans to Universities for capital expenditure and the cost of certain Post Graduate Studentships - - - - -                                                                                               | 509,000            | —                      |
| <b>CLASS V.</b>                                                                                                                                                                                                                                                                                                                                                        |                    |                        |
| 2. For the expenses of providing a comprehensive health service in England and Wales and certain other services connected therewith, including the central purchase of medical supplies                                                                                                                                                                                | 52,800,000         | 18,158,000             |
| Carried forward - - - - -£                                                                                                                                                                                                                                                                                                                                             | 86,062,085         | 18,642,490             |

T 2

SCHED. (B).  
PART 5.  
Civil and  
Revenue  
Departments  
(Supple-  
mentary),  
1948-49.

SCHEDULE (B).—PART 5—*continued*

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Sums not exceeding |                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | £                  | £                      |
| <b>CIVIL—<i>cont.</i></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                    |                        |
| Brought forward- - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 86,062,085         | 18,642,490             |
| <b>CLASS V—<i>cont.</i></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                    |                        |
| Vote.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                    |                        |
| 4. For the salaries and expenses of the Ministry of Labour and National Service, including grants to local authorities, associations and other bodies in respect of employment exchange and other services; expenses in connection with the inspection of factories; expenses of training, transfer, rehabilitation and resettlement; expenses in connection with national service; a contribution towards the expenses of the International Labour Organisation; expenses of the Industrial Court and the National Arbitration Tribunal; and sundry other services - - | 850,000            | *—550,000              |
| 7. For the salaries and expenses of the Department of the National Assistance Board and of certain Appeal Tribunals and Pension Committees; non-contributory Old Age Pensions, including pensions to blind persons; Supplementary Pensions to certain persons in receipt of Old Age Pensions or Widows' Pensions; allowances to applicants for assistance, &c.; assistance grants; the expenses of re-establishment centres, reception centres, &c.; and the expenses of maintaining certain classes of Poles in Great Britain - - -                                    | 6,710,000          | *—65,000               |
| 14. For the expenses of providing a comprehensive health service in Scotland and certain other services connected therewith, including the central purchase of medical supplies - -                                                                                                                                                                                                                                                                                                                                                                                     | 5,655,000          | 700,000                |
| Carried forward - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | -£ 99,277,085      | 18,727,490             |

\* Deficit.

SCHEDULE (B).—PART 5—*continued*

SCHED. (B).  
PART 5.  
Civil and  
Revenue  
Departments.  
(Supple-  
mentary).  
1948-49.

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Sums not exceeding |                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | £                  | £                      |
| <b>CIVIL—<i>cont.</i></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                    |                        |
| Brought forward - - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 99,277,085         | 18,727,490             |
| <b>CLASS VI.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                    |                        |
| <i>Vote.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                    |                        |
| 1. For the salaries and expenses of the office of the Committee of Privy Council for Trade and subordinate departments, including the cost of certain trading services; assistance and subsidies to certain industries; certain grants in aid; and other services - - - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 9,529,820          | 108,850                |
| 2. For services in Development Areas -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 2,136,500          | —                      |
| 8. For the salaries and expenses of the Ministry of Agriculture and Fisheries, and of the Royal Botanic Gardens, Kew, including grants, grants in aid and expenses in respect of agricultural education and research; eradication of diseases of animals and improvement of breeding, &c., of live stock; land settlement, improvement of cultivation, drainage, &c.; purchase, adaptation, development and management of land; regulation of agricultural wages, agricultural credits and marketing; the purchase and sale of home-produced wool; the prevention of food infestation; agricultural training and settlement schemes; fishery organisation, research and development, including assistance to the inshore fishing industry and control of diseases of fish, &c.; and sundry other services - - - - - | 10                 | 1,099,990              |
| Carried forward - - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | £110,943,415       | 19,936,330             |

SCHED. (B).  
PART 5.  
Civil and  
Revenue  
Departments  
(Supple-  
mentary).  
1948-49.

SCHEDULE (B).—PART 5—*continued*

|                              |                                                                                                                                                                                                                                                                                           | Sums not exceeding |                        |
|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                              |                                                                                                                                                                                                                                                                                           | Supply Grants.     | Appropriations in Aid. |
|                              |                                                                                                                                                                                                                                                                                           | £                  | £                      |
| <b>CIVIL—<i>cont.</i></b>    |                                                                                                                                                                                                                                                                                           |                    |                        |
|                              | Brought forward - - - -                                                                                                                                                                                                                                                                   | 110,943,415        | 19,936,330             |
| <b>CLASS VI—<i>cont.</i></b> |                                                                                                                                                                                                                                                                                           |                    |                        |
| Vote.                        | 9. For the cost of certain food production services of the Ministry of Agriculture and Fisheries, including a grant in aid of the Agricultural Disaster Fund - - - - -                                                                                                                    | 1,935,000          | *—4,935,000            |
|                              | 10. For the expenses of the survey of Great Britain and other mapping services - - - - -                                                                                                                                                                                                  | 187,540            | 6,610                  |
|                              | 14. For a grant in aid of the Road Fund; for other expenditure in connection with roads; for payments to local authorities in reimbursement of expenses incurred in the collection of motor vehicle duties, &c., and the registration of motor vehicles; and for other services - - - - - | 1,000,000          | 100,000                |
|                              | 18. For the salaries and expenses of the Department of Scientific and Industrial Research, including the Geological Survey of Great Britain and Museum of Practical Geology, and a grant in aid - - - - -                                                                                 | 81,000             | 40,000                 |
|                              | 19. For the salaries and expenses of the State Management Districts, including the salaries of the central office and the cost of provision and management of licensed premises -                                                                                                         | 10                 | 129,990                |
|                              | Carried forward - - - -                                                                                                                                                                                                                                                                   | -£114,146,965      | 15,277,930             |

\* Deficit.

SCHEDULE (B).—PART 5—*continued*

SCHED. (B).  
PART 5.  
Civil and  
Revenue  
Departments  
(Supple-  
mentary),  
1948-49.

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Sums not exceeding |                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|---------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Supply<br>Grants.  | Appropriations<br>in Aid. |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | £                  | £                         |
| <b>CIVIL—<i>cont.</i></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                    |                           |
| Brought forward - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 114,146,965        | 15,277,930                |
| <b>CLASS VI—<i>cont.</i></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                    |                           |
| Vote.<br>21. For the salaries and expenses of the Department of Agriculture for Scotland, including grants for land improvement, agricultural education and research, agricultural marketing, agricultural credits, expenses in respect of regulation of agricultural wages, management and use of land acquired for forestry and other purposes, agricultural training and settlement schemes, certain grants in aid, remanet subsidy payments, flood emergency and sundry other services - - - - - | 10                 | —                         |
| 24. For the salaries and expenses of the members of the Herring Industry Board; for grants in respect of the general administrative and other expenses of the Herring Industry Board, including certain advances by way of grant in aid; for a grant in aid of the Herring Marketing Fund; and for grants to herring fishermen and certain other persons for assistance in the provision of boats and equipment - - -                                                                                | 10                 | —                         |
| <b>CLASS VII.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                    |                           |
| 5. For expenditure in respect of Osborne                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 2,470              | 1,500                     |
| 6. For expenditure in respect of sundry public buildings in Great Britain, not provided for on other Votes -                                                                                                                                                                                                                                                                                                                                                                                         | 8,123,100          | 370,900                   |
| Carried forward - - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | £122,272,555       | 15,650,330                |

SCHED. (B).  
PART 5.  
Civil and  
Revenue  
Departments  
(Supple-  
mentary),  
1948-49.

SCHEDULE (B).—PART 5—*continued*

|                                                                                                                                                                                                                                                                                                                                            | Sums not exceeding |                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                                                                                            | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                                                                            | £                  | £                      |
| <b>CIVIL—<i>cont.</i></b>                                                                                                                                                                                                                                                                                                                  |                    |                        |
| Brought forward- - - -                                                                                                                                                                                                                                                                                                                     | 122,272,555        | 15,650,330             |
| <b>CLASS VII—<i>cont.</i></b>                                                                                                                                                                                                                                                                                                              |                    |                        |
| Vote.                                                                                                                                                                                                                                                                                                                                      |                    |                        |
| 6A. For the cost of the completion of memorials to the memory of the late Admirals of the Fleet Earl Jellicoe and Earl Beatty - - -                                                                                                                                                                                                        | 9,200              | —                      |
| 7. For expenditure in respect of public buildings overseas - - -                                                                                                                                                                                                                                                                           | 10                 | —                      |
| 10. For expenditure in respect of miscellaneous works services, including certain grants in aid - - -                                                                                                                                                                                                                                      | 3,334,675          | 347,325                |
| 12. For the expense of providing stationery, printing, paper, binding, and printed books for the public service ; to pay the salaries and expenses of the Stationery Office ; and for sundry miscellaneous services, including reports of Parliamentary Debates -                                                                          | 10                 | 506,990                |
| <b>CLASS VIII.</b>                                                                                                                                                                                                                                                                                                                         |                    |                        |
| 2. For the salaries and expenses of the Ministry of Pensions ; payments in respect of war pensions, gratuities and allowances ; sundry contributions in respect thereof and other services, including payment of War Service Grants and National Service Grants and certain expenses connected with the National Health Services - - - - - | 2,417,000          | 553,000                |
| 4. For superannuation and other non-effective annual allowances, additional allowances, gratuities, compassionate allowances and supplementary pensions in respect of civil employment - - - - -                                                                                                                                           | 50,000             | —                      |
| Carried forward- - - -                                                                                                                                                                                                                                                                                                                     | -£128,083,450      | 17,057,645             |



SCHEDULE (B).—PART 5—*continued*

SCHED. (B).  
PART 5.  
Civil and  
Revenue  
Departments  
(Supple-  
mentary),  
1948-49.

|                                                                                                                                                                                                                                                                                                                                                                                                  | Sums not exceeding |                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                  | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                                                                                                                                  | £                  | £                      |
| <b>CIVIL—cont.</b>                                                                                                                                                                                                                                                                                                                                                                               |                    |                        |
| Brought forward - - -                                                                                                                                                                                                                                                                                                                                                                            | 128,083,450        | 17,057,645             |
| <b>CLASS X.</b>                                                                                                                                                                                                                                                                                                                                                                                  |                    |                        |
| <i>Vote.</i>                                                                                                                                                                                                                                                                                                                                                                                     |                    |                        |
| 1. For the salaries and expenses of the Ministry of Supply, including the cost of trading services and of assistance to certain industries -                                                                                                                                                                                                                                                     | 28,999,990         | 9,000,000              |
| 2. For the salaries and expenses of the Ministry of Food; the cost of trading services, including certain subsidies; and sundry other services                                                                                                                                                                                                                                                   | 52,214,124         | 53,000                 |
| 3. For the cost of Shipping and Inland Transport Services arising out of the War - - - - -                                                                                                                                                                                                                                                                                                       | 8,800,000          | 2,595,000              |
| 6. For the salaries and expenses of the German Section of the Foreign Office, the Control Commission for Germany and the Allied Commission for Austria, including certain non-effective services, supplies and services essential to the Occupation, financial assistance to Austria, a contribution towards the expenses of the International Authority for the Ruhr, and sundry other services | 3,059,000          | 2,304,500              |
| 8. For the salaries and expenses of the War Damage Commission - -                                                                                                                                                                                                                                                                                                                                | 165,000            | 10,000                 |
| <b>REVENUE DEPARTMENTS.</b>                                                                                                                                                                                                                                                                                                                                                                      |                    |                        |
| 1. For the salaries and expenses of the Customs and Excise Department -                                                                                                                                                                                                                                                                                                                          | 10                 | 220,000                |
| 2. For the salaries and expenses of the Inland Revenue Department -                                                                                                                                                                                                                                                                                                                              | 150,000            | —                      |
| <b>TOTAL, CIVIL AND REVENUE DEPARTMENTS (Supplementary), 1948-49</b> -£                                                                                                                                                                                                                                                                                                                          | <b>221,471,574</b> | <b>31,240,145</b>      |

T\*

SCHED. (B).  
PART 6.  
Ministry of  
Defence.  
1949-50.

SCHEDULE (B).—PART 6

MINISTRY OF DEFENCE

SCHEDULE OF SUM granted, and of the sum which may be applied as appropriations in aid in addition thereto, to defray the charge of the MINISTRY OF DEFENCE, which will come in course of payment during the year ending on the 31st day of March 1950, viz.:—

|                                                                    | Sums not exceeding |                        |
|--------------------------------------------------------------------|--------------------|------------------------|
|                                                                    | Supply Grant.      | Appropriations in Aid. |
|                                                                    | £                  | £                      |
| For the salaries and expenses of the Ministry of Defence - - - - - | 712,695            | 5,000                  |

## SCHEDULE (B).—PART 7

SCHED. (B).  
PART 7.  
Navy.  
1949-50.

## NAVY

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the NAVY SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1950, including provision for officers, seamen, boys and royal marines, and members of the Women's Royal Naval Service and the Naval Nursing Service to a number not exceeding 153,000, and for royal marine police to a number not exceeding 1,400, in addition to reserve forces, viz. :—

|                                                                                                                             | Sums not exceeding |                        |
|-----------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                             | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                             | £                  | £                      |
| Vote.                                                                                                                       |                    |                        |
| 1. For the pay, &c., of the Royal Navy and Royal Marines - - - -                                                            | 37,225,000         | 285,000                |
| 2. For victualling and clothing for the Navy, including the cost of victualling establishments at home and abroad - - - - - | 11,690,000         | 3,560,000              |
| 3. For medical services, including the cost of medical establishments at home and abroad - - - - -                          | 1,550,000          | 56,000                 |
| 4. For civilians employed on fleet services                                                                                 | 5,815,000          | 20,000                 |
| 5. For educational services - - -                                                                                           | 695,000            | 105,000                |
| 6. For scientific services, including a Grant in Aid to the National Institute of Oceanography - - -                        | 7,180,000          | 414,000                |
| 7. For the Royal Naval Reserve, the Royal Fleet Reserve and the Royal Naval Volunteer Reserve, &c. -                        | 1,000,000          | 100                    |
| Carried forward - - - - -£                                                                                                  | 65,155,000         | 4,440,100              |

SCHED. (B).  
PART 7.  
Navy.  
1949-50.

SCHEDULE (B).—PART 7—*continued*

|       |                                                                                                                                                                           | Sums not exceeding |                        |
|-------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|       |                                                                                                                                                                           | Supply Grants.     | Appropriations in Aid. |
|       |                                                                                                                                                                           | £                  | £                      |
|       | Brought forward- - - -                                                                                                                                                    | 65,155,000         | 4,440,100              |
| Vote. | 8. Section I. For the personnel for shipbuilding, repairs, maintenance, &c., including the cost of establishments of Dockyards and Naval Yards at home and abroad - - - - | 25,900,000         | 200,000                |
|       | „ Section II. For the matériel for shipbuilding, repairs, maintenance, &c., including the cost of establishments of Dockyards and Naval Yards at home and abroad - - - -  | 20,220,000         | 8,070,000              |
|       | „ Section III. For contract work for shipbuilding, repairs, maintenance, &c. - - - -                                                                                      | 28,550,000         | 2,630,000              |
|       | 9. For naval armaments - - - -                                                                                                                                            | 13,035,000         | 1,740,000              |
|       | 10. For works, buildings and repairs at home and abroad, including the cost of superintendence, purchase of sites, grants and other charges connected therewith - - - -   | 10,266,000         | 650,000                |
|       | 11. For various miscellaneous effective services - - - -                                                                                                                  | 6,358,000          | 1,886,900              |
|       | 12. For the Admiralty Office - - - -                                                                                                                                      | 5,106,000          | 5,000                  |
|       | 13. For non-effective services - - - -                                                                                                                                    | 14,613,000         | 82,000                 |
|       | 14. For merchant shipbuilding, &c. -                                                                                                                                      | 47,000             | 56,000                 |
|       | TOTAL, NAVY SERVICES -                                                                                                                                                    | -£189,250,000      | 19,760,000             |

## SCHEDULE (B).—PART 8

SCHED. (B).  
PART 8.  
Army.  
1949-50.

## ARMY

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the ARMY SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1950, including provision for Land Forces to a number not exceeding 550,000, all ranks, in addition to the Reserve Forces, Territorial Army and Cadet Forces, viz. :—

|                                                                                                                                                                                                                                               | Sums not exceeding |                        |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                               | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                               | £                  | £                      |
| Vote.<br>1. For the pay, &c., of the Army -                                                                                                                                                                                                   | 94,250,000         | 9,100,000              |
| 2. For the Reserve Forces (to a number not exceeding 45,000, all ranks, for the Royal Army Reserve and 6,000, all ranks, for the Supplementary Reserve), Territorial Army (to a number not exceeding 150,000, all ranks) and Cadet Forces - - | 12,460,000         | 110,000                |
| 3. For the War Office - - - -                                                                                                                                                                                                                 | 2,340,000          | 50,000                 |
| 4. For civilians - - - - -                                                                                                                                                                                                                    | 46,460,000         | 1,510,000              |
| 5. For movements - - - - -                                                                                                                                                                                                                    | 22,650,000         | 350,000                |
| 6. For supplies, &c. - - - - -                                                                                                                                                                                                                | 33,810,000         | 12,840,000             |
| 7. For stores - - - - -                                                                                                                                                                                                                       | 50,000,000         | 19,250,000             |
| 8. For works, buildings and lands - -                                                                                                                                                                                                         | 23,600,000         | 5,300,000              |
| 9. For miscellaneous effective services -                                                                                                                                                                                                     | 3,430,000          | 2,940,000              |
| 10. For non-effective services - - -                                                                                                                                                                                                          | 15,700,000         | 50,000                 |
| TOTAL, ARMY SERVICES -                                                                                                                                                                                                                        | £304,700,000       | 51,500,000             |

SCHED. (B).  
PART 9.  
Air.  
1949-50.

SCHEDULE (B).—PART 9

AIR

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the AIR SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1950, including provision for officers, airmen and airwomen for Air Force Service to a number not exceeding 255,000, all ranks, in addition to reserve and auxiliary services, viz.:—

|                                                                                                                                                                               | Sums not exceeding   |                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|------------------------|
|                                                                                                                                                                               | Supply Grants.       | Appropriations in Aid. |
|                                                                                                                                                                               | £                    | £                      |
| <b>Vote.</b>                                                                                                                                                                  |                      |                        |
| 1. For the pay, &c., of the Air Force -                                                                                                                                       | 55,200,000           | 1,750,000              |
| 2. For reserve and auxiliary services (to a number not exceeding 27,000, all ranks, for the Air Force Reserve and 20,000, all ranks, for the Royal Auxiliary Air Force) - - - | 1,300,000            | 300                    |
| 3. For the Air Ministry - - - -                                                                                                                                               | 3,000,000            | 800                    |
| 4. For civilians at outstations - - -                                                                                                                                         | 20,846,000           | 222,000                |
| 5. For movements - - - - -                                                                                                                                                    | 8,620,000            | 660,000                |
| 6. For supplies - - - - -                                                                                                                                                     | 26,040,000           | 3,341,000              |
| 7. For aircraft and stores - - - -                                                                                                                                            | 64,500,000           | 18,000,000             |
| 8. For works and lands - - - - -                                                                                                                                              | 22,500,000           | 4,200,000              |
| 9. For miscellaneous effective services -                                                                                                                                     | 2,344,000            | 1,000,000              |
| 10. For non-effective services - - -                                                                                                                                          | 3,100,000            | 67,500                 |
| <b>TOTAL, AIR SERVICES -</b>                                                                                                                                                  | <b>-£207,450,000</b> | <b>29,241,600</b>      |

## SCHEDULE (B).—PART 10

SCHED. (B).  
PART 10.  
Civil.  
Class I.  
1949-50.

## CIVIL.—CLASS I

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several CIVIL SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1950, viz.:—

| Vote.                                                                                                                                                                                                                                       | Sums not exceeding |                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                             | Supply Grants.     | Appropriations in Aid. |
| 1. For the salaries and expenses of the House of Lords - - - -                                                                                                                                                                              | £<br>88,123        | £<br>11,333            |
| 2. For the salaries and expenses of the House of Commons, including a grant in aid to the Kitchen Committee - - - -                                                                                                                         | 872,314            | 4,835                  |
| 3. For expenses in respect of the registration of electors - - - -                                                                                                                                                                          | 375,000            | —                      |
| 4. For the salaries and other expenses in the Department of His Majesty's Treasury and subordinate departments, including additional salary payable to the Chancellor of the Duchy of Lancaster (including a Supplementary sum of £2,000) - | 3,291,926          | 43,000                 |
| 5. For the salaries and expenses of the Department of His Majesty's most Honourable Privy Council - -                                                                                                                                       | 29,477             | 2,500                  |
| 6. For the salaries and expenses of the Office of the Lord Privy Seal - -                                                                                                                                                                   | 8,665              | —                      |
| 7. For the salaries and expenses of the Charity Commission for England and Wales - - - -                                                                                                                                                    | 67,831             | 3,000                  |
| 8. For the salaries and expenses of the Civil Service Commission - -                                                                                                                                                                        | 576,820            | 51,700                 |
| 9. For the salaries and expenses of the Department of the Comptroller and Auditor General - - - -                                                                                                                                           | 344,750            | 25,930                 |
| 10. For the salaries and expenses of the Department of the Government Actuary - - - -                                                                                                                                                       | 31,089             | 12,020                 |
| 11. For the salaries and expenses of the Department of the Government Chemist- - - -                                                                                                                                                        | 188,061            | 200                    |
| Carried forward - - - -£                                                                                                                                                                                                                    | 5,874,056          | 154,518                |

SCHED. (B).  
PART 10.  
Civil.  
Class I.  
1949-50.

SCHEDULE (B).—PART 10—*continued*

|                                                                                                                                                                                                                                             | Sums not exceeding |                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                             | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                             | £                  | £                      |
| Brought forward - - -                                                                                                                                                                                                                       | 5,874,056          | 154,518                |
| Vote.                                                                                                                                                                                                                                       |                    |                        |
| 12. For a grant in aid of the Government Hospitality Fund - - -                                                                                                                                                                             | 110,000            | —                      |
| 13. For the salaries and expenses of the Mint, including the expenses of coinage (Imperial, Colonial and Foreign), and the expenses of the preparation of medals and badges, dies for postage and other stamps, and His Majesty's seals - - | 100                | 8,633,700              |
| 14. For the salaries and expenses of the National Debt Office - - -                                                                                                                                                                         | 100                | 34,560                 |
| 15. For the salaries and expenses of the National Savings Committee - -                                                                                                                                                                     | 1,008,020          | —                      |
| 16. For payments to certain temporary Crown Servants and comparable employees in respect of overlapping Income Tax payments - - -                                                                                                           | 50,000             | —                      |
| 17. For the salaries and expenses of the Public Record Office and of the Office of Land Revenue Records and Inrolments - - - - -                                                                                                            | 71,226             | 3,000                  |
| 18. For the salaries of the establishment under the Public Works Loan Commission and the expenses of the Commission - - - - -                                                                                                               | 100                | 47,620                 |
| 19. For the payment due to the Local Loans Fund in respect of advances in Northern Ireland - - -                                                                                                                                            | 21,500             | —                      |
| Carried forward - - - - -£                                                                                                                                                                                                                  | 7,135,102          | 8,873,398              |



SCHEDULE (B.)—PART 10—*continued*

SCHED. (B).  
PART 10.  
Civil.  
Class I.  
1949-50.

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Sums not exceeding |                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | £                  | £                      |
| Brought forward - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 7,135,102          | 8,873,398              |
| <b>Vote.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                    |                        |
| 20. For the salaries and other expenses of Royal Commissions, committees, special inquiries, &c., including provision for shorthand - -                                                                                                                                                                                                                                                                                                                                                                       | 129,000            | —                      |
| 21. For His Majesty's foreign and other secret services - - - -                                                                                                                                                                                                                                                                                                                                                                                                                                               | 3,000,000          | —                      |
| 22. For the salaries and expenses of the Tithe Redemption Commission -                                                                                                                                                                                                                                                                                                                                                                                                                                        | 100                | 317,210                |
| 23. For certain miscellaneous expenses, including certain grants in aid -                                                                                                                                                                                                                                                                                                                                                                                                                                     | 674,210            | 88,500                 |
| 23A. For repayment to the Civil Contingencies Fund of certain miscellaneous advances - - - -                                                                                                                                                                                                                                                                                                                                                                                                                  | 107,594            | —                      |
| 24. For the salaries and expenses of the Office of the Secretary of State for Scotland and of the Scottish Home Department; expenses in connection with private legislation; subsidies for certain transport services; grants in connection with probation services, physical training and recreation, coast protection works, services in Development Areas, &c.; grants and expenses in connection with services relating to children and young persons; certain grants in aid; and sundry other services - | 1,286,815          | 24,660                 |
| 25. For the salaries and expenses of the Scottish Record Office - - -                                                                                                                                                                                                                                                                                                                                                                                                                                         | 17,604             | 6,554                  |
| <b>TOTAL, CIVIL, CLASS I - -£</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>12,350,425</b>  | <b>9,310,322</b>       |

SCHED. (B).  
PART 11.  
Civil.  
Class II.  
1949-50.

SCHEDULE (B).—PART 11

CIVIL.—CLASS II

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several CIVIL SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1950, viz.:—

| Vote.                                                                                                                                                                                                                                                                                     | Sums not exceeding |                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                                           | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                           | £                  | £                      |
| 1. For the salaries and expenses of the Department of His Majesty's Secretary of State for Foreign Affairs and the salary of a Minister of State -                                                                                                                                        | 2,785,580          | 395,000                |
| 2. For the expenses in connection with His Majesty's Embassies, Missions and Consular Establishments abroad; certain special grants and payments, including grants in aid; and sundry other services (including a Supplementary sum of £745,000)                                          | 15,197,300         | 389,500                |
| 3. For a grant in aid of the British Council                                                                                                                                                                                                                                              | 2,551,000          | —                      |
| 4. For a contribution towards the expenses of the United Nations -                                                                                                                                                                                                                        | 1,155,000          | —                      |
| 5. For a contribution towards the expenses of the International Refugee Organisation - - - -                                                                                                                                                                                              | 5,637,500          | —                      |
| 6. For the salaries and expenses of the Department of His Majesty's Secretary of State for Commonwealth Relations - - - -                                                                                                                                                                 | 363,440            | 138,050                |
| 7. For sundry Commonwealth services, including certain grants in aid; for the salaries and expenses of Pensions Appeal Tribunals in Eire; a grant in aid to Eire in respect of compensation to transferred officers; and certain expenditure in connection with former Burma services - - | 2,060,560          | 4,900                  |
| Carried forward - - - -                                                                                                                                                                                                                                                                   | -£ 29,750,380      | 927,450                |

SCHEDULE (B).—PART 11—*continued*SCHED. (B).  
PART 11.  
Civil.  
Class II.  
1949-50.

|       |                                                                                                                                                                                                                                                                                                                                          | Sums not exceeding |                        |
|-------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|       |                                                                                                                                                                                                                                                                                                                                          | Supply Grants.     | Appropriations in Aid. |
|       |                                                                                                                                                                                                                                                                                                                                          | £                  | £                      |
|       | Brought forward- - - -                                                                                                                                                                                                                                                                                                                   | 29,750,380         | 927,450                |
| Vote. | 8. For expenses connected with over-sea settlement - - - -                                                                                                                                                                                                                                                                               | 653,290            | 9,350                  |
|       | 9. For the salaries and expenses of the Department of His Majesty's Secretary of State for the Colonies and the salary of the Minister of State for Colonial Affairs - - -                                                                                                                                                               | 863,760            | 351,500                |
|       | 10. For sundry Colonial and Middle Eastern services under His Majesty's Secretary of State for the Colonies, including certain non-effective services and certain grants in aid (including a Supplementary sum of £6,600,000) - - - -                                                                                                    | 14,012,432         | 510,793                |
|       | 11. For the salaries and expenses of the West African Produce Control Board, including the cost of trading services; and for a grant in aid of a sum equivalent to accumulated funds under the West African oils and oilseeds control scheme for allocation to the Governments of the Gold Coast, Nigeria, Sierra Leone and the Gambia - | 5,001,010          | —                      |
|       | 12. For the development of the resources of colonies, protectorates, protected states and mandated territories, and the welfare of their peoples - -                                                                                                                                                                                     | 7,353,500          | 100,000                |
|       | 13. For the development of the resources of the South African High Commission Territories and the welfare of their peoples - - - -                                                                                                                                                                                                       | 302,500            | —                      |
|       | 14. For certain expenses of the Imperial War Graves Commission, including purchase of land in the United Kingdom and a grant in aid - -                                                                                                                                                                                                  | 1,084,066          | —                      |
|       | TOTAL, CIVIL, CLASS II - - -£                                                                                                                                                                                                                                                                                                            | 59,020,938         | 1,899,093              |

SCHED. (B).  
PART 12.  
Civil.  
Class III.  
1949-50.

SCHEDULE (B).—PART 12

CIVIL.—CLASS III

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several CIVIL SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1950, viz.:—

| Vote.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Sums not exceeding |                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | £                  | £                      |
| 1. For the salaries and expenses of the office of His Majesty's Secretary of State for the Home Department and of subordinate offices; contributions towards the expenses of probation; liquidation expenses of the Royal Irish Constabulary; a grant to the Central Committee for Refugees; certain grants in aid; and certain services arising out of the war -                                                                                                                                                   | 2,967,525          | 103,760                |
| 2. For grants and expenses in connection with Civil Defence, including certain expenditure arising out of the war -                                                                                                                                                                                                                                                                                                                                                                                                 | 3,847,960          | 555,000                |
| 3. For the salaries of the Commissioner and Assistant Commissioners of the Metropolitan Police, and of the Receiver for the Metropolitan Police District; the contribution towards the expenses of the Metropolitan Police; the salaries and expenses of the Inspectors of Constabulary; the cost of special services; and other grants in respect of Police expenditure, including a grant in aid of the Police Federation and a contribution towards the expenses of the International Criminal Police Commission | 23,309,755         | 57,825                 |
| 4. For the salaries and expenses of the office of the Prison Commissioners and of the prisons in England and Wales - - - - -                                                                                                                                                                                                                                                                                                                                                                                        | 4,929,420          | 1,175,000              |
| Carried forward - - - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | £ 35,054,660       | 1,891,585              |

SCHEDULE (B).—PART 12—*continued*

SCHED. (B).  
PART 12.  
Civil.  
Class III.  
1949-50.

|                                                                                                                                                                                                                                                                                                                                                                                                     | Sums not exceeding |                        |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                     | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                                                                                                                                     | £                  | £                      |
| Brought forward - - -                                                                                                                                                                                                                                                                                                                                                                               | 35,054,660         | 1,891,585              |
| Vote.<br>5. For grants in respect of the expenses of the managers of approved schools in England and Wales; grants to local authorities in respect of their expenditure in connection with the care and welfare of children and young persons; grants towards the expenses of voluntary homes; and expenses in connection with training in child care - - - - -                                     | 5,694,900          | 75,100                 |
| 6. For expenses in connection with the fire services in England and Wales, including the cost of inspection and training, the central purchase and maintenance of equipment, certain non-effective charges, grants in respect of expenditure incurred by fire authorities and certain other expenses; and for remanet expenditure in connection with the National Fire Service, England and Wales - | 7,163,370          | 930,000                |
| 7. For such of the salaries and expenses of the Supreme Court of Judicature and Court of Criminal Appeal as are not charged on the Consolidated Fund; the salaries and expenses of Pensions Appeal Tribunals, War Pensions (Special Review) Tribunals and the Department of the Judge Advocate General; payments to jurors; and certain grants in aid -                                             | 1,422,591          | 1,191,475              |
| 8. For the salaries and expenses in connection with the County Courts, the Liabilities Adjustment Offices and the War Damage (Valuation Appeals) Tribunal - - - -                                                                                                                                                                                                                                   | 270,758            | 556,300                |
| Carried forward - - - -£                                                                                                                                                                                                                                                                                                                                                                            | 49,606,279         | 4,644,460              |

SCHED. (B).  
PART 12.  
Civil.  
Class III.  
1949-50.

SCHEDULE (B).—PART 12—*continued*

|                                                                                                                                                                                                                                                                                                                                                                        | Sums not exceeding |                        |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                                                                                                                        | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                                                                                                        | £                  | £                      |
| Brought forward- - - -                                                                                                                                                                                                                                                                                                                                                 | 49,606,279         | 4,644,460              |
| Vote.                                                                                                                                                                                                                                                                                                                                                                  |                    |                        |
| 9. For the salaries and expenses of the office of Land Registry - - -                                                                                                                                                                                                                                                                                                  | 100                | 355,270                |
| 10. For the salaries and expenses of the office of Public Trustee - - -                                                                                                                                                                                                                                                                                                | 100                | 385,600                |
| 11. For the salaries and expenses of the Law Officers' Department; the salaries and expenses of the Department of His Majesty's Procurator-General and Solicitor for the Affairs of His Majesty's Treasury, and of the Department of the Director of Public Prosecutions; the costs of prosecutions and other legal proceedings, and of Parliamentary Agency - - - - - | 512,064            | 146,000                |
| 12. For certain miscellaneous legal expenses, for the salaries and expenses of arbitrators, &c., in connection with the acquisition of land, for grants in aid of the expenses of the Law Society and of the Solicitors' Discipline (Scotland) Committee, and for the expenses of tribunals established in connection with defence compensation - - -                  | 76,365             | 2,500                  |
| 13. For grants and expenses in connection with Civil Defence in Scotland, including certain expenditure arising out of the war - - - -                                                                                                                                                                                                                                 | 267,320            | —                      |
| 14. For the salary and expenses of the Inspector of Constabulary, the cost of special services, and grants in respect of Police expenditure in Scotland, including a grant in aid of the Scottish Police Federation -                                                                                                                                                  | 2,329,591          | 2,300                  |
| Carried forward - - - -£                                                                                                                                                                                                                                                                                                                                               | 52,791,819         | 5,536,130              |

SCHEDULE (B).—PART 12—*continued*SCHED. (B).  
PART 12.  
Civil.  
Class III.  
1949-50.

|                                                                                                                                                                                                                                                                                                                                                                                                                      | Sums not exceeding |                        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                      | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                                                                                                                                                      | £                  | £                      |
| Brought forward - - - -                                                                                                                                                                                                                                                                                                                                                                                              | 52,791,819         | 5,536,130              |
| Vote.<br>15. For salaries and expenses in connection with the administration of Scottish prisons, including the maintenance of criminal lunatics and inmates of the State Inebriate Reformatory -                                                                                                                                                                                                                    | 486,373            | 133,083                |
| 16. For grants in respect of the expenses of the managers of approved schools in Scotland - - - -                                                                                                                                                                                                                                                                                                                    | 192,350            | 5,500                  |
| 17. For expenses in connection with the fire services in Scotland, including the cost of inspection and training, the central purchase and maintenance of equipment, certain non-effective charges, grants in respect of expenditure incurred by fire authorities and joint fire committees and certain other expenses; and for remanet expenditure in connection with the National Fire Service in Scotland - - - - | 510,271            | 66,100                 |
| 18. For the salaries and expenses of the office of the Scottish Land Court -                                                                                                                                                                                                                                                                                                                                         | 14,135             | 600                    |
| 19. For the salaries and expenses of the Lord Advocate's Department and other law charges, including expenditure in connection with the provision of free legal assistance to members of the forces in certain cases; and the salaries and expenses of the Courts of Law and Justice and of Pensions Appeal Tribunals in Scotland - - - -                                                                            | 137,853            | 197,750                |
| 20. For the salaries and expenses of the Department of the Registers of Scotland - - - -                                                                                                                                                                                                                                                                                                                             | 100                | 94,878                 |
| Carried forward - - - -                                                                                                                                                                                                                                                                                                                                                                                              | £ 54,132,901       | 6,034,041              |

SCHED. (B).  
PART 12.  
Civil.  
Class III.  
1949-50.

SCHEDULE (B).—PART 12—*continued*

|       |                                                                                                                                                                                                                                                                                                                                                                                       | Sums not exceeding |                        |
|-------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|       |                                                                                                                                                                                                                                                                                                                                                                                       | Supply Grants.     | Appropriations in Aid. |
|       | Brought forward- - - -                                                                                                                                                                                                                                                                                                                                                                | £<br>54,132,901    | £<br>6,034,041         |
| Vote. | 21. For such of the salaries and expenses of the Supreme Court of Judicature and Court of Criminal Appeal of Northern Ireland as are not charged on the Consolidated Fund, the salaries and expenses of Pensions Appeal Tribunals in Northern Ireland, and other expenses, including certain expenses in connection with land purchase in Northern Ireland and a grant in aid - - - - | 33,931             | 27,044                 |
|       | 22. For charges in connection with land purchase in Northern Ireland, and the expenses of management of guaranteed stocks and bonds issued for the purposes of Irish land purchase - - - -                                                                                                                                                                                            | 1,201,830          | 100                    |
|       | TOTAL, CIVIL, CLASS III - - - -                                                                                                                                                                                                                                                                                                                                                       | £55,368,662        | 6,061,185              |



## SCHEDULE (B).—PART 13

SCHED. (B).  
PART 13.  
Civil.  
Class IV.  
1949-50.

## CIVIL.—CLASS IV

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several CIVIL SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1950, viz. :—

| Vote.                                                                                                                                                                                                                                                                           | Sums not exceeding |                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                                 | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                 | £                  | £                      |
| 1. For the salaries and expenses of the Ministry of Education, and of the various establishments connected therewith, including sundry grants in aid, grants in connection with physical training and recreation, and grants to approved associations for youth welfare - - - - | 181,986,282        | 10,933,905             |
| 2. For the salaries and expenses of the British Museum, including a grant in aid - - - - -                                                                                                                                                                                      | 275,712            | 33,378                 |
| 3. For the salaries and expenses of the British Museum (Natural History), including a grant in aid - - -                                                                                                                                                                        | 215,315            | 3,000                  |
| 4. For the salaries and expenses of the Imperial War Museum, including a grant in aid - - - - -                                                                                                                                                                                 | 32,723             | 2,000                  |
| 5. For the salaries and expenses of the London Museum, including a grant in aid - - - - -                                                                                                                                                                                       | 13,862             | 100                    |
| 6. For the salaries and expenses of the National Gallery and the Tate Gallery, Millbank, including a grant in aid - - - - -                                                                                                                                                     | 77,377             | 267                    |
| 7. For the salaries and expenses of the National Maritime Museum, including a grant in aid - - - -                                                                                                                                                                              | 22,078             | 150                    |
| Carried forward - - - -                                                                                                                                                                                                                                                         | £182,623,349       | 10,972,800             |

SCHED. (B).  
PART 13.  
Civil.  
Class IV.  
1949-50.

SCHEDULE (B).—PART 13—*continued*

|       |                                                                                                                                                                                                                                                    | Sums not exceeding  |                        |
|-------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|------------------------|
|       |                                                                                                                                                                                                                                                    | Supply Grants.      | Appropriations in Aid. |
|       |                                                                                                                                                                                                                                                    | £                   | £                      |
|       | Brought forward - - - -                                                                                                                                                                                                                            | 182,623,349         | 10,972,800             |
| Vote. | 8. For the salaries and expenses of the National Portrait Gallery, including a grant in aid - - - -                                                                                                                                                | 17,876              | 1,800                  |
|       | 9. For the salaries and expenses of the Wallace Collection - - - -                                                                                                                                                                                 | 24,202              | 3,500                  |
|       | 10. For grants in aid to certain institutions and bodies concerned with science, learning and the arts, and for other services in connection therewith -                                                                                           | 3,370,868           | 2,951                  |
|       | 11. For grants in aid of the expenses of certain universities, colleges, &c., in Great Britain, and for certain other services, including loans to universities for capital expenditure and the cost of certain post graduate studentships - - - - | 17,671,500          | —                      |
|       | 12. For grants to the British Broadcasting Corporation, including a grant in aid                                                                                                                                                                   | 14,150,000          | —                      |
|       | 13. For salaries and expenses in connection with the Festival of Britain, 1951 (including a Supplementary sum of £40,000) - - - -                                                                                                                  | 640,000             | 100                    |
|       | 14. For public education in Scotland, including certain grants in aid of the Education (Scotland) Fund; for the Royal Scottish Museum, Edinburgh, including a grant in aid; and for a grant in aid of the education of Poles                       | 25,656,222          | 1,586,960              |
|       | 15. For the salaries and expenses of the National Gallery, Scotland, the Scottish National Portrait Gallery, and the National Museum of Antiquities of Scotland, including certain grants in aid - - - -                                           | 27,505              | 500                    |
|       | 16. For the salaries and expenses of the National Library, Scotland, including a grant in aid - - - -                                                                                                                                              | 13,468              | 5,017                  |
|       | <b>TOTAL, CIVIL, CLASS IV -</b>                                                                                                                                                                                                                    | <b>£244,194,990</b> | <b>12,573,628</b>      |

## SCHEDULE (B).—PART 14

SCHED. (B).  
PART 14.  
Civil.  
Class V.  
1949-50.

## CIVIL.—CLASS V

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several CIVIL SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1950, viz. :—

|                                                                                                                                                                                                                                                                                                                                                                                                                                      | Sums not exceeding |                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                      | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                                                                                                                                                                      | £                  | £                      |
| Vote.<br>1. For the salaries and expenses of the Ministry of Health, including grants and other expenses in connection with housing, hospital and general health services; a supplemental grant in respect of dental benefit; salaries and expenses of the Local Government Boundary Commission, the Board of Control and Local Valuation Panels and Courts; and sundry other services (including a Supplementary sum of £1,000,000) | 68,925,000         | 9,328,000              |
| 2. For the provision of a comprehensive health service in England and Wales and certain other services connected therewith, including the central purchase of medical supplies - -                                                                                                                                                                                                                                                   | 228,424,600        | 84,245,000             |
| 3. For Exchequer Equalisation Grants and Exchequer Transitional Grants to local authorities in England and Wales - - - - -                                                                                                                                                                                                                                                                                                           | 49,850,000         | —                      |
| 4. For the salaries and expenses of the Department of the Registrar General of Births, &c.- - - - -                                                                                                                                                                                                                                                                                                                                  | 483,509            | 71,350                 |
| Carried forward - - -                                                                                                                                                                                                                                                                                                                                                                                                                | £347,683,109       | 93,644,350             |

SCHED. (B).  
PART 14.  
Civil.  
Class V.  
1949-50.

SCHEDULE (B).—PART 14—*continued*

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Sums not exceeding |                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | £                  | £                      |
| Brought forward- - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 347,683,109        | 93,644,350             |
| <b>Vote.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                    |                        |
| 5. For the salaries and expenses of the Ministry of Labour and National Service, including grants to local authorities, associations and other bodies in respect of employment exchange and other services; expenses in connection with the inspection of factories; expenses of training, transfer, rehabilitation and resettlement; expenses in connection with national service; a contribution towards the expenses of the International Labour Organisation; expenses of the Industrial Court and the National Arbitration Tribunal; and sundry other services - - - | 27,750,000         | 2,636,000              |
| 6. For grants to local authorities, &c., in respect of employment and development schemes, including adjustments of grant in certain cases - - -                                                                                                                                                                                                                                                                                                                                                                                                                          | 850,000            | —                      |
| 7. For the salaries and expenses of the Ministry of National Insurance, including sums payable by the Exchequer to the National Insurance Fund and the Industrial Injuries Fund; payments in respect of family allowances; certain expenses in connection with national insurance, industrial injuries insurance, family allowances and workmen's compensation; and sundry other services- - - -                                                                                                                                                                          | 208,280,500        | 13,512,500             |
| Carried forward - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | £584,563,609       | 109,792,850            |

SCHEDULE (B).—PART 14—*continued*

SCHED. (B).  
PART 14.  
Civil.  
Class V.  
1949-50.

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Sums not exceeding |                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | £                  | £                      |
| Brought forward- - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 584,563,609        | 109,792,850            |
| Vote.<br>8. For the salaries and expenses of the Department of the National Assistance Board and of certain Appeal Tribunals; non-contributory old age pensions, including pensions to blind persons; assistance grants, &c.; expenses of re-establishment centres, reception centres, &c.; and the maintenance of certain classes of Poles in Great Britain - - -                                                                                                                   | 87,350,000         | 720,000                |
| 9. For the salaries and expenses of the National Insurance Audit Department - - - - -                                                                                                                                                                                                                                                                                                                                                                                                | 130,480            | 1,820                  |
| 10. For the salaries and expenses of the Registry of Friendly Societies- - -                                                                                                                                                                                                                                                                                                                                                                                                         | 53,700             | 4,500                  |
| 11. For the salaries and expenses of the Ministry of Town and Country Planning, including grants to local authorities, grants to development corporations established for the purposes of new towns, and sundry other services- - - - -                                                                                                                                                                                                                                              | 1,328,000          | 6,000                  |
| 12. For the salaries and expenses of the Central Land Board - - - -                                                                                                                                                                                                                                                                                                                                                                                                                  | 1,529,000          | 81,000                 |
| 13. For the salaries and expenses of the Department of Health for Scotland, including grants and other expenses in connection with housing, town and country planning and the creation of new towns; general health grants and services; a supplemental grant in respect of dental benefit; water and sewerage grants and services; salaries and expenses of the General Board of Control for Scotland; and certain other services (including a Supplementary sum of £125,000) - - - | 12,505,000         | 613,000                |
| Carried forward - - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                              | £687,459,789       | 111,219,170            |

SCHED. (B).  
PART 14.  
Civil.  
Class V.  
1949-50.

SCHEDULE (B).—PART 14—*continued*

|                                                                                                                                                                                     | Sums not exceeding  |                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|------------------------|
|                                                                                                                                                                                     | Supply Grants.      | Appropriations in Aid. |
|                                                                                                                                                                                     | £                   | £                      |
| Brought forward- - - -                                                                                                                                                              | 687,459,789         | 111,219,170            |
| Vote.<br>14. For the provision of a comprehensive health service in Scotland and certain other services connected therewith, including the central purchase of medical supplies - - | 31,303,000          | 8,352,000              |
| 15. For Exchequer Equalisation Grants and certain other grants to local authorities in Scotland - - -                                                                               | 7,320,000           | 180,000                |
| 16. For the salaries and expenses of the Department of the Registrar General of Births, &c., in Scotland - -                                                                        | 71,494              | 5,200                  |
| <b>TOTAL, CIVIL, CLASS V - -</b>                                                                                                                                                    | <b>£726,154,283</b> | <b>119,756,370</b>     |

## SCHEDULE (B).—PART 15

SCHED. (B).  
PART 15.  
Civil.  
Class VI.  
1949-50.

## CIVIL.—CLASS VI

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several CIVIL SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1950, viz.:—

| Vote.                                                                                                                                                                                                                                                                       | Sums not exceeding |                        |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                             | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                             | £                  | £                      |
| 1. For the salaries and expenses of the office of the Committee of Privy Council for Trade and subordinate departments, including the cost of certain trading services; assistance and subsidies to certain industries; certain grants in aid; and other services - - - - - | 11,118,875         | 2,868,750              |
| 2. For services in Development Areas -                                                                                                                                                                                                                                      | 11,971,000         | —                      |
| 3. For financial assistance to industrial undertakings in Development Areas, including remanet expenditure in respect of similar assistance in former Special Areas - - - - -                                                                                               | 752,010            | —                      |
| 4. For the salaries and expenses of the Export Credits Guarantee Department, and for payments under guarantees given after consultation with the Export Guarantees Advisory Council - - - - -                                                                               | 100                | 1,139,600              |
| 5. For payments under special guarantees given by the Board of Trade under the Overseas Trade Guarantees Scheme - - - - -                                                                                                                                                   | 137,000            | 48,000                 |
| 6. For the salaries and expenses of the Ministry of Fuel and Power, including assistance to gas undertakings in Development Areas - - - - -                                                                                                                                 | 7,033,000          | 506,000                |
| 7. For the salaries and expenses of the office of the Commissioners of Crown Lands - - - - -                                                                                                                                                                                | 62,652             | —                      |
| Carried forward - - - - -                                                                                                                                                                                                                                                   | -£ 31,074,637      | 4,562,350              |

SCHED. (B).  
PART 15.  
Civil.  
Class VI.  
1949-50.

SCHEDULE (B).—PART 15—continued

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Sums not exceeding |                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | £                  | £                      |
| Brought forward - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 31,074,637         | 4,562,350              |
| <b>Vote.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                    |                        |
| 8. For the salaries and expenses of the Ministry of Agriculture and Fisheries, and of the Royal Botanic Gardens, Kew, including grants, grants in aid and expenses in respect of agricultural education and research; services in connection with live stock; land settlement; land drainage; purchase, adaptation, development and management of land; agricultural credits and marketing; the purchase and sale of home-produced wool; the prevention of food infestation; agricultural training and settlement schemes; fishery organisation, research and development; and sundry other services - - - - | 13,513,398         | 1,921,390              |
| 9. For certain food production services of the Ministry of Agriculture and Fisheries - - - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 43,428,010         | 19,748,000             |
| 10. For the survey of Great Britain and other mapping services - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 2,409,050          | 332,500                |
| 11. For a grant in aid of the Forestry Fund                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 5,895,000          | —                      |
| 12. For a grant in aid of the Development Fund - - - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 820,000            | —                      |
| 13. For the salaries and expenses of the Ministry of Transport, including expenses of the Transport Tribunal, the Road and Rail Appeal Tribunal and the Transport Arbitration Tribunal, and sundry other services -                                                                                                                                                                                                                                                                                                                                                                                          | 2,783,300          | 957,100                |
| Carried forward - - - -£                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 99,923,395         | 27,521,340             |



SCHEDULE (B).—PART 15—*continued*

SCHED. (B).  
PART 15.  
Civil.  
Class VI.  
1949-50.

|                                                                                                                                                                                                                                                                                         | Sums not exceeding |                        |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                                         | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                         | £                  | £                      |
| Brought forward- - - -                                                                                                                                                                                                                                                                  | 99,923,395         | 27,521,340             |
| Vote.                                                                                                                                                                                                                                                                                   |                    |                        |
| 14. For a grant in aid of the Road Fund; for other expenditure in connection with roads; for payments to local authorities in reimbursement of expenses incurred in the collection of motor vehicle duties, &c., and the registration of motor vehicles; and for other services - - - - | 28,897,000         | 400,000                |
| 15. For the salaries and expenses of the Coastguard and the cost of certain Mercantile Marine Services - -                                                                                                                                                                              | 501,600            | 552,300                |
| 16. For the salaries and expenses of the Ministry of Civil Aviation, including certain grants and subsidies - -                                                                                                                                                                         | 22,554,084         | 4,158,300              |
| 17. For grants to public utility undertakings in Great Britain - - -                                                                                                                                                                                                                    | 8,100              | —                      |
| 18. For the salaries and expenses of the Department of Scientific and Industrial Research, including the Geological Survey of Great Britain and Museum of Practical Geology, and a grant in aid - - - -                                                                                 | 4,414,717          | 412,503                |
| 19. For the salaries and expenses of the State Management Districts, including the salaries of the central office and the cost of provision and management of licensed premises -                                                                                                       | 100                | 1,511,320              |
| Carried forward - - - -                                                                                                                                                                                                                                                                 | £156,298,996       | 34,555,763             |

U

SCHED. (B).  
PART 15.  
Civil.  
Class VI.  
1949-50.

SCHEDULE (B).—PART 15—*continued*

|                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Sums not exceeding |                        |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                      | £                  | £                      |
| Brought forward- - - -                                                                                                                                                                                                                                                                                                                                                                                                                               | 156,298,996        | 34,555,763             |
| <b>Vote.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                         |                    |                        |
| 20. For the salaries and expenses of the Department of Agriculture for Scotland, including grants, grants in aid and expenses in respect of prevention of food infestation; land settlement; purchase, adaptation, development and management of land; improvement of livestock; land drainage; agricultural education and research, agricultural marketing and credits; agricultural training and settlement schemes; and sundry other services - - | 3,524,007          | 519,940                |
| 21. For certain food production services of the Department of Agriculture for Scotland - - - -                                                                                                                                                                                                                                                                                                                                                       | 8,150,000          | 2,333,610              |
| 22. For salaries and expenses in connection with the administration of Scottish fishery services, including assistance to the inshore fishing industry and to fishermen's co-operative societies, &c., and a grant in aid of piers or quays - - - -                                                                                                                                                                                                  | 903,279            | 109,804                |
| 23. For the salaries and expenses of members of the Herring Industry Board; for grants in respect of the expenses of the Herring Industry Board, including certain advances by way of grant in aid; for a grant in aid of the Herring Marketing Fund; and for grants to herring fishermen and certain other persons for assistance in the provision of boats and equipment -                                                                         | 617,200            | —                      |
| <b>TOTAL, CIVIL, CLASS VI - -</b>                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>169,493,482</b> | <b>37,519,117</b>      |

## SCHEDULE (B).—PART 16

SCHED. (B).  
PART 16.  
Civil.  
Class VII.  
1949-50.

## CIVIL.—CLASS VII

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several CIVIL SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1950, viz.:—

| Vote.                                                                                                                                                                                                                                                                                                                      | Sums not exceeding |                        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                                                                            | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                                                            | £                  | £                      |
| 1. For the salaries and expenses of the Ministry of Works - - -                                                                                                                                                                                                                                                            | 8,679,655          | 2,750,000              |
| 2. For expenditure in respect of Houses of Parliament buildings - -                                                                                                                                                                                                                                                        | 1,095,000          | 3,450                  |
| 3. For expenditure in respect of sundry public buildings in Great Britain -                                                                                                                                                                                                                                                | 39,198,950         | 7,399,585              |
| 4. For expenditure in respect of public buildings overseas - - - -                                                                                                                                                                                                                                                         | 1,864,180          | 14,700                 |
| 5. For expenditure in respect of Royal Palaces, including a grant in aid -                                                                                                                                                                                                                                                 | 410,000            | 18,750                 |
| 6. For expenditure in respect of royal parks and pleasure gardens - -                                                                                                                                                                                                                                                      | 662,000            | 39,460                 |
| 7. For expenditure in respect of miscellaneous works services, including certain grants in aid - - - -                                                                                                                                                                                                                     | 6,638,645          | 2,846,465              |
| 8. For rates and contributions in lieu of rates, &c., in respect of property in the occupation of the Crown for the public service, and for rates on buildings occupied by representatives of British Dominions and of Foreign Powers; and for the salaries and expenses of the Rating of Government Property Department - | 9,426,073          | 254,980                |
| Carried forward - - - -£                                                                                                                                                                                                                                                                                                   | 67,974,503         | 13,327,390             |

U 2

SCHED. (B).  
PART 16.  
Civil.  
Class VII.  
1949-50.

SCHEDULE (B).—PART 16—continued

|                         |                                                                                                                                                                                                                                         | Sums not exceeding |                        |
|-------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                         |                                                                                                                                                                                                                                         | Supply Grants.     | Appropriations in Aid. |
|                         |                                                                                                                                                                                                                                         | £                  | £                      |
| Brought forward - - -   |                                                                                                                                                                                                                                         | 67,974,503         | 13,327,390             |
| <b>Vote.</b>            |                                                                                                                                                                                                                                         |                    |                        |
| 9.                      | For stationery, printing, paper, binding, and printed books for the public service; for the salaries and expenses of the Stationery Office; and for sundry miscellaneous services, including reports of Parliamentary Debates - - - - - | 10,670,779         | 3,320,000              |
| 10.                     | For the salaries and expenses of the Central Office of Information -                                                                                                                                                                    | 3,459,850          | 474,900                |
| 11.                     | For the construction of a harbour of refuge at Peterhead - - -                                                                                                                                                                          | 54,000             | —                      |
| 12.                     | For expenditure in respect of public works and buildings in Ireland -                                                                                                                                                                   | 229,130            | 3,670                  |
| TOTAL, CIVIL, CLASS VII |                                                                                                                                                                                                                                         | -£ 82,388,262      | 17,125,960             |

## SCHEDULE (B).—PART 17

## CIVIL.—CLASS VIII

SCHED. (B).  
PART 17.  
Civil.  
Class VIII.  
1949-50.

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several CIVIL SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1950, viz.:—

|                                                                                                                                                                                                                                                                                                                               | Sums not exceeding |                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                                                                               | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                                                               | £                  | £                      |
| Vote.                                                                                                                                                                                                                                                                                                                         |                    |                        |
| 1. For war pensions and allowances (including cost of treatment) arising out of the war of 1914-18 to merchant seamen and fishermen and their dependants - - - -                                                                                                                                                              | 233,000            | —                      |
| 2. For the salaries and expenses of the Ministry of Pensions; payments in respect of war pensions, gratuities and allowances; sundry contributions in respect thereof; and other services, including payment of National Service Grants and certain expenses connected with the National Health Services - - - -              | 88,050,000         | 2,823,000              |
| 3. For pensions, compensation allowances and gratuities awarded to retired and disbanded members and staff of the Royal Irish Constabulary, and to widows of such members, including annuities to the National Debt Commissioners in respect of commutation of compensation allowances and certain extra-statutory payments - | 1,170,000          | —                      |
| 4. For superannuation and other non-effective annual allowances, additional allowances, gratuities, compassionate allowances and supplementary pensions in respect of civil employment - - - -                                                                                                                                | 5,550,100          | 7,943                  |
| <b>TOTAL, CIVIL, CLASS VIII</b> -£                                                                                                                                                                                                                                                                                            | <b>95,003,100</b>  | <b>2,830,943</b>       |

SCHED. (B).  
PART 18.  
Civil.  
Class IX.  
1949-50.

SCHEDULE (B).—PART 18

CIVIL.—CLASS IX

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several CIVIL SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1950, viz.:—

| Vote.                                                                                                                                                                                                                                                                                                                                                                                            | Sums not exceeding |                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                  | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                                                                                                                                  | £                  | £                      |
| 1. For the salaries and expenses of the Ministry of Supply, including the cost of trading services and of assistance to certain industries -                                                                                                                                                                                                                                                     | 121,292,000        | 203,387,000            |
| 2. For the salaries and expenses of the Ministry of Food; the cost of trading services, including certain subsidies; and sundry other services                                                                                                                                                                                                                                                   | 409,580,863        | 533,500                |
| 3. For certain shipping and inland transport services, mainly arising out of the war, including a grant in aid (including a Supplementary sum of £1,250,000) - - - -                                                                                                                                                                                                                             | 29,967,000         | 17,362,000             |
| 4. For the war services and certain other temporary services of the Ministry of Fuel and Power - - - -                                                                                                                                                                                                                                                                                           | 2,500,000          | 30,730,000             |
| 5. For the salaries and expenses of the German Section of the Foreign Office, the Control Commission for Germany and the Allied Commission for Austria, including certain non-effective services, supplies and services essential to the occupation, financial assistance to Austria, a contribution towards the expenses of the International Authority for the Ruhr, and sundry other services | 30,802,241         | 3,800,240              |
| Carried forward - - - -                                                                                                                                                                                                                                                                                                                                                                          | £594,142,104       | 255,812,740            |

SCHEDULE (B).—PART 18—*continued*

SCHED. (B).  
PART 18.  
Civil.  
Class IX.  
1949-50.

|                                                                                                                                                                                                                                                                                                           | Sums not exceeding  |                        |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|------------------------|
|                                                                                                                                                                                                                                                                                                           | Supply Grants.      | Appropriations in Aid. |
|                                                                                                                                                                                                                                                                                                           | £                   | £                      |
| Brought forward- - - -                                                                                                                                                                                                                                                                                    | 594,142,104         | 255,812,740            |
| Vote.<br>6. For salaries and expenses in connection with the administration of certain African territories and for meeting deficiencies on the annual accounts of such territories (including a Supplementary sum of £1,469,300) - - - -                                                                  | 2,179,300           | 100                    |
| 7. For advances to the Governments of Allied, &c., Countries - - -                                                                                                                                                                                                                                        | 10,000,000          | —                      |
| 8. For the salaries and expenses of the War Damage Commission - -                                                                                                                                                                                                                                         | 1,670,000           | 346,300                |
| 9. For certain payments in respect of war damage to property in Burma (other than private chattels) of persons being British subjects domiciled in the United Kingdom, or companies wherever registered which are mainly owned or which are managed and controlled by British subjects so domiciled - - - | 10,000,000          | —                      |
| <b>TOTAL, CIVIL, CLASS IX - -</b>                                                                                                                                                                                                                                                                         | <b>£617,991,404</b> | <b>256,159,140</b>     |

SCHED. (B).  
PART 19.  
Revenue  
Departments.  
1949-50.

SCHEDULE (B).—PART 19

REVENUE DEPARTMENTS

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several REVENUE DEPARTMENTS herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1950, viz.:—

|                                                                                                                 | Sums not exceeding |                        |
|-----------------------------------------------------------------------------------------------------------------|--------------------|------------------------|
|                                                                                                                 | Supply Grants.     | Appropriations in Aid. |
|                                                                                                                 | £                  | £                      |
| Vote.<br>1. For the salaries and expenses of the Customs and Excise Department -                                | 9,261,000          | 546,000                |
| 2. For the salaries and expenses of the Inland Revenue Department - -                                           | 22,006,640         | 61,900                 |
| 3. For the salaries and expenses of the Post Office, including telegraphs and telephones and a grant in aid - - | 166,991,000        | 13,322,273             |
| <b>TOTAL, REVENUE DEPARTMENTS -£</b>                                                                            | <b>198,258,640</b> | <b>13,930,173</b>      |



## SCHEDULE (C).—PART I

SCHED. (C).  
PART I.  
Navy Services.  
1947-48.  
Section 5.

| Navy Services,<br>1947-48, Votes.                                                                                    | DEFICITS.                                                        |                                                                         | SURPLUSES.                                                     |                                                                      |
|----------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-------------------------------------------------------------------------|----------------------------------------------------------------|----------------------------------------------------------------------|
|                                                                                                                      | Excesses of<br>actual over<br>estimated<br>gross<br>Expenditure. | Deficiencies of<br>actual as<br>compared with<br>estimated<br>Receipts. | Surpluses of<br>estimated over<br>actual gross<br>Expenditure. | Surpluses of<br>actual as<br>compared with<br>estimated<br>Receipts. |
|                                                                                                                      | £ s. d.                                                          | £ s. d.                                                                 | £ s. d.                                                        | £ s. d.                                                              |
| 1. Wages, &c., of Officers<br>and Men of the Royal<br>Navy and Royal<br>Marines and Women's<br>Royal Naval Service - | 2,618,890 7 4                                                    | —                                                                       | —                                                              | 487,701 16 6                                                         |
| 2. Victualling and Cloth-<br>ing - - - - -                                                                           | —                                                                | 987,892 7 1                                                             | 2,783,822 12 5                                                 | —                                                                    |
| 3. Medical Establish-<br>ments and Services -                                                                        | 84,706 12 10                                                     | —                                                                       | —                                                              | 60,198 7 9                                                           |
| 4. Civilians employed on<br>Fleet Services - -                                                                       | 1,417,183 11 11                                                  | —                                                                       | —                                                              | 11,824 10 10                                                         |
| 5. Educational Services -                                                                                            | —                                                                | —                                                                       | 33,205 17 7                                                    | 15,576 17 2                                                          |
| 6. Scientific Services -                                                                                             | —                                                                | —                                                                       | 1,130,976 15 10                                                | 50,843 6 7                                                           |
| 7. Royal Naval Reserves                                                                                              | —                                                                | 49 15 -                                                                 | 174,411 10 7                                                   | —                                                                    |
| 8. Shipbuilding, Repairs,<br>Maintenance, &c.:                                                                       |                                                                  |                                                                         |                                                                |                                                                      |
| Section I.—Personnel                                                                                                 | 338,426 3 7                                                      | —                                                                       | —                                                              | 587,825 8 2                                                          |
| Section II.—Matériel                                                                                                 | 2,001,928 8 2                                                    | —                                                                       | —                                                              | 8,203,914 3 3                                                        |
| Section III.—Contract<br>Work - - - - -                                                                              | —                                                                | —                                                                       | 4,315,333 13 1                                                 | 937,784 15 11                                                        |
| 9. Naval Armaments -                                                                                                 | —                                                                | —                                                                       | 1,116,000 2 8                                                  | 2,297,411 - 9                                                        |
| 10. Works, Buildings and<br>Repairs at Home and<br>Abroad - - - - -                                                  | —                                                                | —                                                                       | 2,217,377 5 11                                                 | 506,652 15 2                                                         |
| 11. Miscellaneous Effec-<br>tive Services - -                                                                        | 2,635,261 13 2                                                   | —                                                                       | —                                                              | 1,007,990 - 9                                                        |
| 12. Admiralty Office -                                                                                               | 565,187 10 -                                                     | 6,314 18 5                                                              | —                                                              | —                                                                    |
| 13. Non-effective Services                                                                                           | 252,935 13 2                                                     | 5,760 - 9                                                               | —                                                              | —                                                                    |
| 14. Merchant Shipbuild-<br>ing, &c. - - - - -                                                                        | —                                                                | —                                                                       | 319,794 14 1                                                   | 520,794 5 2                                                          |
| Balances Irrecoverable and<br>Claims Abandoned -                                                                     | 88,365 10 -                                                      | —                                                                       | —                                                              | —                                                                    |
|                                                                                                                      | 10,002,885 10 2                                                  | 1,000,017 1 3                                                           | 12,090,922 12 2                                                | 14,688,517 8 -                                                       |
|                                                                                                                      | Total Deficits                                                   |                                                                         | Total Surpluses                                                |                                                                      |
|                                                                                                                      | £11,002,902 11s. 5d.                                             |                                                                         | £26,779,440 0s. 2d.                                            |                                                                      |
|                                                                                                                      | Net Surplus: £15,776,537 8s. 9d.                                 |                                                                         |                                                                |                                                                      |

SCHED. (C).  
PART II.  
Army Services.  
1947-48.  
Section 5.

SCHEDULE (C).—PART II

| Army Services,<br>1947-48, Votes.                                  | DEFICITS.                                                        |                                                                         | SURPLUSES.                                                     |                                                                      |
|--------------------------------------------------------------------|------------------------------------------------------------------|-------------------------------------------------------------------------|----------------------------------------------------------------|----------------------------------------------------------------------|
|                                                                    | Excesses of<br>actual over<br>estimated<br>gross<br>Expenditure. | Deficiencies of<br>actual as<br>compared with<br>estimated<br>Receipts. | Surpluses of<br>estimated over<br>actual gross<br>Expenditure. | Surpluses of<br>actual as<br>compared with<br>estimated<br>Receipts. |
|                                                                    | £ s. d.                                                          | £ s. d.                                                                 | £ s. d.                                                        | £ s. d.                                                              |
| 1. Pay, &c., of the Army                                           | —                                                                | —                                                                       | 3,981,911 7 -                                                  | 35,138 3 4                                                           |
| 2. Reserve Forces, Terri-<br>torial Army and Cadet<br>Forces - - - | —                                                                | —                                                                       | 397,460 4 2                                                    | 57,352 7 1                                                           |
| 3. War Office - - -                                                | —                                                                | 7,964 2 6                                                               | 29,870 9 6                                                     | —                                                                    |
| 4. Civilians - - -                                                 | 415,800 3 7                                                      | 98,376 12 8                                                             | —                                                              | —                                                                    |
| 5. Movements - - -                                                 | —                                                                | —                                                                       | 3,795,398 1 -                                                  | 154,166 16 3                                                         |
| 6. Supplies, &c. - - -                                             | 3,755,226 12 10                                                  | —                                                                       | —                                                              | 1,626,533 14 5                                                       |
| 7. Stores - - -                                                    | —                                                                | —                                                                       | 2,341,091 5 -                                                  | 5,395,943 6 -                                                        |
| 8. Works, Buildings and<br>Lands - - -                             | —                                                                | —                                                                       | 1,280,598 5 9                                                  | 321,830 12 1                                                         |
| 9. Miscellaneous Effec-<br>tive Services - - -                     | —                                                                | —                                                                       | 1,332,068 4 -                                                  | 47,900 8 11                                                          |
| 10. Non-effective Services                                         | —                                                                | —                                                                       | 251,047 9 2                                                    | 6,127 17 7                                                           |
| Balances Irrecoverable and<br>Claims Abandoned -                   | 3,557,410 5 9                                                    | —                                                                       | —                                                              | —                                                                    |
|                                                                    | 7,728,437 2 2                                                    | 106,340 15 2                                                            | 13,409,445 5 7                                                 | 7,644,993 5 8                                                        |
|                                                                    | Total Deficits<br>£7,834,777 17s. 4d.                            |                                                                         | Total Surpluses<br>£21,054,438 11s. 3d.                        |                                                                      |
|                                                                    | Net Surplus: £13,219,660 13s. 11d.                               |                                                                         |                                                                |                                                                      |

## SCHEDULE (C).—PART III

SCHED. (C).  
PART III.  
Air Services.  
1947-48.  
Section 5.

| Air Services,<br>1947-48, Votes.                | DEFICITS.                                                        |       |                                                                         |       | SURPLUSES.                                                     |       |                                                                      |       |
|-------------------------------------------------|------------------------------------------------------------------|-------|-------------------------------------------------------------------------|-------|----------------------------------------------------------------|-------|----------------------------------------------------------------------|-------|
|                                                 | Excesses of<br>actual over<br>estimated<br>gross<br>Expenditure. |       | Deficiencies of<br>actual as<br>compared with<br>estimated<br>Receipts. |       | Surpluses of<br>estimated over<br>actual gross<br>Expenditure. |       | Surpluses of<br>actual as<br>compared with<br>estimated<br>Receipts. |       |
|                                                 | £                                                                | s. d. | £                                                                       | s. d. | £                                                              | s. d. | £                                                                    | s. d. |
| 1. Pay, &c., of the Air Force - - -             | 4,757,432                                                        | 12 4  | 1,793,297                                                               | 13 7  | —                                                              | —     | —                                                                    | —     |
| 2. Reserve and Auxiliary Forces - - -           | —                                                                | —     | 194                                                                     | 16 2  | 519,033                                                        | 2 6   | —                                                                    | —     |
| 3. Air Ministry - - -                           | 14,534                                                           | 14 8  | 1,373                                                                   | 14 6  | —                                                              | —     | —                                                                    | —     |
| 4. Civilians at Out-stations - - -              | —                                                                | —     | —                                                                       | —     | 407,693                                                        | 12 9  | 165,015                                                              | 9 4   |
| 5. Movements - - -                              | —                                                                | —     | —                                                                       | —     | 3,167,576                                                      | 10 1  | 1,511,139                                                            | 19 6  |
| 6. Non-technical Supplies - - -                 | 1,061,317                                                        | 12 1  | —                                                                       | —     | —                                                              | —     | 522,948                                                              | 18 6  |
| 7. Technical Supplies and Services - - -        | —                                                                | —     | —                                                                       | —     | 22,362,531                                                     | 13 6  | 3,576,491                                                            | 17 3  |
| 8. Works and Lands - - -                        | —                                                                | —     | 608,831                                                                 | - 10  | 8,360,394                                                      | 9 6   | —                                                                    | —     |
| 9. Miscellaneous Effective Services - - -       | —                                                                | —     | 225,798                                                                 | 19 3  | 191,784                                                        | 7 4   | —                                                                    | —     |
| 10. Non-effective Services - - -                | —                                                                | —     | —                                                                       | —     | 163,075                                                        | 17 9  | 92,780                                                               | - 10  |
| Balances Irrecoverable and Claims Abandoned - - | 100,389                                                          | 19 10 | —                                                                       | —     | —                                                              | —     | —                                                                    | —     |
|                                                 | 5,933,674                                                        | 18 11 | 2,629,496                                                               | 4 4   | 35,172,089                                                     | 13 5  | 5,868,376                                                            | 5 5   |
|                                                 | Total Deficits<br>£8,563,171 3s. 3d.                             |       |                                                                         |       | Total Surpluses<br>£41,040,465 18s. 10d.                       |       |                                                                      |       |
|                                                 | Net Surplus: £32,477,294 15s. 7d.                                |       |                                                                         |       |                                                                |       |                                                                      |       |

## CHAPTER 49

An Act to increase the amounts payable in any financial year out of moneys provided by Parliament for the purposes of schemes under section one of the Colonial Development and Welfare Act, 1940.

[30th July 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Amendment  
of 3 & 4  
Geo. 6.  
c. 40, s. 1 (1).  
8 & 9 Geo. 6.  
c. 20.

1. In the proviso to subsection (1) of section one of the Colonial Development and Welfare Act, 1940 (which as amended by section one of the Colonial Development and Welfare Act, 1945, enacts among other things that the sums to be paid out of moneys provided by Parliament for the purposes of schemes under the said subsection (1) shall not in the aggregate exceed seventeen million five hundred thousand pounds in any financial year, and that the sums to be so paid for the purposes of schemes for promoting research or inquiry shall not in the aggregate exceed one million pounds in any financial year), for the words "seventeen million five hundred thousand pounds" there shall be substituted the words "twenty million pounds", and for the words "one million pounds" there shall be substituted the words "two million five hundred thousand pounds".

Short title  
and citation.

2.—(1) This Act may be cited as the Colonial Development and Welfare Act, 1949.

(2) This Act and the Colonial Development and Welfare Acts, 1940 and 1945, may be cited as the Colonial Development and Welfare Acts, 1940 to 1949.



## CHAPTER 50

An Act to authorise the Treasury to guarantee certain loans by the International Bank for Reconstruction and Development to the Governments of colonial territories. [30th July 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) The Treasury may, subject to the provisions of this Act, guarantee in such manner and on such conditions as they think fit the repayment of the principal of and the payment of the interest on and other charges in respect of any loan made to the Government of a colonial territory by the International Bank for Reconstruction and Development :

Guarantee of loans made to colonial territories by the International Bank for Reconstruction and Development.

Provided that the amount of the principal of the loans to be guaranteed under this Act shall not in the aggregate exceed the equivalent of fifty million pounds.

(2) No loan shall be guaranteed under this Act unless the purpose of the loan is approved by the Secretary of State, with the concurrence of the Treasury, as likely to promote the development of the resources of the colonial territory concerned.

(3) A guarantee shall not be given under this Act until the Government of the colonial territory to which the loan is to be made has provided to the satisfaction of the Treasury and the Secretary of State—

- (a) for appropriating and duly applying the loan for the purpose approved as aforesaid;
- (b) for ensuring that any part of the loan which cannot be applied for the purpose approved as aforesaid will be applied only for such other purposes as may be approved by the Secretary of State with the concurrence of the Treasury;
- (c) for the establishment and regulation of one or more sinking funds for the purpose of the repayment of the principal of the loan or any instalment thereof;
- (d) for charging on the general revenues and assets of the colonial territory concerned, or on any other revenues or assets which may be made available for the purpose, the principal and interest of, and other charges in respect of, the loan and the payments to be made to the sinking funds to be established as aforesaid;

- (e) for charging on the general revenues and assets of the colonial territory concerned the repayment to the Treasury of any sum issued in pursuance of this Act out of the Consolidated Fund on account of the guarantee under this Act, with interest on the said sum at such rate as the Treasury may fix; and
- (f) for raising, or securing the raising of, sufficient money to meet the above charges.

(4) Any sums required by the Treasury for fulfilling any guarantee given under this Act shall be charged on and issued out of the Consolidated Fund or the growing produce thereof, and any sums received by way of the repayment of any sums so issued shall be paid into the Exchequer.

(5) Immediately after any guarantee is given under this section, the Treasury shall lay a statement of the guarantee before each House of Parliament.

(6) Where any sum is issued for fulfilling such a guarantee, the Treasury shall, as soon as possible after the end of each financial year beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest thereon is finally discharged, lay before each House of Parliament a statement relating to that sum.

(7) In this section the expression "colonial territory" means Southern Rhodesia, Malta or any territory which, at the date of the making of the loan in question, is of one of the following descriptions, that is to say—

- (a) a colony not possessing responsible government; or
- (b) a British protectorate or protected state; or
- (c) a territory for the time being administered by His Majesty's Government in the United Kingdom under the trusteeship system of the United Nations.

Short title.

2. This Act may be cited as the Colonial Loans Act, 1949.



**CHAPTER 51***Legal Aid and Advice Act, 1949***ARRANGEMENT OF SECTIONS****PART I****NEW ARRANGEMENTS FOR LEGAL AID AND LEGAL ADVICE***Legal aid***Section.**

1. Scope and general conditions of legal aid in connection with proceedings.
2. Financial conditions of legal aid.
3. Contributions from assisted person and charge on property recovered.
4. Assessment of disposable capital and income and of maximum contribution.
5. Legal aid in matters not involving litigation.
6. Solicitors and counsel.

*Legal advice*

7. Right to and nature of legal advice.

*Administration and finance*

8. Functions of Law Society.
9. Legal aid fund.
10. Accounts and audit.
11. Pension rights of employees.

*Supplementary*

12. Regulations.
13. Advisory committee.
14. Secrecy.
15. Proceedings for misrepresentation, etc.
16. Adaptation of rights to indemnity.
17. Interpretation, commencement and transitional provisions.

**PART II****LEGAL AID UNDER EXISTING ACTS**

18. Right to free legal aid.
19. Procedural amendments: legal aid certificates.
20. Procedural amendments: appeal aid certificates.
21. Remuneration of solicitors and counsel.
22. Cost of legal aid in magistrates' courts.
23. Cost of legal aid in other courts.
24. Commencement of Part II.

## PART III

## MISCELLANEOUS

## Section.

25. Application to Crown.
26. Extension of powers of Northern Ireland Parliament.
27. Short title and construction.

## SCHEDULES :

First Schedule—Proceedings for which legal aid may be given under section one.

Part I.—Description of proceedings.

Part II.—Excepted proceedings.

Second Schedule—Resources to be disregarded on application for legal aid under section one.

Third Schedule—Remuneration of persons giving legal aid under Part I.

An Act to make legal aid and advice in England and Wales, and in the case of members of the forces legal advice elsewhere, more readily available for persons of small or moderate means, to enable the cost of legal aid or advice for such persons to be defrayed wholly or partly out of moneys provided by Parliament, and for purposes connected therewith. [30th July 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

## PART I

## NEW ARRANGEMENTS FOR LEGAL AID AND LEGAL ADVICE

*Legal aid*

Scope and general conditions of legal aid in connection with proceedings.

1.—(1) This and the three next following sections provide for, and (save as hereinafter mentioned) relate only to, legal aid in connection with proceedings before courts and tribunals in England and Wales, not being proceedings in which free legal aid may be given under the enactments amended by Part II of this Act.

(2) Unless and until regulations otherwise provide, the proceedings in connection with which legal aid may be given are any proceedings of a description mentioned in Part I of the First Schedule to this Act, except proceedings mentioned in Part II of that Schedule.



(3) Subject to the provisions of this section, the proceedings in connection with which legal aid may be given may be varied by regulations, and the regulations may describe the proceedings to be included or excluded by reference to the court or tribunal, to the issues involved, to the capacity in which the person requiring legal aid is concerned, or otherwise.

(4) Regulations made for the purpose of the last foregoing subsection—

- (a) shall not provide for giving legal aid in connection with proceedings before any court or tribunal before which persons have no right and are not normally allowed to be heard by counsel or a solicitor; and
- (b) shall not come into force unless or until approved by resolution of each House of Parliament.

(5) Legal aid shall consist of representation, on the terms provided for by this Part of this Act, by a solicitor and so far as necessary by counsel (including all such assistance as is usually given by solicitor or counsel in the steps preliminary or incidental to any proceedings or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings).

(6) A person shall not be given legal aid in connection with any proceedings unless he shows that he has reasonable grounds for taking, defending or being a party thereto, and may also be refused legal aid if it appears unreasonable that he should receive it in the particular circumstances of the case.

(7) Save as expressly provided by this Part of this Act or by regulations made thereunder,—

- (a) the fact that the services of counsel or a solicitor are given by way of legal aid shall not affect the relationship between or rights of counsel, solicitor and client or any privilege arising out of such relationship; and
- (b) the rights conferred by this Part of this Act on a person receiving legal aid shall not affect the rights or liabilities of other parties to the proceedings or the principles on which the discretion of any court or tribunal is normally exercised.

2.—(1) Subject to this Part of this Act, legal aid shall be available for any person whose disposable income does not exceed four hundred and twenty pounds a year : Financial conditions of legal aid.

Provided that a person may be refused legal aid if he has a disposable capital of more than five hundred pounds and it appears that he can afford to proceed without legal aid.

PART I  
—cont.

(2) Where a person receives legal aid in connection with any proceedings—

- (a) the expenses incurred in connection with the proceedings, so far as they would ordinarily be paid in the first instance by or on behalf of the solicitor acting for him, shall be so paid except in the case of those paid direct from the legal aid fund as provided by this Part of this Act;
- (b) his solicitor and counsel shall not take any payment in respect of the legal aid except such payment as is directed by this Part of this Act to be made out of the legal aid fund;
- (c) he may be required to make a contribution to the legal aid fund in respect of the sums payable thereout on his account;
- (d) any sums recovered by virtue of an order or agreement for costs made in his favour with respect to the proceedings shall be paid to the legal aid fund;
- (e) his liability by virtue of an order for costs made against him with respect to the proceedings shall not exceed the amount (if any) which is a reasonable one for him to pay having regard to all the circumstances, including the means of all the parties and their conduct in connection with the dispute.

(3) Regulations shall make provision as to the court, tribunal or person by whom the amount referred to in paragraph (e) of the last foregoing subsection is to be determined and the extent to which any determination thereof is to be final.

(4) For the purpose of any inquiry under this section as to the means of a person against whom an order for costs has been made, his dwelling house and household furniture and the tools and implements of his trade shall be left out of account except in such cases and to such extent as may be prescribed, and except as aforesaid they shall, in all parts of the United Kingdom, be protected from seizure in execution to enforce the order.

Contributions from assisted person and charge on property recovered.

3.—(1) A person's contribution to the legal aid fund in respect of any proceedings may include—

- (a) a contribution in respect of income not greater than half the amount (if any) by which his disposable income exceeds one hundred and fifty-six pounds a year; and
- (b) a contribution in respect of capital not greater than the amount (if any) by which his disposable capital exceeds seventy-five pounds.

(2) A person may be required to make any contribution to the legal aid fund in one sum or by instalments.

(3) If the total contribution to the legal aid fund made by a person in respect of any proceedings is more than the net liability of that fund on his account, the excess shall be repaid to him.

(4) Except so far as regulations otherwise provide, any sums remaining unpaid on account of a person's contribution to the legal aid fund in respect of any proceedings and, if the total contribution is less than the net liability of that fund on his account, a sum equal to the deficiency shall be a first charge for the benefit of the legal aid fund on any property (wherever situate) which is recovered or preserved for him in the proceedings.

(5) The reference in the last foregoing subsection to property recovered or preserved for any person shall include his rights under any compromise arrived at to avoid or bring to an end the proceedings and any sums recovered by virtue of an order for costs made in his favour in the proceedings (not being sums payable into the legal aid fund under the last foregoing section).

(6) The charge created by subsection (4) of this section on any damages or costs shall not prevent a court allowing them to be set off against other damages or costs in any case where a solicitor's lien for costs would not prevent it.

(7) References in this section to the net liability of the legal aid fund on any person's account in relation to any proceedings refer to the aggregate amount of the sums paid or payable out of that fund on his account in respect of those proceedings to any solicitor or counsel and not recouped to that fund by sums which are recovered by virtue of an order or agreement for costs made in his favour with respect to those proceedings.

4.—(1) References in this Act to a person's disposable income or disposable capital shall be taken as referring to the rate of his income or amount of his capital after making—

- Assessment of disposable capital and income and of maximum contribution.
- (a) such deductions as may be prescribed in respect of the maintenance of dependants, interest on loans, income tax, rates, rent and other matters for which the person in question must or reasonably may provide; and
  - (b) such further allowances as may be prescribed to take account of the nature of his resources.

(2) Regulations may make provision as to the manner in which the rate of a person's income and the amount of his capital are to be computed for the purposes of the foregoing subsection, and in particular for determining whether any resources are to be treated as income or capital and for taking into account fluctuations of income.

(3) The regulations shall include provision for securing that the resources of a person seeking or receiving legal aid shall be treated as not including the subject matter of the dispute.

PART I  
—cont.

(4) Except in so far as the regulations otherwise provide, any resources of a person's wife or husband shall be treated for the purposes of this section as that person's resources, and the regulations may also make provision, in relation to infants and other special cases, for taking into account the resources of other persons.

(5) The regulations shall also include provision for securing that in computing resources there shall be observed the rules set out in paragraphs 1, 4, 5 and (so far as relevant) 6 of the Second Schedule to the National Assistance Act, 1948, and again set out, with the necessary adaptations of the said paragraph 6, in the Second Schedule to this Act:

Provided that the regulations may provide that the reference in the said paragraph 1 to borrowing money shall not apply in any prescribed circumstances.

(6) Subject to the provisions of this section, a person's disposable income and disposable capital, and the maximum amount of his contribution to the legal aid fund in respect of any proceedings, shall be determined by the National Assistance Board, and the Board may call attention to any special circumstances affecting the maximum amount of the lump sum and periodical payments which he could reasonably make on account of any contribution.

(7) Any increase attributable to the last foregoing subsection in the expenses of the National Assistance Board shall be defrayed out of moneys provided by Parliament.

(8) Regulations for the purposes of this section shall be made with the concurrence of the Treasury.

Legal aid in  
matters not  
involving  
litigation.

5.—(1) This section provides for, and (except for subsection (6)) relates only to, legal aid in taking steps to assert or dispute a claim where—

- (a) the question of taking, defending or being a party to proceedings before a court or tribunal does not arise or has not yet arisen; but
- (b) if it did arise, the proceedings would, or might properly, be such that legal aid could be given in connection therewith under section one of this Act.

(2) Legal aid under this section shall consist of the assistance of a solicitor on the terms provided for by this section, and (save as expressly provided by this Part of this Act or by regulations made thereunder) the fact that the assistance is given by way of legal aid shall not affect the relationship between or rights of solicitor and client or any privilege arising out of such relationship.

(3) A person shall not be given legal aid under this section unless he shows that he has reasonable grounds for taking steps to assert or dispute the claim, and may also be refused such aid if it appears unreasonable that he should receive it in the particular circumstances of the case.

(4) Subject to the provisions of this section, sections two, three and four of this Act shall apply for the purposes of this section with the necessary modifications of references to proceedings or to the subject matter of the dispute and with the following omissions, that is to say—

(a) so much of sections two and three as relates to orders for costs; and

(b) subsections (5), (6) and (7) of section four.

(5) Unless and until regulations otherwise provide, legal aid shall not be available under this section for any person whose disposable income exceeds one hundred and fifty-six pounds a year or whose disposable capital exceeds seventy-five pounds; and provision may be made by regulations for restricting the nature and extent of the assistance which may be given by way of legal aid under this section.

(6) Where a person receives legal aid under this section in any matter and, on that matter giving rise or appearing likely to give rise to proceedings, he is given legal aid also in connection with those proceedings, then, except in so far as regulations otherwise provide, section three of this Act shall apply as if all the legal aid had been received in connection with the proceedings.

6.—(1) Panels of solicitors and barristers willing to act for persons receiving legal aid shall be prepared and maintained, and there may be separate panels for different purposes, for different courts and for different districts.

(2) Any practising solicitor or barrister shall be entitled to have his name on the appropriate panels or any of them, unless there is good reason for excluding him arising out of his conduct when acting or selected to act for persons receiving legal aid or his professional conduct generally, or, in the case of a member of a firm of solicitors, out of that of any person who is for the time being a member of the firm.

(3) Where a barrister or solicitor is aggrieved by any decision excluding him (whether permanently or temporarily) from the panels or any of them, he may appeal against the decision to the High Court, and the High Court (whose decision shall be final) may confirm or quash the decision appealed against or may substitute such decision as the court thinks fit.

Provision shall be made by rules of court for regulating appeals to the High Court under this subsection, and those rules shall provide for limiting the time within which appeals may be brought.

**PART I**  
—*cont.*

(4) Where a person is entitled to receive legal aid, the solicitor to act for him and, if the case requires counsel, his counsel shall be selected from the appropriate panel, and he shall be entitled to make the selection himself:

Provided that—

- (a) this subsection shall not prejudice the rights of solicitor or counsel where he has good reason to refuse or give up a case or entrust it to another; and
- (b) the solicitor selected, if shown on the panel as a member of a firm, shall act in the name of the firm.

(5) Subject to this Part of this Act, a solicitor who has acted for a person receiving legal aid shall be paid for so acting out of the legal aid fund, and any fees paid to counsel for so acting shall also be paid out of that fund.

(6) The sums payable under the last foregoing subsection to a solicitor or counsel shall not exceed those allowed under the Third Schedule to this Act.

(7) Notwithstanding anything in subsection (4) of this section, where the maximum contribution payable to the legal aid fund by a person receiving legal aid in connection with a matrimonial cause is not more than ten pounds, then, unless regulations otherwise provide, the solicitor to act for him shall not be a solicitor selected from the panel but a solicitor employed whole-time for a salary to deal with cases to which this subsection applies; and where the solicitor who acts for a person receiving legal aid is one employed as aforesaid—

- (a) he shall not be entitled to any further payment under subsection (5) of this section except for his disbursements; and
- (b) no sum paid or payable to him otherwise than under the said subsection (5) shall be treated for the purposes of subsection (7) of section three of this Act as paid or payable on account of the person for whom he acts.

(8) In the foregoing provisions of this section, references to acting for a person receiving legal aid shall, in relation to a solicitor, include acting indirectly for such a person, as agent for his solicitor, so, however, that any selection from the panel of a solicitor to act as agent shall be made by the solicitor for whom he is to act.

(9) Nothing in this section shall prejudice paragraph (b) of subsection (7) of section one of this Act, and in particular—

- (a) subsections (6) and (7) of this section shall not affect the sums recoverable by virtue of an order for costs made in favour of a person who has received legal aid or of an agreement for costs so made which provides for taxation; and

- (b) for the purpose of any such order or agreement, the solicitor who acted for the person in whose favour it is made shall be treated as having paid any counsel's fees.

PART I  
—cont.

### *Legal advice*

7.—(1) Subject to this Part of this Act, legal advice shall be available in England and Wales for any person, and outside Great Britain for any member of the forces.

Right to and  
nature of  
legal advice.

(2) Legal advice shall consist of oral advice on legal questions given by a solicitor employed whole time or part time for the purpose and shall include help in preparing an application for legal aid and in supplying information required in connection therewith for determining disposable income and capital, but (subject to the following provisions of this section) shall not include advice on any law other than English law.

(3) In the case of a member of the forces, legal advice shall include advice on the law—

- (a) of any part of the United Kingdom; and
- (b) except where regulations otherwise provide, of any country or territory in which he is serving; and
- (c) where regulations so provide, of any other country or territory in which he has been resident, whether in the course of his service or not,

and regulations may provide that persons employed to give legal advice outside Great Britain to members of the forces shall act for those members in obtaining information needed to enable advice to be given.

(4) In the case of a person who has been a member of the forces at any time after the passing of this Act, the last foregoing subsection (except paragraph (b) thereof) shall apply so as to authorise the giving of advice on matters arising in the course of his service outside England and Wales, as it applies in the case of a person who is a member of the forces.

(5) If provision corresponding to this Part of this Act is made for Scotland, legal advice shall, in the case of any person, include—

- (a) help for the purposes of that provision corresponding to the help mentioned in subsection (2) of this section; and
- (b) where regulations so provide, advice on the law of Scotland.

(6) If provision corresponding to this Part of this Act is made for Northern Ireland—

- (a) the last foregoing subsection shall apply in relation to Northern Ireland as it applies in relation to Scotland; and
- (b) regulations may direct that legal advice shall not be available for members of the forces in Northern Ireland.

PART I  
—cont.

(7) Provision may be made by regulations for further defining or restricting the questions (whether of English or any other law) on which legal advice may be given.

(8) A person seeking legal advice may be required—

- (a) to satisfy the person employed to give it that he cannot afford to obtain it in the ordinary way;
- (b) to pay a fee of half a crown or such other fee as may be prescribed for each interview.

(9) Any fees paid under this section shall be paid into the legal aid fund.

(10) A person seeking legal advice shall have the same privilege for communications made for that purpose to the person giving it, and the same remedies against that person for any negligence, as if he had been consulting him as his solicitor in the ordinary way.

(11) The limitation of legal advice to oral advice shall not prevent the person giving it, where he thinks the person seeking it will need a written note of the advice given or any part of it, from giving him such a note.

(12) In this section, the expression “member of the forces” means a person serving on full pay as a member of any of the naval, military or air forces of the Crown raised in the United Kingdom (including any women’s force administered by the Admiralty, Army Council or Air Council).

#### *Administration and finance*

Functions of  
Law Society.

8.—(1) Subject to this Part of this Act, it shall be the responsibility of the Law Society to make arrangements, in accordance with a scheme made by them with the approval of the Lord Chancellor and with the concurrence of the Treasury, for securing that legal aid and legal advice are available as required by this Part of this Act and generally to administer this Part of this Act.

(2) Any scheme made as aforesaid may be varied or revoked by a subsequent scheme so made.

(3) The functions of the Law Society under this Part of this Act may be performed by the Council of the Law Society in general consultation with the General Council of the Bar on matters of policy or by any committee of the Council of the Law Society or by any committee set up by a scheme under this section.

(4) Any committee set up as aforesaid may include persons who are not members of the Law Society but who are barristers or solicitors, and there may be paid to members of a committee so set up such fees and allowances (if any) as may be provided by the scheme.



(5) The constitution, quorum and procedure of any committee set up as aforesaid, and the tenure of office of its members, may be regulated by the scheme, but any such committee shall have power to determine its own procedure so far as not regulated as aforesaid.

(6) The functions of the Law Society in making or varying any scheme under this section shall be performed by a committee of the Council of the Law Society whose members shall (except during any vacancy) include not less than three persons nominated by the General Council of the Bar and a person nominated by the Lord Chancellor.

(7) Where a scheme under this section is submitted to the Lord Chancellor for his approval, any member of the committee who was present when the scheme or any provision thereof was considered by the committee, and who then objected to the scheme or to that provision, may inform the Lord Chancellor of his objection; and the Lord Chancellor shall not approve a scheme where he has been informed of an objection under this subsection without first giving the members of the committee an opportunity to make representations about the matter in dispute.

(8) Subject to this Part of this Act, a scheme under this section may include provisions as to the persons by whom and manner in which questions arising in the administration of this Part of this Act are to be determined and as to any other matters incidental to the administration thereof.

(9) The Law Society shall exercise their functions under this Part of this Act under the general guidance of the Lord Chancellor, and as soon as possible after the end of any financial year shall make an annual report to him on the operation and finance of this Part of this Act during that year.

(10) The Law Society shall have power to hold land without licence in mortmain for the purposes of this Part of this Act.

9.—(1) The functions of the Law Society under this Part of this Act shall include the establishment and administration of the legal aid fund. Legal aid fund.

(2) All receipts and expenses of the Law Society attributable to this Part of this Act shall be paid into and out of the legal aid fund, and the general funds of the Law Society shall be indemnified thereout against any liability in respect of those expenses.

(3) The said expenses shall include—

- (a) any fees and allowances payable to members of a committee by virtue of the last foregoing section;
- (b) a proper proportion of any expenses incurred partly in connection with functions under this Part of this Act and partly for other purposes;

PART I  
—cont.

(c) such sums as may be proper for the use wholly or partly in connection with those functions of property acquired for other purposes.

(4) The said receipts shall include such sums as may be proper for the use by the Law Society otherwise than in connection with their functions under this Part of this Act of property acquired at the expense of the legal aid fund.

(5) The proper proportion of any expenses, or the proper sum, for the purpose of any question arising under subsection (3) or (4) of this section shall be determined by the Lord Chancellor.

(6) The sums required to meet payments out of the legal aid fund, after allowing for sums received apart from this provision, shall be paid to that fund by the Lord Chancellor at such times and in such manner as he may with the approval of the Treasury determine, and shall be so paid out of moneys provided by Parliament.

(7) Estimates of the sums required as aforesaid shall from time to time be submitted to the Lord Chancellor by the Law Society.

(8) An estimate shall be submitted under the last foregoing subsection at least once in every financial year at such time as the Lord Chancellor may with the approval of the Treasury direct.

(9) Any estimate under that subsection shall be in such form and shall give such particulars as may be so directed.

Accounts and  
audit.

10.—(1) The Law Society shall keep such accounts with respect to the legal aid fund as the Lord Chancellor may with the approval of the Treasury direct, and shall prepare in respect of each financial year a statement of accounts in such form as may be so directed.

(2) The accounts shall be audited by persons to be appointed in respect of each financial year by the Lord Chancellor and in accordance with a scheme of audit approved by him, and the auditors shall be furnished by the Law Society with copies of the said statement and shall report to the Lord Chancellor on the accounts and the said statement.

(3) No person shall be qualified to be so appointed auditor unless he is a member of one or more of the following bodies:—

The Institute of Chartered Accountants in England and Wales;

The Society of Incorporated Accountants and Auditors;

The Society of Accountants in Edinburgh;

The Institute of Accountants and Actuaries in Glasgow;

The Society of Accountants in Aberdeen;

The Association of Certified and Corporate Accountants;

The Institute of Chartered Accountants in Ireland.

(4) So soon as the accounts have been audited, the auditors shall send the Lord Chancellor copies of the statement of accounts and of their report, and the Lord Chancellor shall send a copy of the statement and of the report to the Comptroller and Auditor General.

(5) The Comptroller and Auditor General shall examine every statement and report sent to him under the last foregoing subsection, and may inspect the accounts kept with respect to the legal aid fund and any records relating thereto, and shall certify every such statement and lay a copy of it together with his report thereon before Parliament.

11.—(1) Arrangements shall be made, in accordance with regulations, for providing pensions to or in respect of persons employed by the Law Society whole-time for the purpose of their functions under this Part of this Act. Pension rights  
of employees.

(2) The regulations may require the arrangements to extend, with any necessary adjustments, to persons employed by the Law Society part-time for that purpose or (whether whole-time or part-time) for that and other purposes.

(3) The arrangements may include the establishment and administration, by the Law Society or otherwise, of a pension scheme with or without a pension fund.

(4) The regulations may direct that receipts and expenses of the Law Society attributable to their establishment and administration of a pension scheme under this section shall, notwithstanding anything in section nine of this Act, be dealt with under the scheme instead of being paid into and out of the legal aid fund.

(5) Regulations for the purposes of this section shall be made with the concurrence of the Treasury.

#### *Supplementary*

12.—(1) The Lord Chancellor may make such regulations as appear to him necessary or desirable for giving effect to this Part of this Act or for preventing abuses thereof. Regulations.

(2) Without prejudice to the foregoing subsection or any other provision of this Act authorising the making of regulations, regulations may—

- (a) make provision as to the proceedings which are or are not to be treated as distinct proceedings for the purposes of legal aid, and as to the apportionment of sums recoverable or recovered by virtue of any order for costs made generally with respect to proceedings treated as distinct;

PART I  
—cont.

- (b) regulate the procedure of any court or tribunal in relation to legal aid, and in particular make provision—
- (i) as to the taxation of costs incurred in connection with proceedings not actually begun; and
  - (ii) as to the cases in which and extent to which a person receiving legal aid may be required to give security for costs, and the manner in which it may be given;
- (c) make provision as to the information to be furnished by a person seeking or receiving legal aid or advice;
- (d) make provision as to the cases in which a person may be refused legal aid or advice by reason of his conduct when seeking or receiving legal aid or advice (whether in the same or in a different matter);
- (e) make provision for the recovery of sums due to the legal aid fund and for making effective the charge created by this Act on property recovered or preserved for a person receiving legal aid, including provision—
- (i) for the enforcement for the benefit of that fund of any order or agreement for costs made in favour of a person who has received legal aid; and
  - (ii) for making a solicitor's right to payment out of the legal aid fund wholly or partly dependent on his performance of any duties imposed on him by regulations made for the purposes of this paragraph.
- (3) Regulations may also modify any provision of this Part of this Act so far as appears to the Lord Chancellor necessary to meet the special circumstances where—
- (a) a person seeking or receiving legal aid or advice—
    - (i) is not resident in England or Wales; or
    - (ii) is concerned in a representative, fiduciary or official capacity; or
    - (iii) is concerned jointly with or has the same interest as other persons, whether receiving legal aid or advice or not; or
    - (iv) has available to him rights or facilities making it unnecessary for him to take advantage of this Part of this Act or has a reasonable expectation of receiving financial or other help from a body of which he is a member;
  - (b) a person seeks legal aid in a matter of special urgency;
  - (c) a person begins to receive legal aid after having consulted a solicitor in the ordinary way with respect to the same matter, or ceases to receive legal aid before the matter in question is finally settled;
  - (d) there is any relevant change of circumstances while a person is receiving legal aid.

(4) The power of the Lord Chancellor to make regulations shall be exercisable by statutory instrument.

PART I  
—cont.

(5) Any statutory instrument by which that power is exercised, except one making regulations for the purposes of subsection (3) of section one of this Act, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) Before making regulations as to the procedure of any court or tribunal, the Lord Chancellor shall so far as practicable consult any rule committee or similar body by whom or on whose advice rules of procedure for the court or tribunal may be made apart from this Act or whose consent or concurrence is required to any such rules so made.

13.—(1) The Lord Chancellor shall constitute an advisory committee to advise him on such questions relating to this Part of this Act as he may from time to time refer to them and shall appoint the members of the committee with regard to their knowledge of the work of the courts and social conditions. Advisory committee.

(2) The Lord Chancellor may pay to the members of the advisory committee such travelling and other allowances as he may with the consent of the Treasury determine, and any expenses of the Lord Chancellor under this subsection shall be defrayed out of moneys provided by Parliament.

(3) The Lord Chancellor shall refer the Law Society's annual report on the operation and finance of this Part of this Act to the advisory committee for their consideration and advice and when the committee have considered it shall lay before each House of Parliament a copy of it and of any comments or recommendations made by the committee.

14.—(1) Subject to the next following subsection, no information furnished for the purposes of this Part of this Act to the Law Society, or to any committee or person on their behalf, in connection with the case of a person seeking or receiving legal aid or advice shall be disclosed otherwise than— Secrecy.

(a) for the purpose of facilitating the proper performance by any person or body of persons of functions under this Part of this Act; or

(b) for the purpose of any criminal proceedings for an offence thereunder or of any report of such proceedings.

(2) The foregoing subsection shall not prevent the disclosure of information for any purpose with the consent of the person in connection with whose case it was furnished and, where he did not furnish it himself, with that of the person or body of persons who did.

PART I  
—cont.

(3) A person who, in contravention of this section, discloses any information obtained by him when employed by or acting on behalf of the Law Society shall be liable on summary conviction to a fine not exceeding one hundred pounds.

(4) Proceedings for an offence under this section shall not be brought without the written consent of the Attorney General.

(5) For the avoidance of doubt it is hereby declared that information furnished to counsel or a solicitor as such by or on behalf of a person seeking or receiving legal aid or advice is not information furnished to the Law Society or a person on their behalf.

Proceedings  
for mis-  
representation,  
etc.

15.—(1) If any person seeking or receiving legal aid or advice—

- (a) wilfully fails to comply with any regulations as to the information to be furnished by him; or
- (b) in furnishing any information required by the regulations knowingly makes any false statement or false representation,

he shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding four months or to both.

(2) Notwithstanding anything in the Summary Jurisdiction Acts, proceedings in respect of an offence under subsection (1) of this section may be brought at any time within two years next after the commission of the offence or within six months next after the first discovery thereof by the prosecutor, whichever is the shorter.

(3) A county court shall have jurisdiction to hear and determine any action brought to recover the loss sustained by the legal aid fund by reason of the failure of a person seeking or receiving legal aid or advice to comply with any such regulations as aforesaid, or by reason of a false statement or false representation made by such a person in furnishing information for the purposes of this Part of this Act, notwithstanding that the claim in the action is for a greater amount than that allowed under section forty of the County Courts Act, 1934.

Adaptation  
of rights  
to indemnity.

16.—(1) This section shall have effect for the purpose of adapting in relation to this Part of this Act any right (however and whenever created or arising) which a person may have to be indemnified against expenses incurred by him.

(2) In determining for the purposes of any such right the reasonableness of any expenses, the possibility of avoiding them or part of them by taking advantage of this Part of this Act shall be disregarded.

(3) Where a person having any such right to be indemnified against expenses incurred in connection with any proceedings receives legal aid in connection with those proceedings, then (without prejudice to the effect of the indemnity in relation to his contribution, if any, to the legal aid fund) the right shall inure also for the benefit of that fund as if the expenses incurred by that fund on behalf of the said person in connection with the proceedings had been incurred by him.

(4) Where—

(a) a person's right to be indemnified against expenses incurred in connection with any proceedings arises by virtue of an agreement and is subject to any express condition conferring on those liable thereunder any right with respect to the bringing or conduct of the proceedings; and

(b) those liable have been given a reasonable opportunity of exercising the right so conferred and have not availed themselves of that opportunity,

the right to be indemnified shall be treated for the purposes of the last foregoing subsection as not being subject to that condition.

(5) Nothing in subsections (3) and (4) of this section shall be taken as depriving any person or body of persons of the protection of any enactment or, save as provided in the said subsection (4), as conferring any larger right to recover money for the benefit of the legal aid fund in respect of any expenses than the person receiving legal aid would have had if the expenses had been incurred by him.

(6) Where under subsection (3) of this section a person's right to be indemnified against expenses incurred in connection with any proceedings inures for the benefit of the legal aid fund, then for the purposes of section three of this Act the net liability of the fund on his account shall be treated as reduced by the amount of any sums recovered for the benefit of the fund by virtue of the said right.

(7) The four last foregoing subsections shall apply in relation to legal aid under section five of this Act with the necessary modifications of references to proceedings:

Provided that, where by virtue of subsection (6) of that section the legal aid is treated for the purposes of section three of this Act as given in connection with any proceedings, it shall also be so treated for the purposes of this section.

17.—(1) In this Part of this Act, unless the context otherwise requires—

the expression "Law Society" means the society incorporated and regulated by Royal Charter dated the twenty-sixth day of February, eighteen hundred and forty-five, and Royal Charters supplemental thereto

Interpretation,  
commencement  
and  
transitional  
provisions.

PART I  
—cont.

dated respectively the twenty-sixth day of November, eighteen hundred and seventy-two, the fourth day of June, nineteen hundred and three, and the second day of June, nineteen hundred and nine, and any reference to the Council of the Law Society shall be taken as a reference to the council elected in accordance with the provisions of the said charters;

the expressions “legal aid” and “legal advice” mean respectively legal aid and legal advice under this Part of this Act;

the expression “matrimonial cause” means proceedings in the House of Lords or the Supreme Court in or in connection with a matrimonial cause or matter within the meaning of the Supreme Court of Judicature (Consolidation) Act, 1925;

the expression “order for costs” includes any judgment, order, decree, award or direction for the payment of the costs of one party to any proceedings by another party, whether given or made in those proceedings or not;

the expression “person” does not include a body of persons corporate or unincorporate so as to authorise legal aid or advice to be given to such a body;

the expression “prescribed” means prescribed by regulations;

the expression “regulations” means regulations made by the Lord Chancellor under this Part of this Act;

the expression “solicitor” means solicitor of the Supreme Court;

the expression “tribunal” includes an arbitrator or umpire, however appointed, and whether the arbitration takes place under a reference by consent or otherwise.

(2) This Part of this Act shall come into force on such day as the Lord Chancellor may by statutory instrument appoint, and different days may be appointed for different purposes.

(3) No person shall after the coming into force of this subsection be admitted in any court in England or Wales to take, defend or be a party to any proceedings in forma pauperis or as a poor person, and accordingly the following enactments (so far as unrepealed) shall cease to have effect and are hereby repealed, namely—

- (a) the Act of the eleventh year of King Henry the Seventh chapter twelve entitled “An Act to admit such persons as are poor to sue in forma pauperis”;
- (b) the Appeal (Forma Pauperis) Act, 1893;
- (c) rules 22 to 31H of Order XVI of the Rules of the Supreme Court, 1883.



(4) Without prejudice to the powers conferred by the foregoing provisions of this Act, regulations may make such provision (including provision modifying this Part of this Act) as appears to the Lord Chancellor, with the concurrence of the Treasury, to be expedient as to the application of this Part of this Act in relation to persons who have been admitted to take, defend, or be a party to any proceedings in forma pauperis or as poor persons, and to other persons concerned in proceedings commenced before or shortly after legal aid is made available.

PART I  
--cont.

(5) All sums paid to the Law Society by persons admitted as aforesaid, so far as those sums have not been applied or repaid before the coming into force of this subsection, shall be transferred to the legal aid fund, but those sums shall remain applicable for the same purposes as if not so transferred and claims for their repayment shall be payable out of that fund and not otherwise.

(6) The last foregoing subsection shall apply to sums paid to provincial law societies as it applies to sums paid to the Law Society, and a provincial law society transferring any sums under this subsection shall furnish the Law Society with such information with respect to those sums as may be prescribed.

## PART II

### LEGAL AID UNDER EXISTING ACTS

18.—(1) If, on a question of granting a person free legal aid Right to free legal aid.  
under—

- (a) section ten of the Criminal Appeal Act, 1907; or
- (b) section one or two of the Poor Prisoners' Defence Act, 1930; or
- (c) section two of the Summary Jurisdiction (Appeals) Act, 1933,

there is a doubt whether his means are sufficient to enable him to obtain legal aid or whether it is desirable in the interests of justice that he should have free legal aid, the doubt shall be resolved in favour of granting him free legal aid.

(2) So much of section two of each of the two last-mentioned Acts as limits the matters to be taken into account in determining whether it is desirable in the interests of justice that a person should have free legal aid shall cease to have effect; and accordingly—

- (a) the words "by reason of the gravity of the charge or of exceptional circumstances" in section two of the said Act of 1930; and
- (b) the words "by reason of the nature of the offence of which the appellant was convicted, or by reason of the sentence, or of exceptional circumstances," in subsection (2) of section two of the said Act of 1933,

are hereby repealed.

PART II  
—*cont.*

(3) Before a person is granted free legal aid under any of the Acts mentioned in subsection (1) of this section, he may be required to furnish a written statement in the prescribed form about matters relevant for determining whether his means are insufficient to enable him to obtain legal aid, and if a person in furnishing such a written statement as aforesaid (whether required so to do or not) knowingly makes any false statement or false representation he shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding four months or to both.

The form for the purpose of this subsection shall be prescribed by the Secretary of State by regulations to be made by statutory instrument.

(4) The Poor Prisoners' Defence Act, 1930, shall apply in the case of a person committed as an incorrigible rogue under the Vagrancy Act, 1824, or committed for sentence under any other enactment, whenever passed, as if that person were committed for trial for an indictable offence, subject to the modifications that in subsection (2) of section one the words "after reading the depositions" and in subsection (2) of section three the words "and the costs of a copy of the depositions" shall be omitted.

(5) For the purposes of the last foregoing subsection, and all other purposes of the Poor Prisoners' Defence Act, 1930, and the provisions of this Part of this Act amending it, the expressions "defence," "try" and "trial" shall be taken as relating not only to proceedings on the issue of the defendant's guilt, but also to proceedings on the question of the sentence to be passed or order to be made; and any power to grant a person committed for trial or charged with an offence before a court of summary jurisdiction a defence certificate or legal aid certificate shall be exercisable after as well as before he has pleaded or been found guilty.

(6) In the Criminal Justice Act, 1948, paragraph (b) of subsection (5) of section twenty and paragraph (b) of subsection (3) of section twenty-nine (which paragraphs relate to legal aid on committal for sentence under those sections) are hereby repealed.

Procedural  
amendments:  
legal aid  
certificates.

19.—(1) An application for free legal aid under section two of the Poor Prisoners' Defence Act, 1930, may be made by letter, and may be so made by any person arrested or summoned for an offence, as well as by a person charged with an offence before a court of summary jurisdiction or examining justices.

(2) A letter applying for free legal aid by virtue of this section shall be addressed to the clerk to the justices for the relevant petty sessional division or place and shall give particulars of the offence charged and set out the grounds of the application.

(3) Where an application is made by virtue of this section, any justice acting for the relevant petty sessional division or place shall have the like power, exercisable on the like grounds, of granting a legal aid certificate as a court of summary jurisdiction or examining justices would have if the applicant had been charged with the offence before them.

(4) The refusal of a legal aid certificate on an application made by letter shall not prevent the applicant being granted a legal aid certificate at the hearing.

(5) In this section the expression "relevant petty sessional division or place" means, in relation to a person charged or to be charged before a court of summary jurisdiction or examining justices, the petty sessional division or place for which the court or justices act.

20.—(1) An application for free legal aid may be made under subsection (1) of section two of the Summary Jurisdiction (Appeals) Act, 1933, by letter addressed to the clerk to the justices for the relevant petty sessional division or place, instead of in person to a court of summary jurisdiction for that division or place. Procedural amendments: appeal aid certificates.

(2) A letter applying for free legal aid by virtue of the foregoing subsection shall set out the facts of the case and the grounds of the application.

(3) Where an application is made by virtue of subsection (1) of this section—

(a) any justice acting for the relevant petty sessional division or place shall have the like power, exercisable on the like grounds, of granting an appeal aid certificate as a court of summary jurisdiction for that division or place would have if the application had been made in person to them; and

(b) if the application is refused, subsection (3) of the said section two (which enables a person refused an appeal aid certificate by such a court to make a further application to quarter sessions) shall apply as if the application had been made to and refused by such a court.

(4) Without prejudice to subsection (3) of the said section two, an application for free legal aid under that section may be made in person to the court before whom the appeal is heard by an applicant who has not made the previous application to a court of summary jurisdiction or justices' clerk which is required under that subsection; and if the court before whom the appeal is heard are satisfied that there were adequate reasons for the applicant not making a previous application as aforesaid they shall deal with his application to them as if duly made under the said subsection (3).

PART II  
—cont.

(5) In this section the expression “relevant petty sessional division or place” means the petty sessional division or place for which the court appealed from was acting.

Remuneration  
of solicitors  
and counsel.

21. The Secretary of State in exercising any power to make rules or regulations—

- (a) as to the amounts payable under or by virtue of the Criminal Appeal Act, 1907, the Poor Prisoners’ Defence Act, 1930, or the Summary Jurisdiction (Appeals) Act, 1933, to counsel or a solicitor assigned to give legal aid thereunder; or
- (b) as to the amounts payable under subsection (3) of section three of the said Act of 1930 to counsel who on a person’s trial before a court of assize or quarter sessions undertakes his defence at the request of the judge or chairman of the court,

and any person by whom any amount so payable is determined in a particular case, shall have regard to the principle of allowing fair remuneration according to the work actually and reasonably done.

Cost of legal  
aid in  
magistrates’  
courts.

22.—(1) Where, after the commencement of this Part of this Act, a legal aid certificate is granted under section two of the Poor Prisoners’ Defence Act, 1930, section three of that Act (which provides for the costs of the defence being paid out of local funds) shall not apply and, subject to the following provisions of this section, the costs of the defence as taxed or assessed by the Law Society shall be paid out of the legal aid fund set up under Part I of this Act.

(2) The Secretary of State shall have the like power to make regulations for the purposes of this section as he has for the purposes of the said section three, but subject to any regulations made in the exercise of that power the costs payable under this section shall include the fees of any solicitor or counsel assigned under the said Act of 1930 and any other expenses properly incurred in carrying on the defence, except expenses as respects which an order may be made under section one of the Costs in Criminal Cases Act, 1908, for their payment out of local funds.

(3) The fees payable to a solicitor under this section may include sums in respect of the employment by him of counsel to appear at the hearing (in a case where counsel is not assigned under the said Act of 1930):

Provided that regulations made as aforesaid may, notwithstanding anything in section twenty-one of this Act, include

provision for securing that the total costs payable under this section in any case are not increased by virtue of this subsection.

(4) The costs of a solicitor which are payable under this section in respect of proceedings before a court of summary jurisdiction may include sums for his fees and disbursements in respect of work reasonably undertaken by him in giving notice of appeal or applying for a case to be stated and in matters preliminary thereto, being work done within the ordinary time for giving the notice or making the application.

(5) Where a person receives free legal aid under the said section two in any proceedings, any sums recovered by virtue of an order for costs made in his favour with respect to those proceedings shall be paid to the legal aid fund.

(6) The following provisions of Part I of this Act, namely subsections (3) to (5) of section eight, subsections (2) to (9) of section nine and section eleven, shall have effect as if this section were contained in the said Part I, and any power conferred by the said Part I to make regulations or a scheme shall apply for the purposes of giving effect to this section so far as the power relates to matters ancillary to the said provisions or to paragraph (d) of subsection (2) of section two of this Act or other matters incidental to the administration of the said Part I.

(7) In section three of the Poor Prisoners' Defence Act, 1930, the following words are hereby repealed, namely,—

(a) in subsection (1) the words “ or a legal aid certificate,” the words “ in the case of a defence certificate ” and the words from “ and in the case of a legal aid certificate ” onwards;

(b) in subsection (2) the words “ in the case of an order made in consequence of the granting of a defence certificate ” and all the words in paragraph (b):

Provided that this subsection shall not apply where a legal aid certificate has been granted before the commencement of this Part of this Act.

23.—(1) Where, after the commencement of this Part of this Act,—

(a) a person is granted free legal aid under section ten of the Criminal Appeal Act, 1907, section one of the Poor Prisoners' Defence Act, 1930, or section two of the Summary Jurisdiction (Appeals) Act, 1933; or

(b) on the trial before a court of assize or quarter sessions of a person who has not been granted free legal aid under

Cost of legal  
aid in other  
courts.

**PART II**  
*—cont.*

section one of the said Act of 1930, his defence is undertaken by counsel at the request of the judge or chairman of the court,

the costs paid out of local funds by virtue thereof shall, subject to the next following subsection, be repaid to the council of the county or county borough concerned by the Secretary of State in accordance with arrangements to be made by him with the approval of the Treasury.

(2) A council shall not be entitled to any payment under this section on account of sums included in an order for payment of costs which is enforceable by the council, except in so far as the Secretary of State is satisfied that those sums cannot be recovered by virtue of that order.

(3) Where after the commencement of this Part of this Act free legal aid is granted under the Poor Prisoners' Defence Act, 1930, in respect of proceedings for an indictable offence within the meaning of the Costs in Criminal Cases Act, 1908, the costs directed to be paid out of local funds by virtue of the said Act of 1930 shall not include allowances to witnesses, but this provision shall not be taken as prejudicing the power to make an order for the payment of such allowances under the said Act of 1908 apart from the said Act of 1930.

(4) Where after the commencement of this Part of this Act free legal aid is granted under section one of the Poor Prisoners' Defence Act, 1930, or under section two of the Summary Jurisdiction (Appeals) Act, 1933, the costs which are directed to be paid out of local funds shall be treated as including sums for any fees and disbursements of the solicitor assigned in respect of work reasonably undertaken by him in giving notice of appeal or of an application for leave to appeal, or applying for a case to be stated, and in matters preliminary thereto, being work done within the ordinary time for giving the notice or making the application for the case to be stated; and where counsel is also assigned the said sums may include the solicitor's costs in obtaining the counsel's opinion as to the appeal or application or matters connected therewith.

(5) The expenses of the Secretary of State under this section shall be defrayed out of moneys provided by Parliament.

**Commence-  
ment of  
Part II.**

24.—(1) This Part of this Act shall come into force on such day as the Secretary of State may by statutory instrument appoint and different days may be appointed for different purposes.

(2) A reference in any provision of this Part of this Act to the commencement of this Part of this Act shall be taken as a reference to the time at which that provision comes into force.

## PART III

## MISCELLANEOUS

25. This Act shall bind the Crown.

Application  
to Crown.

26. No limitation on the powers of the Parliament of Northern Ireland imposed by the Government of Ireland Act, 1920, shall apply in relation to legislation for purposes similar to the purposes of this Act so as to preclude that Parliament from enacting a provision corresponding to some provision of this Act.

Extension of  
powers of  
Northern  
Ireland  
Parliament.

27.—(1) This Act may be cited as the Legal Aid and Advice Act, 1949.

Short title and  
construction.

(2) A reference in this Act to any enactment shall, unless the context otherwise requires, be taken to include a reference to that enactment as amended, extended or applied by any other enactment including this Act.

## SCHEDULES

## FIRST SCHEDULE

Section 1.

PROCEEDINGS FOR WHICH LEGAL AID MAY BE GIVEN  
UNDER SECTION ONE

## PART I

## DESCRIPTION OF PROCEEDINGS

1. Proceedings in any of the following courts—

- (a) the House of Lords in the exercise of its jurisdiction in relation to appeals from courts in England or Northern Ireland;
- (b) the Judicial Committee of the Privy Council;
- (c) the Supreme Court of Judicature;
- (d) any county court;
- (e) the Chancery Court of the County Palatine of Lancaster;
- (f) the Chancery Court of the County Palatine of Durham;
- (g) the Mayor's and City of London Court;
- (h) the Liverpool Court of Passage;
- (i) the Court of Record for the Hundred of Salford in the county of Lancaster;
- (j) the Tolzey Court of Bristol;
- (k) the Norwich Guildhall Court.

2. Proceedings before any person to whom a case is referred in whole or in part by any of the said courts.

1st Sch.  
—cont.

3. The following proceedings in a court of summary jurisdiction or a court of quarter sessions, namely—
  - (a) proceedings for or relating to an affiliation order within the meaning of the Affiliation Orders Act, 1914, or an order under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1925;
  - (b) proceedings under the Guardianship of Infants Acts, 1886 and 1925;
  - (c) proceedings under the Small Tenements Recovery Act, 1838.
4. Proceedings before a coroner.
5. Proceedings before a sheriff under a writ of *elegit* or writ of inquiry.

## PART II

### EXCEPTED PROCEEDINGS

1. Proceedings wholly or partly in respect of—
  - (a) defamation;
  - (b) breach of promise of marriage;
  - (c) the loss of the services of a woman or girl in consequence of her rape or seduction;
  - (d) the inducement of one spouse to leave or remain apart from the other.
2. Relator actions.
3. Proceedings for the recovery of a penalty where the proceedings may be taken by any person and the whole or part of the penalty is payable to the person taking the proceedings.
4. Election petitions under the Parliamentary Elections Act, 1868, or the Municipal Corporations Act, 1882.
5. In the county court, proceedings for or consequent on the issue of a judgment summons and, in the case of a defendant, proceedings where the only question to be brought before the court is as to the time and mode of payment by him of a debt (including liquidated damages) and costs.
6. Proceedings incidental to any proceedings mentioned in this Part of this Schedule.

Section 4.

## SECOND SCHEDULE

### RESOURCES TO BE DISREGARDED ON APPLICATION FOR LEGAL AID UNDER SECTION ONE

1. In taking into account the value to any person of an interest in the dwelling-house in which he resides, any sum which might be obtained by him by selling that interest or borrowing money upon the security thereof shall be disregarded.



## 2. There shall be wholly disregarded—

2ND SCH.  
—cont.

- (a) any death grant paid to a person under the provisions of section twenty-two of the National Insurance Act, 1946;
- (b) any maternity grant to which a woman is entitled under section fourteen of the National Insurance Act, 1946.

3.—(1) Any such payment or part of a payment as is specified in the following provisions of this paragraph shall be disregarded up to the amount of one pound a week or, if the person in question is in receipt of more than one payment so specified, up to the said amount in the aggregate.

(2) The payments and parts of payments hereinbefore referred to are :—

- (a) the first ten shillings and sixpence a week of any payment of sick pay received from a friendly society or trade union;
- (b) the first ten shillings and sixpence a week of any superannuation payment or superannuation payments in respect of previous service or employment from which the recipient has retired or resigned (whether payable by a former employer or not), not being a payment or payments—
  - (i) on account of a pension under the Old Age Pensions Act, 1936 or under or by virtue of the Widows', Orphans' and Old Age Contributory Pensions Acts, 1936 to 1941, or under any enactment repealed by any of those Acts, or
  - (ii) on account of a retirement pension under the National Insurance Act, 1946;
- (c) any payment by way of attendance allowance under section fourteen of the National Insurance Act, 1946, and any payment by way of maternity allowance under section fifteen of that Act;
- (d) any of the following payments, that is to say—
  - (i) any payment in respect of retired pay or pension to which section sixteen of the Finance Act, 1919, applies, including any payment in respect of a dependants' allowance attached to such a pension,
  - (ii) any payment in respect of a disablement pension awarded under the Personal Injuries (Emergency Provisions) Act, 1939, including an increase in such a pension in respect of dependants,
  - (iii) any weekly payment by way of compensation under any enactment relating to workmen's compensation,
  - (iv) any payment by way of disablement benefit under section twelve of the National Insurance (Industrial Injuries) Act, 1946.

4. Where under subsection (4) of section four of this Act the resources of two or more persons are to be aggregated, the last foregoing paragraph shall apply to the aggregate of the resources of both or all the said persons.

X\*

## Section 6.

## THIRD SCHEDULE

REMUNERATION OF PERSONS GIVING LEGAL AID  
UNDER PART I

1.—(1) The sums allowed to counsel in connection with proceedings in the House of Lords or the Supreme Court shall be eighty-five per cent. of the amount allowed on taxation of the costs:

Provided that this sub-paragraph shall not apply in relation to proceedings in the High Court in a matrimonial cause, where the solicitor is one employed for a salary to act in connection with matrimonial causes.

(2) The sums allowed to counsel in connection with proceedings in the county court shall be the full amount allowed on taxation of the costs.

(3) The sums allowed to counsel in any other case shall be such as may be determined in the prescribed manner.

2.—(1) The sums allowed to a solicitor in connection with proceedings in the House of Lords or the Supreme Court shall be the full amount allowed on taxation of the costs on account of disbursements and eighty-five per cent. of the amount so allowed on account of profit costs:

Provided that so much of this sub-paragraph as relates to profit costs shall not apply to a solicitor employed for a salary to act in connection with matrimonial causes.

(2) The sums allowed to a solicitor in connection with proceedings in the county court shall be the full amount allowed on taxation of the costs whether on account of disbursements or of profit costs.

(3) Where a solicitor has acted as agent for another, the sums allowed under the foregoing provisions of this paragraph shall be the aggregate amount allowed them, but may be divided between them as they may agree.

(4) The sums allowed to a solicitor in any other case shall be such as may be determined in the prescribed manner.

3. For the purpose of sub-paragraph (1) or (2) of paragraph 1 of this Schedule, counsel's fees shall be taxed as if they had been paid by the solicitor, but shall not by reason thereof be treated as disbursements for the purpose of the last foregoing paragraph.

4.—(1) Subject to the last foregoing paragraph, costs shall be taxed for the purposes of this Schedule according to the ordinary rules applicable on a taxation as between solicitor and client where the costs are to be paid out of a common fund in which the client and others are interested:

Provided that no question shall be raised as to the propriety of any act for which prior approval was obtained as required by regulations.

(2) The reference in the foregoing sub-paragraph to the rules applicable on such a taxation as there mentioned, in relation to proceedings in a county court, includes in particular paragraph (e) of section one hundred and eighty-four of the County Courts Act, 1934

(which limits the amount allowable for any item to that allowable as between party and party), but notwithstanding anything in that sub-paragraph or the said paragraph (e) the amount allowed on such a taxation for the purposes of this Schedule may include such additions (if any) as may be prescribed in respect of matters preliminary to any proceedings in a county court.

3RD SCH.  
—cont.

5. Regulations may provide that for the purposes of this Schedule, instead of costs being taxed in the ordinary way,—

- (a) they shall be taxed by the prescribed person (whether an officer of a court or not); or
- (b) the amount of the costs shall be fixed (whether by an officer of a court or not) by an assessment made without a taxation but with a view to allowing as nearly as may be the same amount as on a taxation.

*Table of Statutes referred to in this Act*

| Short Title                                           | Session and Chapter             |
|-------------------------------------------------------|---------------------------------|
| Vagrancy Act, 1824                                    | 5 Geo. 4. c. 83.                |
| Small Tenements Recovery Act, 1838                    | 1 & 2 Vict. c. 74.              |
| Parliamentary Elections Act, 1868                     | 31 & 32 Vict. c. 125.           |
| Municipal Corporations Act, 1882                      | 45 & 46 Vict. c. 50.            |
| Appeal (Forma Pauperis) Act, 1893                     | 56 & 57 Vict. c. 22.            |
| Criminal Appeal Act, 1907                             | 7 Edw. 7. c. 23.                |
| Costs in Criminal Cases Act, 1908                     | 8 Edw. 7. c. 15.                |
| Affiliation Orders Act, 1914                          | 4 & 5 Geo. 5. c. 6.             |
| Finance Act, 1919                                     | 9 & 10 Geo. 5. c. 32.           |
| Government of Ireland Act, 1920                       | 10 & 11 Geo. 5. c. 67.          |
| Supreme Court of Judicature (Consolidation) Act, 1925 | 15 & 16 Geo. 5. c. 49.          |
| Poor Prisoners' Defence Act, 1930                     | 20 & 21 Geo. 5. c. 32.          |
| Summary Jurisdiction (Appeals) Act, 1933              | 23 & 24 Geo. 5. c. 38.          |
| County Courts Act, 1934                               | 24 & 25 Geo. 5. c. 53.          |
| Old Age Pensions Act, 1936                            | 26 Geo. 5 & 1 Edw. 8.<br>c. 31. |
| Personal Injuries (Emergency Provisions) Act, 1939    | 2 & 3 Geo. 6. c. 82.            |
| National Insurance (Industrial Injuries) Act, 1946    | 9 & 10 Geo. 6. c. 62.           |
| National Insurance Act, 1946                          | 9 & 10 Geo. 6. c. 67.           |
| National Assistance Act, 1948                         | 11 & 12 Geo. 6. c. 29.          |
| Criminal Justice Act, 1948                            | 11 & 12 Geo. 6. c. 58.          |

**CHAPTER 52**

An Act to extend the provisions of the Slaughter of Animals (Scotland) Act, 1928, to the slaughter of swine. [30th July 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Amendment of s. 1 of Slaughter of Animals (Scotland) Act, 1928. 18 & 19 Geo. 5. c. 29.

1. The Slaughter of Animals (Scotland) Act, 1928, shall extend to the slaughter of swine in like manner as it extends to the slaughter of any other animals, and accordingly subsection (1) of section one of that Act shall have effect as if the words "except swine" were omitted.

Short title, citation and commencement.

2.—(1) This Act may be cited as the Slaughter of Animals (Scotland) Act, 1949, and the Slaughter of Animals (Scotland) Act, 1928, and this Act may be cited together as the Slaughter of Animals (Scotland) Acts, 1928 and 1949.

(2) This Act shall come into operation on the first day of January, nineteen hundred and fifty.

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**CHAPTER 53***Coal Industry Act, 1949***ARRANGEMENT OF SECTIONS****PART I****AMENDMENTS OF COAL INDUSTRY NATIONALISATION ACT, 1946****Section.**

1. Alteration of composition of National Coal Board.
2. Extension of area within which the Board's activities may be carried on.
3. Termination of certain long-term contracts transferred to the Board.
4. Superannuation, &c., rights.
5. Power to provide for enforcement against the Board of certain workmen's compensation liabilities.
6. Repeal of s. 23 of Act of 1946.
7. Amendment of s. 64 of Act of 1946.
8. Interpretation of Part I.

## PART II

EXTENSION OF POWER TO MAKE GENERAL REGULATIONS UNDER THE  
COAL MINES ACT, 1911

Section.

9. Additional matters for which regulations may be made.
10. Power to prohibit employment in mines of persons refusing medical examination or medically unfit.
11. Minor amendments of s. 86 of Act of 1911.
12. Meanings of "mine" and "mining".

## PART III

## SHORT TITLE, &amp;c.

13. Short title, citation and extent.

An Act to alter the composition of the National Coal Board, extend the area within which their activities may be carried on, empower them to terminate certain long-term contracts and provide for the enforcement against them of certain workmen's compensation liabilities; to amend sections thirty-seven and sixty-four of the Coal Industry Nationalisation Act, 1946, and authorise the making of certain payments in connection with the settlement of disputes arising under regulations made under the said section thirty-seven and to repeal the provisions of that Act imposing restrictions on the disposal of government stock issued for compensation to companies; to extend the power of the Minister of Fuel and Power to make general regulations under section eighty-six of the Coal Mines Act, 1911, and otherwise to amend that section; and for purposes connected with the matters aforesaid.

[30th July 1949]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART I

## AMENDMENTS OF COAL INDUSTRY NATIONALISATION ACT, 1946

- 1.—(1) The number of members of the National Coal Board (in this Part of this Act referred to as "the Board") apart from the chairman of the Board shall, instead of being eight, be not less than eight nor more than eleven, and accordingly, in subsection (2) of section two of the Coal Industry Nationalisation Alteration of  
composition  
of National  
Coal Board.

PART I  
—cont.

Act, 1946 (in this Part of this Act referred to as “the principal Act”), for the words “eight other members” there shall be substituted the words “not less than eight nor more than eleven other members”.

(2) The persons from amongst whom the members of the Board are by subsection (3) of section two of the principal Act required to be appointed shall include persons appearing to the Minister to be qualified as having had experience of, and having shown capacity in, the coal-mining industry.

(3) The number of members of the Board, apart from the chairman thereof, required to render whole-time service to the Board shall not exceed eight.

(4) The Minister may appoint one of the members of the Board to act as deputy chairman thereof in addition to the member appointed by him under subsection (5) of section two of the principal Act so to act.

Extension of  
area within  
which the  
Board's  
activities may  
be carried on.

2.—(1) Section one of the principal Act (under which the Board are established and their functions defined) shall not be limited by subsection (3) of section sixty-three of that Act (which provides that references in that Act to activities of any kind, whether or not described by that word, are to be construed as limited to activities of that kind carried on in Great Britain), and references to the activities of the Board in subsection (4) of section three of that Act (which requires the Board to afford to the Minister of Fuel and Power facilities for obtaining information with respect to the property and activities of the Board and to furnish him with returns, accounts and other information with respect thereto) shall be construed accordingly:

Provided that the Board shall not carry on any activities outside Great Britain except under an authority in that behalf conferred by order of the Minister.

(2) The power conferred by this section on the Minister shall be exercisable by statutory instrument which shall be laid before Parliament after being made.

Termination  
of certain  
long-term  
contracts  
transferred to  
the Board.

3.—(1) Where a contract made before the primary vesting date to which a colliery concern or a class A or class B subsidiary of a colliery concern is a party contains provisions—

(a) which provide—

(i) for the sale or supply by the concern or subsidiary to a person (in this section referred to as “the purchaser”) of products of colliery production activities;

(ii) for the employment of a person (in this section referred to as “the agent”) as agent of the concern or subsidiary for the purpose of the sale or supply by the concern or subsidiary of such products; or

(iii) in connection with the transfer (whether or not by way of sale) to some person (in this section referred to as "the transferee") of a business or part of a business or the goodwill of a business, for restraining the concern or subsidiary (whether with or without limit of time) from selling or supplying such products either absolutely or in a specified area, or to specified persons or classes of persons (either generally or in a specified area) or for specified purposes or classes of purposes (either generally or in a specified area), or from carrying on business or a business of any class (either generally or in a specified area), or for securing that the concern or subsidiary shall be restrained as aforesaid;

(b) which, by virtue of section seven of, and the Second Schedule to, the principal Act have effect as if the Board had been a party to the contract instead of the concern or subsidiary; and

(c) whereof the operation cannot, apart from this section, be determined by the Board before the end of the year nineteen hundred and fifty-one;

this section shall apply to all the provisions of the contract which have effect as mentioned in paragraph (b) of this subsection:

Provided that this section shall not apply to provisions of a contract whereto the parties were, immediately before the primary vesting date, not connected (whether directly or indirectly) with each other to any material extent apart from the contract; and, in the case of a contract for the rendering of personal services, this section shall not apply to provisions thereof by reason only that they provide for the sale or supply of products of colliery production activities to the person by whom the services are to be rendered.

(2) If the Board are of opinion that they are, or are likely to be, hampered in the efficient performance of their functions by the operation of provisions of a contract, being provisions to which this section applies, they may, by notice in writing served on the purchaser, agent or transferee, as the case may be, determine the operation of the provisions on such date during the period of two years beginning with the first day of January, nineteen hundred and fifty, as may be specified in the notice, not being a date earlier than six months from the date of the service of the notice, and—

(a) if the contract does not comprise provisions other than those to which this section applies, it shall, as between the Board and the purchaser, agent or transferee, as the case may be, be deemed to be frustrated

PART I  
—cont.

on that date, and the Board and the purchaser, agent or transferee, as the case may be, shall for that reason be deemed to be discharged from the further performance of their obligations by virtue of the provisions; and

- (b) if the contract comprises provisions other than provisions to which this section applies, so much of it as comprises provisions to which this section applies shall be treated as being a separate contract which shall, as between the Board and the purchaser, agent or transferee, as the case may be, be deemed to be frustrated on that date, and the Board and the purchaser, agent or transferee, as the case may be, shall, for that reason, be deemed to be discharged from the further performance of their obligations by virtue of the provisions to which this section applies:

Provided that the Board shall not determine the operation of provisions of a contract on the ground only that the financial terms thereof, or any of them, are, or may become, disadvantageous to them.

(3) The Board shall be liable, in consequence of an exercise, with respect to provisions of a contract, of their right under the last foregoing subsection, to pay to the purchaser, agent or transferee, as the case may be,—

- (a) in a case where the provisions contain all such terms as would be expected to be contained therein in the case of a contract entered into—

(i) in the open market in the ordinary course of business at the time when the contract which comprises the provisions was entered into; and

(ii) between parties independent of each other who negotiated at arm's length; and do not contain any such terms as would not be expected to be so contained, compensation for the loss (if any) sustained by him in consequence of the exercise of that right; and

- (b) in any other case, compensation of an amount assessed by reference to the loss (if any) that would have been sustained by him in consequence of the exercise of that right if the provisions had been so adjusted as to satisfy the conditions specified in the foregoing paragraph.

(4) Any question whether provisions of a contract with respect to which the Board have served a notice under subsection (2) of this section are provisions to which this section applies or whether compensation is payable under this section to any person or as to the amount of compensation so payable



shall, in default of agreement between the Board and that person, be determined by arbitration under the principal Act, and subsection (2) of section sixty-one of that Act (which relates to arbitration thereunder) shall apply accordingly; and upon a reference under this section with respect to provisions of a contract, the arbitrator shall have exclusive jurisdiction to determine claims arising under the provisions between the Board and the purchaser, agent or transferee, with respect to the period before the frustration, and any claims arising under the Law Reform (Frustrated Contracts) Act, 1943, with respect to the provisions.

(5) Where the Board serve a notice under subsection (2) of this section with respect to provisions of a contract, and there is referred to arbitration under the principal Act the question whether the provisions are provisions to which this section applies, and the question is not determined before the date specified in the notice, the operation of the provisions of that subsection relating to the frustration of the contract or so much thereof as is required to be treated as being a separate contract shall be suspended pending the determination of that question, and if the arbitrator determines that the provisions of the contract are provisions to which this section applies, he shall substitute for the date specified in the notice such later date as he thinks fit (whether within the period of two years mentioned in that subsection or not) and the said provisions of that subsection shall thereupon have effect accordingly.

(6) Nothing in this section shall affect the operation of subsections (2) to (5) of section seven of the principal Act (which provide for the exclusion of the application of the Second Schedule to that Act to provisions of contracts).

(7) In relation to Scotland, subsection (4) of this section shall have effect as if, for the reference to the Law Reform (Frustrated Contracts) Act, 1943, there were substituted a reference to the common law of Scotland with regard to the frustration of contracts.

4.—(1) References in section thirty-seven of the principal Act (which provides for the making of regulations with respect to pensions, gratuities and other like benefits) to employment in or in connection with coal industry activities shall be construed as not including and as never having included references to employment in or in connection with coal industry activities by a person other than a colliery concern, a class A subsidiary of a colliery concern, the Coal Commission, a body administering a selling scheme, a selling agent appointed under a group selling scheme or the South Yorkshire Mines Drainage Committee, and references in that section to employment in or in

Super-  
annuation,  
&c., rights.

PART I  
—cont.

connection with transferred allied activities shall be construed as not including and as never having included references to employment otherwise than by the owner of an interest falling within Part II, III or IV of the First Schedule to the principal Act that vests in the Board by virtue of the exercise of an option in or in connection with activities for which that interest was owned or for which things wherein that interest subsisted were used, and the reference in paragraph (a) of subsection (2) of that section to a person's ceasing to be employed in coal industry activities or transferred allied activities shall be construed accordingly.

(2) The power conferred by paragraph (c) of subsection (1) of the said section thirty-seven to provide for the continuance, amendment or revocation of existing schemes or other arrangements for the provision of pensions, gratuities or other like benefits and of trust deeds, rules or other instruments made for the purposes thereof, and for the transfer or extinguishment of liabilities under, and the transfer or winding up of funds held for the purposes of, any such schemes or arrangements shall be exercisable in relation to schemes or other arrangements for the provision of such benefits in favour of—

- (a) persons to whom subsection (2) of that section, as amended by this section, applies; and
- (b) persons, other than as aforesaid, taken into the employment of the Board before the commencement of this Act, being persons who had been in employment in, or in connection with, coal industry activities or transferred allied activities,

or in favour of other persons by reference to the employment of such persons as aforesaid, to trust deeds, rules or other instruments made for the purposes of any such schemes or arrangements and to liabilities thereunder and funds held for the purposes thereof, but shall not be exercisable in relation to any other schemes or arrangements or instruments, liabilities or funds.

(3) Subsection (2) of the said section thirty-seven (which provides that, in the case of persons who have been in employment in or in connection with coal industry activities or transferred allied activities before the primary or other relevant vesting date, the regulations to be made for the purposes of subsection (1) of that section shall be so framed as to secure, amongst other things, that where an expectation of accruer, whether as of right or under customary practice, of any particular benefits in favour of any such person, or in favour of another person by reference to his employment, ceases or is prejudiced by reason of his ceasing in consequence of the passing of that Act to be employed by his previous employer or to be employed in the activities

aforesaid, the same benefits, or substituted benefits not less advantageous, shall be provided for under the regulations) shall be deemed to have been enacted with the omission of the words “or an expectation of accruer (whether as of right or under customary practice) of”, but the said regulations shall be so framed as to secure that where, in the case of a person to whom the said subsection (2), as amended by subsection (1) of this section, applies, such an expectation as aforesaid ceases or is prejudiced by reason of his ceasing in consequence of the passing of the principal Act to be employed by his previous employer or to be employed in activities to which paragraph (a) of that subsection, as so amended, applies, there shall be provided in his favour or in favour of another person by reference to his employment, fair and reasonable compensation for the cesser of or prejudice to that expectation, being compensation ascertained by reference—

- (a) to the period of employment to service wherein that expectation was ascribable; and
- (b) (except where the benefits expected to accrue would not have been ascertained by reference to emoluments enjoyed by him), to the emoluments enjoyed by him during that period ;

and (in such cases and to such extent as may be specified in the regulations) taking into account, as regards the amount thereof, any loss of benefits which might have been expected to accrue by virtue of employment after the expiration of the period aforesaid :

Provided that this subsection, so far as it relates to the framing of regulations, shall have effect subject to such limitations as may be prescribed for meeting cases in which any such expectations as aforesaid may have been created, otherwise than in the ordinary course, in connection with any provision made by the principal Act or with any anticipation of the making of any such provision.

(4) Regulations made for the purposes of the said section thirty-seven shall provide for the reference to a referee or board of referees appointed by the Minister of Labour and National Service of any dispute arising—

(a) in a case where—

- (i) a right to any particular benefits in favour of a person to whom subsection (2) of that section, as amended by subsection (1) of this section, applies, or in favour of another person by reference to his employment, has ceased or been prejudiced by reason of his ceasing in consequence of the passing of the principal Act to be employed by his previous

PART I  
—cont.

employer or to be employed in activities to which paragraph (a) of the said subsection (2), as so amended, applies; or

(ii) any such person retired from employment before the primary or other relevant vesting date, and he, or another person by reference to his employment, had been in receipt of benefits granted in respect of his employment,

whether benefits provided in pursuance of regulations so made are the same as, or not less advantageous than, those the right to which has so ceased or been prejudiced, or, as the case may be, those that had been received;

- (b) in a case where an expectation of accrual of any particular benefits in favour of a person to whom the said subsection (2), as amended as aforesaid, applies, or in favour of another person by reference to his employment, has ceased or been prejudiced as aforesaid, whether compensation provided in pursuance of regulations so made satisfies the requirements of the regulations;

and where, upon a reference under a provision of regulations having effect by virtue of this subsection, the referee or board of referees determines what benefits or compensation must be provided in order to satisfy the requirements of the regulations, it shall be the duty of the person charged by the regulations with the provision of the benefits or compensation to give effect to the determination.

(5) The Minister of Labour and National Service may, with the approval of the Treasury, pay out of moneys provided by Parliament—

- (a) to a referee or the members of a board of referees appointed by him under any regulations made under the said section thirty-seven which provide for the reference of disputes arising under the regulations to a referee or board of referees appointed by him, such fees and allowances as he may, with the consent of the Treasury, determine; and
- (b) to persons giving evidence before any such referee or board, such allowances as he may, with the consent of the Treasury, determine.

5.—(1) If it appears to His Majesty in Council that arrangements have been made—

- (a) between the Board and a person who at any time before the primary vesting date was the owner of an interest in property that vested in the Board under the principal Act, for the assumption by the Board of all or any

Power to provide for enforcement against the Board of certain workmen's compensation liabilities.

of the workmen's compensation liabilities of that person ; or

PART I  
—*cont.*

- (b) between the Board and a mutual indemnity association of which any such person as aforesaid is, or was at any time, a member, for the assumption by the Board of all or any of such of the liabilities of the association under a contract of insurance entered into between them and any person (whether such a person as aforesaid or not) whereby he is or was insured against workmen's compensation liabilities to any workmen as, by virtue of the happening of any of the events mentioned in subsection (1) of section seven of the Workmen's Compensation Act, 1925 (which relates to bankruptcy, the winding up of companies, etc.), are enforceable against the association by the workmen, their legal personal representatives or their dependants or others to whom or for whose benefit compensation is payable ;

he may by Order in Council provide for the enforcement of the liabilities to which the arrangements relate against the Board instead of against that person or, as the case may be, the association, as if the employment out of which the liabilities arise had been employment by the Board instead of by that or some other person or, as the case may be, the Board had subscribed the contract instead of the association and, in connection therewith, for conferring on the Board the rights and remedies which that person or, as the case may be, the association would have had in respect of the liabilities if they had remained enforceable against that person or, as the case may be, the association.

(2) Where the discharge of a workmen's compensation liability which, by virtue of an Order in Council under the foregoing subsection, is rendered enforceable against the Board is secured by virtue of a compensation trust, the Order may extinguish the liability of the trustees under the trust to make a payment in or towards the discharge of the first-mentioned liability.

(3) Where a person the discharge of any of whose workmen's compensation liabilities is secured by a compensation trust was at any time before the primary vesting date the owner of an interest in property that vested in the Board under the principal Act, the trustees under the trust shall have power, and be deemed always to have had power, to make to the Board, out of the trust fund created for the purposes of the trust, payments in consideration of the assumption by the Board, under arrangements made between the Board and that person, of any of those liabilities of that person the discharge of which is secured by the trust.

PART I  
—cont.

(4) An Order in Council under this section may contain such incidental and supplementary provisions as appear to His Majesty in Council to be requisite or expedient for the purposes of the Order, and—

(a) without prejudice to the generality of the foregoing provision, where an Order in Council under this section makes provision for rendering enforceable against the Board any liabilities of the Durham Colliery Owners' Mutual Protection Association, it may make such provision with respect to the exercise of all or any of the powers conferred by any order under paragraph (16) of the Second Schedule to the Workmen's Compensation Act, 1906, on a committee representative of that Association and an association of workmen as appears to His Majesty in Council to be requisite or expedient having regard to the provisions of the Order in Council; and

(b) without prejudice to the generality of the said provision or to the power conferred on His Majesty in Council by subsection (3) of section eighty-nine of the National Insurance (Industrial Injuries) Act, 1946, to provide for winding up compensation trusts, where an Order in Council under this section extinguishes liabilities of the trustees under such a trust it may, if it appears to His Majesty in Council to be requisite or expedient so to do, provide for the winding up of that trust;

and rules made under section four of the Workmen's Compensation (Coal Mines) Act, 1934, in relation to deposits made under that section by mutual indemnity associations may, notwithstanding the repeal of that Act by the said section eighty-nine, make provision for any matters consequential on the passing of this section.

(5) An Order in Council under this section may be varied or revoked by a subsequent Order in Council thereunder.

(6) In this section—

(a) the expression "compensation trust" means a compensation trust for the purposes of the Workmen's Compensation (Coal Mines) Act, 1934, and the expression "mutual indemnity association" has the same meaning as in that Act; and

(b) the expression "workmen's compensation liability" means a liability under the Workmen's Compensation Acts, 1925 to 1945, or the enactments repealed by the Workmen's Compensation Act, 1925, or the enactments repealed by the Workmen's Compensation Act, 1906, but does not include, in relation to any person,

any such liability as aforesaid against which he is insured under a contract of insurance subscribed by a person other than a mutual indemnity association ;

PART I  
—cont.

and references in this section to liabilities shall be construed as including references as well to contingent as to accrued liabilities.

6. Section twenty-three of the principal Act (which imposes restrictions on the disposal of government stock issued to a company in or towards satisfaction of compensation in respect of a transfer to the Board of assets, property, rights and liabilities of the company), and, in section thirty-three of that Act, the words “stock issued in exchange under subsection (4) of section twenty-three of this Act” in subsection (1), and the words “(other than inalienable stock)” in subsection (6), are hereby repealed. Repeal of s. 23 of Act of 1946.

7. Subsection (2) of section sixty-four of the principal Act (which makes provision for the application of that Act to Scotland) shall have effect, and be deemed always to have had effect, as if there were inserted, after the words “Court of Session”, the words “the expression ‘charge or lien for securing money or money’s worth’ includes a heritable security other than a standard charge constituted by section twelve of the Church of Scotland (Property and Endowments) Act, 1925, and does not include any stipend”. Amendment of s. 64 of Act of 1946.

8. Expressions used in this Part of this Act to which meanings are assigned by the principal Act for the purposes thereof have those meanings for the purposes of this Part of this Act. Interpretation of Part I.

## PART II

### EXTENSION OF POWER TO MAKE GENERAL REGULATIONS UNDER THE COAL MINES ACT, 1911

9.—(1) The power of the Minister of Fuel and Power under subsection (1) of section eighty-six of the Coal Mines Act, 1911 (in this Part of this Act referred to as “the principal Act”) to make general regulations shall include power to make such general regulations with respect to all or any of the following matters, that is to say— Additional matters for which regulations may be made.

(a) the appointment of, and the qualifications to be possessed by, persons concerned with the management of mines or otherwise acting in or in connection with the carrying on of mining operations and the duties to be discharged by such persons or any class thereof;

PART II  
—cont.

- (b) the granting to such persons as aforesaid or any class thereof of certificates as to the possession by them of such qualifications as may be specified by or described in the regulations, and the cancellation, renewal and restoration of such certificates, and the examinations to be undergone and the qualifications to be possessed by applicants for such certificates ;
- (c) the conferment on the Board for Mining Examinations of powers and duties in connection with all or any of the matters mentioned in the last foregoing paragraph (whether in addition to, or in substitution for, any other of their powers and duties), and the alteration of the constitution and style of that Board ;
- (d) the inspection of mines on behalf of the workmen employed therein ; and
- (e) the making by persons concerned with the management of mines or otherwise acting in or in connection with the carrying on of mining operations of returns, the giving by them of notices, the keeping by them of books and the preparation by them of plans and sections,

as it appears to the Minister to be requisite or expedient to make having regard to the needs of the mining industry, changes in the methods of mining, the progress of education and training and the results of research, and regulations made by virtue of this subsection may contain such incidental and supplementary provisions (including provisions for charging fees in respect of the grant of certificates and the undergoing of examinations) as appear to the Minister to be requisite or expedient for the purposes of the regulations, and may, in particular, vary, amend or replace any of the provisions contained in Part I of the principal Act.

(2) Section twenty-two of the Mining Industry Act, 1926 (which empowers the Minister of Fuel and Power by order to vary the provisions of sections nine and ten of the principal Act relating to the examination and qualifications of applicants for certificates of competency under that Act, and the grant of such certificates) is hereby repealed, but this repeal shall not affect any order under the said section twenty-two which is in force at the commencement of this Act, and the provisions of any such order shall have effect as if they were contained in regulations made under this section.

Power to prohibit employment in mines of persons refusing medical examination or medically unfit.

**10.** General regulations made under subsection (1) of section eighty-six of the principal Act shall provide for prohibiting the employment in or about a mine, either absolutely or in a particular capacity or in particular work, of—

- (a) any person who fails without reasonable cause to submit himself for medical examination in accordance with provisions in that behalf of regulations so made ;



(b) any person as to whom it is determined in accordance with regulations so made that, by reason of his physical or mental condition, he is unfit for such employment or for such employment in that capacity or in that work, as the case may be.

PART II  
—cont.

11.—(1) Subsection (1) of section eighty-six of the principal Act shall have effect, and be deemed always to have had effect, with the substitution, for the words “and any such regulations may vary or amend any of the provisions contained in Part II of, or the Third Schedule to, this Act”, of the words “and any such regulations may vary, amend or replace any of the provisions contained in Part II of, or the Third Schedule to, this Act”.

Minor  
amendments  
of s. 86 of  
Act of 1911.

(2) Subsection (2) of the said section eighty-six (which provides that general regulations may apply either to all mines or to any specified class or description of mines, and may provide for the exemption of any specified class or description of mines either absolutely or subject to conditions) shall have effect, and be deemed always to have had effect, with the substitution, for the words “and may provide for the exemption of any specified class or description of mines either absolutely or subject to conditions”, of the words “and may provide for the exemption, either absolutely or subject to conditions, of a particular mine or a specified class or description of mines or of part of a particular mine, parts of all mines or parts of mines of a specified class or description”.

12. In this Part of this Act the expression “mine” means a mine to which the principal Act applies, that is to say, a mine (as defined by that Act) of coal, stratified ironstone, shale or fire-clay, and the expression “mining” shall be construed accordingly.

Meanings of  
“mine” and  
“mining”.

### PART III

#### SHORT TITLE, &C.

13.—(1) This Act may be cited as the Coal Industry Act, 1949.

Short title,  
citation and  
extent.

(2) The Coal Industry Nationalisation Act, 1946, and Part I of this Act may be cited together as the Coal Industry Acts, 1946 and 1949, and the Coal Mines Acts, 1887 to 1943, and Part II of this Act may be cited together as the Coal Mines Acts, 1887 to 1949.

(3) This Act shall not extend to Northern Ireland.

Table of statutes referred to in this Act

| Short Title                                                      | Session and Chapter    |
|------------------------------------------------------------------|------------------------|
| Workmen's Compensation Act, 1906 ... ..                          | 6 Edw. 7. c. 58.       |
| Coal Mines Act, 1911 ... ..                                      | 1 & 2 Geo. 5. c. 50.   |
| Church of Scotland (Property and Endowments)<br>Act, 1925 ... .. | 15 & 16 Geo. 5. c. 33. |
| Workmen's Compensation Act, 1925 ... ..                          | 15 & 16 Geo. 5. c. 84. |
| Mining Industry Act, 1926 ... ..                                 | 16 & 17 Geo. 5. c. 28. |
| Workmen's Compensation (Coal Mines) Act, 1934                    | 24 & 25 Geo. 5. c. 23. |
| Law Reform (Frustrated Contracts) Act, 1943 ...                  | 6 & 7 Geo. 6. c. 40.   |
| Coal Industry Nationalisation Act, 1946 ...                      | 9 & 10 Geo. 6. c. 59.  |
| National Insurance (Industrial Injuries) Act, 1946               | 9 & 10 Geo. 6. c. 62.  |

## CHAPTER 54

### *Wireless Telegraphy Act, 1949*

#### ARRANGEMENT OF SECTIONS

##### PART I

##### *Regulation of Wireless Telegraphy*

##### Section.

1. Licensing of wireless telegraphy.
2. Fees and charges for wireless telegraphy licences.
3. Regulations as to wireless telegraphy.
4. Experimental licences.
5. Misleading messages and interception and disclosure of messages.
6. Territorial extent of preceding provisions.
7. Powers of Postmaster General as to wireless personnel.
8. Commencement of Part I.

##### PART II

##### *Special provisions as to interference*

9. Advisory committee and appeal tribunal.
10. Regulations as to radiation of electro-magnetic energy, etc.
11. Enforcement of regulations as to use of apparatus.
12. Enforcement of regulations as to sales, etc., by manufacturers and others.
13. Deliberate interference.

##### PART III

##### *Supplemental*

14. Penalties and legal proceedings.
15. Entry and search of premises, etc.
16. Regulations and orders.

## Section.

17. Financial provisions.
18. Temporary continuation of Wireless Telegraphy Acts, 1904 to 1926, and transitional provisions.
19. Interpretation.
20. Short title and extent.

## SCHEDULES :

First Schedule—Procedure in relation to suspension and revocation of authorities to wireless personnel.

Second Schedule—Provisions as to the Appeal Tribunal.

An Act to amend the law relating to wireless telegraphy.  
[30th July 1949.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART I

*Regulation of Wireless Telegraphy*

1.—(1) No person shall establish or use any station for wireless telegraphy or instal or use any apparatus for wireless telegraphy except under the authority of a licence in that behalf granted by the Postmaster General, and any person who establishes or uses any station for wireless telegraphy or installs or uses any apparatus for wireless telegraphy except under and in accordance with such a licence shall be guilty of an offence under this Act: Licensing of wireless telegraphy.

Provided that the Postmaster General may by regulations exempt from the provisions of this subsection the establishment, installation or use of stations for wireless telegraphy or wireless telegraphy apparatus of such classes or descriptions as may be specified in the regulations, either absolutely or subject to such terms, provisions and limitations as may be so specified.

(2) A licence granted under this section (hereafter in this Act referred to as a wireless telegraphy licence) may be issued subject to such terms, provisions and limitations as the Postmaster General may think fit, including in particular in the case of a licence to establish a station, limitations as to the position and nature of the station, the purposes for which, the circumstances in which, and the persons by whom the station may be used, and the apparatus which may be installed or used therein,

PART I  
—cont.

and, in the case of any other licence, limitations as to the apparatus which may be installed or used, and the places where, the purposes for which, the circumstances in which and the persons by whom the apparatus may be used.

(3) A wireless telegraphy licence shall, unless previously revoked by the Postmaster General, continue in force for such period as may be specified in the licence.

(4) A wireless telegraphy licence may be revoked, or the terms, provisions or limitations thereof varied, by a notice in writing of the Postmaster General served on the holder of the licence or by a general notice applicable to licences of the class to which the licence in question belongs published in such manner as may be specified in the licence.

(5) Where a wireless telegraphy licence has expired or has been revoked, it shall be the duty of the person to whom the licence was issued, and of every other person in whose possession or under whose control the licence may be, to cause the licence to be surrendered to the Postmaster General if required by the Postmaster General so to do, and any person who without reasonable excuse fails or refuses to comply with the provisions of this subsection shall be guilty of an offence under this Act:

Provided that this subsection shall not apply to a licence relating solely to apparatus not designed or adapted for emission (as opposed to reception).

(6) Nothing in this section shall authorise the inclusion, in any wireless telegraphy licence relating solely to apparatus not designed or adapted for emission (as opposed to reception), of any term or provision requiring any person to concede any form of right of entry into any private dwellinghouse.

Fees and  
charges for  
wireless  
telegraphy  
licences.

2.—(1) On the issue or renewal of a wireless telegraphy licence, and, where the regulations under this section so provide, at such times thereafter as may be prescribed by the regulations, there shall be paid to the Postmaster General by the person to whom the licence is issued such sums as may be prescribed by regulations to be made by the Postmaster General with the consent of the Treasury, and different provision may be made in relation to different licences, according to the nature, terms, provisions, limitations and duration thereof:

Provided that the regulations made may contain provisions authorising, in such cases as are not otherwise dealt with by the regulations, the charge by the Postmaster General of such sums, whether on the issue or renewal of the licence or subsequently, as may in the particular case appear to him to be

proper, but this proviso shall not apply to licences of any type wholly or mainly intended to meet the needs of persons desiring to use, in a private dwelling-house and without making any charge to other persons, apparatus not designed or adapted for emission (as opposed to reception).

PART I  
—cont.

(2) Notwithstanding anything in the preceding subsection, where, upon an application made by a person ordinarily resident in the United Kingdom for the issue or renewal of a wireless telegraphy licence to instal or use apparatus not designed or adapted for emission (as opposed to reception), the Postmaster General is satisfied, by means of a certificate issued by the local authority and produced to him by the applicant, that the applicant is a blind person not resident in a public or charitable institution or in a school, the Postmaster General may dispense with the payment of any sum which would otherwise be payable on the issue or renewal of the licence.

In this subsection, the expression "blind person" means a person so blind as to be unable to perform any work for which eyesight is essential, and the expression "the local authority" means—

- (a) in relation to any person ordinarily resident in England and Wales, the council of the county or county borough in which he is ordinarily resident ;
- (b) in relation to a person ordinarily resident in a large burgh in Scotland, the town council of that burgh ;
- (c) in relation to a person ordinarily resident elsewhere in Scotland, the council of the county in which he is ordinarily resident ;
- (d) in relation to a person ordinarily resident in Northern Ireland, the welfare authority established under the Public Health and Local Government (Administrative Provisions) Act (Northern Ireland), 1946, for the area in which he is ordinarily resident.

(3) Where sums will or may become payable under subsection (1) of this section subsequently to the issue or renewal of a licence, the Postmaster General may, on the issue or renewal thereof, require such security to be given, by way of deposit or otherwise, for the payment of the sums which will or may become payable as he thinks fit.

3.—(1) The Postmaster General may make regulations—

- (a) prescribing the things which are to be done or are not to be done in connection with the use of any station for wireless telegraphy or wireless telegraphy apparatus, and, in particular, requiring the use of any such

Regulations  
as to wireless  
telegraphy.

PART I  
—cont.

station or apparatus to cease on the demand in that behalf of any such persons as may be prescribed by or under the regulations;

- (b) imposing on the person to whom a wireless telegraphy licence is issued with respect to any station for wireless telegraphy or wireless telegraphy apparatus, or who is in possession or control of any station for wireless telegraphy or wireless telegraphy apparatus, obligations as to permitting and facilitating the inspection of the station and apparatus, as to the condition in which the station and apparatus are to be kept and, in the case of a station or apparatus for the establishment, installation or use of which a wireless telegraphy licence is necessary, as to the production of the licence, or of such other evidence of the licensing of the station or apparatus as may be prescribed by the regulations;
- (c) where sums are or may become due from the person to whom a wireless telegraphy licence is issued after the issue or renewal thereof, requiring that person to keep and produce such accounts and records as may be specified in the regulations; and
- (d) requiring the person to whom a wireless telegraphy licence authorising the establishment or use of a station has been issued to exhibit at the station such notices as may be specified in the regulations,

and different provision may be made by any such regulations for different classes of case :

Provided that nothing in any such regulations shall require any person to concede any form of right of entry into a private dwellinghouse for the purpose of permitting or facilitating the inspection of any apparatus not designed or adapted for emission (as opposed to reception).

(2) Any person who contravenes any regulations made under this section, or causes or permits any station for wireless telegraphy or wireless telegraphy apparatus to be used in contravention of any such regulations, shall be guilty of an offence under this Act.

Experimental  
licences.

4.—(1) Subject to the provisions of this section, where an application for the grant or renewal of a wireless telegraphy licence is made to the Postmaster General by a British subject and the Postmaster General is satisfied that the only purpose for which the applicant requires the licence is to enable him to conduct experiments in wireless telegraphy for the purpose of scientific research, the Postmaster General shall not refuse to grant or renew the licence and shall not revoke the licence

when granted, and no sum shall be payable under the regulations under section two of this Act otherwise than on the issue or renewal of the licence.

PART I  
—cont.

(2) Nothing in subsection (1) of this section shall limit the discretion of the Postmaster General as to the terms, provisions or limitations which he attaches to any licence or his power to vary the terms, provisions or limitations of any licence.

(3) Nothing in subsection (1) of this section shall prevent the Postmaster General from refusing to grant or renew, or from revoking, any licence if, whether before or after the grant or last renewal of the licence, the applicant has been convicted of any offence under this Part of this Act, whether in relation to the same or any other apparatus, or has contravened any of the terms, provisions or limitations of that or any other wireless telegraphy licence granted to him, or has been convicted under Part II of this Act of using any apparatus for the purpose of interfering with any wireless telegraphy.

(4) If it appears to the Postmaster General that, by reason of the existence of a national emergency, it is expedient so to do, he may, by a notice in writing served on the holder of any licence granted in pursuance of this section, revoke that licence, or by a general notice published in the London, Edinburgh and Belfast Gazettes, revoke all licences granted in pursuance of this section which are for the time being in force, and the Postmaster General shall not be obliged by virtue of this section to grant or renew any licence, if it appears to him, by reason of the existence of such an emergency, inexpedient so to do.

**5. Any person who—**

(a) by means of wireless telegraphy, sends or attempts to send, any message which, to his knowledge, is false or misleading and is, to his knowledge, likely to prejudice the efficiency of any safety of life service or endanger the safety of any person or of any vessel, aircraft or vehicle, and, in particular, any message which, to his knowledge, falsely suggests that a vessel or aircraft is in distress or in need of assistance or is not in distress or not in need of assistance; or

Misleading  
messages and  
interception  
and disclosure  
of messages.

(b) otherwise than under the authority of the Postmaster General or in the course of his duty as a servant of the Crown, either—

(i) uses any wireless telegraphy apparatus with intent to obtain information as to the contents, sender or addressee of any message (whether sent by means of wireless telegraphy or not) which neither the person using the apparatus nor any person on whose behalf he is acting is authorised by the Postmaster General to receive; or

PART I  
—cont.

(ii) except in the course of legal proceedings or for the purpose of any report thereof, discloses any information as to the contents, sender or addressee of any such message, being information which would not have come to his knowledge but for the use of wireless telegraphy apparatus by him or by another person,

shall be guilty of an offence under this Act.

Territorial  
extent of  
preceding  
provisions.

6.—(1) Subject to the provisions of this section, the preceding provisions of this Part of this Act shall apply—

- (a) to all stations and apparatus in or over, or for the time being in or over, the United Kingdom or the territorial waters adjacent thereto; and
- (b) subject to any limitations which the Postmaster General may by regulations determine, to all stations and apparatus on board any British seagoing ship or British aircraft which is registered in the United Kingdom but is not for the time being in or over the United Kingdom or the said territorial waters; and
- (c) subject to any limitations which the Postmaster General may by regulations determine, to all apparatus which is not in or over the United Kingdom or the said territorial waters but was released from within the United Kingdom or the said territorial waters, or from any British seagoing ship or British aircraft which is registered in the United Kingdom,

and, without prejudice to the liability of any other person, in the event of any contravention of the said preceding provisions or of any regulations made thereunder occurring in relation to any station or apparatus on board or released from any vessel or aircraft, the captain or the person for the time being in charge of the vessel or aircraft shall be guilty of an offence under this Act:

Provided that the captain or person for the time being in charge of a vessel or aircraft shall not be guilty of any offence under this Act by reason of any contravention of the said provisions or regulations occurring in relation to apparatus on board the vessel or aircraft if the contravention consists of the use by a passenger on board the ship or aircraft of apparatus not designed or adapted for emission (as opposed to reception) which is not part of the wireless telegraphy apparatus, if any, of the ship or aircraft.

(2) The Postmaster General may make regulations for regulating the use, on board any foreign sea going ship or foreign aircraft within the limits of the United Kingdom and the territorial waters adjacent thereto, of wireless telegraphy apparatus on board



the ship or aircraft, and such regulations may provide for the punishment of persons contravening the regulations by such fine, not exceeding in the case of any one offence one hundred pounds, as may be specified in the regulations, and for the forfeiture of any wireless telegraphy apparatus in respect of which an offence under such regulations is committed; but, save as aforesaid, nothing in this Part of this Act shall operate so as to impose any prohibition or restriction on persons using wireless telegraphy apparatus on board any foreign seagoing ship or foreign aircraft.

PART I  
—cont.

(3) His Majesty may by Order in Council direct that any reference in this section to any British ship or aircraft registered in the United Kingdom shall be construed as including a reference to any British ship or aircraft registered in the Isle of Man, in any of the Channel Islands, or in any colony, British protectorate or British protected state, or registered under the law of any other country or territory outside the United Kingdom which is for the time being administered by His Majesty's Government in the United Kingdom.

7.—(1) The Postmaster General may hold examinations to determine the competence of the persons examined to fill positions in connection with the operation of stations for wireless telegraphy or wireless telegraphy apparatus and may issue to persons successful at such examinations certificates of competence of such types as he may from time to time determine.

Powers of  
Postmaster  
General as  
to wireless  
personnel.

(2) The Postmaster General may issue to such persons as he thinks fit authorities in writing authorising the persons to whom the authorities are issued to fill such positions in connection with the operation of stations for wireless telegraphy or wireless telegraphy apparatus as may be specified in the respective authorities, being positions for the holding of which the possession of such an authority is, under wireless telegraphy licences granted under this Act or under any licences granted under any corresponding law of any part of His Majesty's dominions, a necessity or a qualification.

(3) The Postmaster General, if it appears to him that there are sufficient grounds so to do, may at any time suspend any authority granted under the last preceding subsection with a view to the revocation thereof, and where he so suspends an authority, the provisions of the First Schedule to this Act shall have effect.

(4) Where any authority granted under subsection (2) of this section has ceased to be in force or has been suspended, it shall be the duty of the person to whom the authority was issued, and of every other person in whose possession or under whose control the authority may be, to cause the authority to be surrendered to the Postmaster General if required by the

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PART I  
—cont.

Postmaster General so to do, and any person who without reasonable excuse fails or refuses to comply with the provisions of this subsection shall be guilty of an offence under this Act.

(5) The Postmaster General may charge to persons applying to take part in any examination under this section, and to applicants for, or for copies of, any certificate or authority issued under this section, such fees, if any, as he may determine.

Commence-  
ment of  
Part I.

8. This Part of this Act shall come into operation on such date as the Postmaster General may by order appoint, and different dates may be appointed for different provisions thereof.

## PART II

*Special provisions as to interference*Advisory  
committee  
and appeal  
tribunal.

9.—(1) For the purposes specified in this Part of this Act there shall be established—

- (a) a committee appointed by the Postmaster General (in this Part of this Act referred to as “the advisory committee”); and
- (b) a tribunal (in this Part of this Act referred to as “the appeal tribunal”).

(2) The advisory committee shall be appointed from a panel consisting of such number of persons as the Postmaster General may direct, to be nominated by the President of the Institution of Electrical Engineers with the approval of the Council thereof, being persons who, in the opinion of the President of the said Institution, either possess expert knowledge of the matters falling to be dealt with by the regulations falling to be made under this Part of this Act or represent persons whose interests are likely to be affected by the making thereof, and the Postmaster General and the President of the Institution of Electrical Engineers shall each exercise his powers under this subsection in such manner as to secure that the committee or the panel, as the case may be, is in his opinion sufficiently representative of persons whose interests are likely to be affected as aforesaid.

(3) Subject to the provisions of this section, the appeal tribunal shall consist of—

- (a) one person to be appointed by the Lord Chancellor who shall be a barrister of not less than seven years' standing or a solicitor of not less than seven years' standing or a person who has held judicial office, and who shall act only as respects proceedings in England and Wales and shall as respects such proceedings be the president of the tribunal ;
- (b) one person to be appointed by the Lord President of the Court of Session who shall be an advocate of not less than seven years' standing or a solicitor of not less than seven years' standing or a person who has

held judicial office, and who shall act only as respects proceedings in Scotland and shall as respects such proceedings be the president of the tribunal ;

- (c) one person to be appointed by the Lord Chief Justice of Northern Ireland who shall be a barrister of not less than seven years' standing or a solicitor of not less than seven years' standing or a person who has held judicial office, and who shall act only as respects proceedings in Northern Ireland and shall as respects such proceedings be the president of the tribunal ; and
- (d) two assessors, to assist the president of the tribunal, to be appointed by the President of the Institution of Electrical Engineers with the approval of the Council thereof, being persons who, in the opinion of the President of the said Institution, possess expert knowledge of the matters likely to come before the tribunal and are not members of the advisory committee.

(4) If, within such time, if any, as may be limited in that behalf by the rules regulating the procedure of the appeal tribunal, the parties to any particular case before the tribunal other than the Postmaster General request the President of the Institution of Electrical Engineers to appoint either one or two specially qualified assessors under this subsection, the President of the Institution of Electrical Engineers shall, with the approval of the Council thereof, select and appoint one or, as the case may be, two such assessors to act for that case, and the assessor or assessors so appointed shall act therefore accordingly in lieu of the assessors appointed under paragraph (d) of subsection (3) of this section, or, if the request is for the appointment of one specially qualified assessor and expresses a specific desire that he shall act in lieu of one only of the assessors appointed under the said paragraph (d), in lieu of such one of the assessors appointed under the said paragraph (d) as the President of the said Institution may select.

(5) If, in the case of any reference or application to the appeal tribunal under section eleven of this Act, any of the parties or the president of the tribunal, within such time, if any, as may be limited in that behalf by the rules regulating the procedure of the tribunal, request the Lord Chancellor, if the proceedings are in England and Wales, or the Secretary of State, if the proceedings are in Scotland or Northern Ireland, to appoint two additional members of the tribunal to act for that case, the Lord Chancellor or Secretary of State, as the case may be, shall select and appoint two persons, who need not possess any legal qualifications or expert knowledge, to act as additional members of the tribunal for that case, and the additional members so appointed shall act therefore accordingly in addition to the president and the assessors or assessor.

PART II  
—cont.

(6) The provisions of the Second Schedule to this Act shall have effect with respect to the period for which members of the appeal tribunal are to hold office, the appointment of deputies in case of illness or inability to act, the incidental powers of the tribunal, their procedure and the enforcement and proof of their orders.

(7) The expenses incurred by the advisory committee and the appeal tribunal, to such extent as may be determined by the Postmaster General with the consent of the Treasury, (including, in the case of the committee, such sums in respect of the expenses of the members thereof, and, in the case of the tribunal, such sums by way of fees to, and in respect of the expenses of, the members or persons acting as members thereof, as may be so determined) shall be paid out of moneys provided by Parliament.

Regulations  
as to radiation  
of electro-  
magnetic  
energy, etc.

10.—(1) The Postmaster General may, after consultation with the advisory committee, make regulations for both or either of the following purposes, that is to say—

- (a) for prescribing the requirements to be complied with in the case of any apparatus to which this section applies if the apparatus is to be used ;
- (b) for prescribing the requirements to be complied with in the case of any apparatus to which this section applies if the apparatus is to be sold otherwise than for export, or offered or advertised for sale otherwise than for export, or let on hire or offered or advertised for letting on hire, by any person who in the course of business manufactures, assembles or imports such apparatus.

(2) The said requirements shall be such requirements as the Postmaster General thinks fit for the purpose of ensuring that the use of the apparatus does not cause undue interference with wireless telegraphy, and may in particular include—

- (a) requirements as to the maximum intensity of electro-magnetic energy of any specified frequencies which may be radiated in any direction from the apparatus while it is being used; and
- (b) in the case of an apparatus the power for which is supplied from electric lines, requirements as to the maximum electro-magnetic energy of any specified frequencies which may be injected into those lines by the apparatus,

and, in so far as appears to the Postmaster General necessary or expedient in the case of the regulations in question, different requirements may be prescribed for different circumstances and in relation to different classes or descriptions of apparatus, different districts or places and different times of use.

(3) The apparatus to which this section applies shall be such apparatus as may be specified in the regulations made thereunder, being apparatus generating, or designed to generate, or liable to generate fortuitously, electro-magnetic energy at frequencies of not more than three million megacycles per second, and not being wireless telegraphy apparatus.

The references in this subsection to apparatus include references to any form of electric line, and other references in this Act to apparatus shall be construed accordingly.

(4) It shall not be unlawful for any person to use any apparatus to which this section applies or to sell any such apparatus or offer or advertise it for sale or let it on hire or offer or advertise it for letting on hire by reason only that it does not comply with the requirements applicable under any regulations made under this section, but the non-compliance shall be a ground for the giving of a notice under the next succeeding section or under section twelve of this Act, as the case may be.

11.—(1) If the Postmaster General is of opinion—

(a) that any apparatus does not comply with the requirements applicable to it under regulations made for the purpose specified in paragraph (a) of subsection (1) of the last preceding section ; and

(b) that either—

(i) the use of the apparatus is likely to cause undue interference with any wireless telegraphy used for the purposes of any safety of life service or for any purpose on which the safety of any person or of any vessel, aircraft or vehicle may depend ; or

(ii) the use of the apparatus is likely to cause undue interference with any other wireless telegraphy and in fact has caused or is causing such interference in a case where he considers that all reasonable steps to minimize interference have been taken in relation to the station or apparatus receiving the telegraphy,

Enforcement  
of regulations  
as to use of  
apparatus.

he may serve on the person in whose possession the apparatus is a notice in writing requiring that, after a date fixed by the notice, not being less than twenty-eight days from the date of the service thereof, the apparatus shall not be used, whether by the person to whom the notice is given or otherwise, or, if the Postmaster General thinks fit so to frame the notice, shall only be used in such manner, at such times and in such circumstances as may be specified in the notice :

Provided that—

(i) if before the date fixed by the notice, a notice is given under subsection (3) of this section requiring the Postmaster General to refer the matter to the appeal

PART II  
—cont.

tribunal, the Postmaster General's notice shall not operate until the termination of the proceedings before the tribunal, and any notice given under this subsection by the Postmaster General (other than a notice to which paragraph (ii) of this proviso applies) shall be framed accordingly ;

- (ii) if the Postmaster General is satisfied that the use of the apparatus in question is likely to cause undue interference with any wireless telegraphy used for the purposes of any safety of life service or for any purpose on which the safety of any person or of any vessel, aircraft or vehicle may depend, the date to be fixed by the notice may be the date of the service thereof, and paragraph (i) of this proviso shall not apply.

(2) A notice under subsection (1) of this section may be revoked or varied by a subsequent notice in writing by the Postmaster General served on the person in whose possession the apparatus then is :

Provided that where a notice under this subsection has the effect of imposing any additional restrictions on the use of the apparatus, the provisions of subsection (1) of this section relating to the coming into force of notices shall apply in relation to the notice as if it had been a notice served under the said subsection (1).

(3) Where notice has been given under subsection (1) of this section, any person having possession of or any interest in the apparatus to which the notice relates may at any time (whether before or after the date fixed by the said notice), by notice in writing served on the Postmaster General, require the Postmaster General to refer the matter to the appeal tribunal, and the Postmaster General, unless he revokes his notice or modifies it to the satisfaction of the said person, shall refer the matter to the tribunal accordingly.

This subsection applies in relation to a notice under subsection (1) of this section which has been varied by a subsequent notice as it applies in relation to a notice which has not been so varied.

(4) On any such reference, the tribunal shall hear the Postmaster General and the person at whose instance the reference was made and any other person appearing to them to be interested who desires to be heard, and has, in accordance with the rules regulating the procedure of the tribunal, procured himself to be made a party to the reference, and—

- (a) if they are satisfied that the apparatus in question complies with requirements applicable to it under the regulations, shall direct the Postmaster General to revoke the notice ;

(b) if they are satisfied that the said requirements ought properly to be relaxed in relation to the apparatus, may direct the Postmaster General to revoke the notice or to vary it in such manner as may be specified in the direction,

PART II  
—cont.

and the Postmaster General shall revoke or vary the notice accordingly :

Provided that the making by the tribunal of a direction under this subsection or the refusal by the tribunal to make a direction under this subsection shall not prevent any such person as is mentioned in subsection (3) of this section from giving a further notice under subsection (3) of this section and shall not, where the Postmaster General is of opinion that there has been a relevant change in the circumstances, prevent the Postmaster General from giving a further notice under subsection (1) or subsection (2) of this section.

(5) A direction given under subsection (4) of this section may be absolute, or may be conditional on such steps being taken in relation to the apparatus, or on the apparatus being made to comply with such requirements, as may be specified in the direction, and any question whether or not those steps have been taken or, as the case may be, whether or not the apparatus has been made to comply with those requirements, shall, on the application of the Postmaster General or of any person having possession of or any interest in the apparatus, be determined by the tribunal.

(6) Where any matter is referred to the tribunal under subsection (3) of this section or any application is made to the tribunal under the last preceding subsection, the tribunal shall, unless the parties otherwise agree, sit in England and Wales, in Scotland or in Northern Ireland, according to the place where the apparatus was at the date of the reference or application, and in some place which in the judgment of the tribunal is reasonably near to the place where the apparatus was as aforesaid.

(7) Any person who, knowing that a notice of the Postmaster General under this section is in force with respect to any apparatus, uses that apparatus, or causes or permits it to be used, in contravention of the notice, shall be guilty of an offence under this Act.

12.—(1) If the Postmaster General is of opinion that any apparatus does not comply with the requirements applicable to it under regulations made for the purpose specified in paragraph (b) of subsection (1) of section ten of this Act, he may serve on any person who has manufactured, assembled or imported the apparatus in the course of business a notice in writing prohibiting him from selling the apparatus, otherwise than for export, or

Enforcement of regulations as to sales, etc., by manufacturers and others.

**PART II**  
**—cont.**

offering or advertising it for sale, otherwise than for export, or letting it on hire or offering or advertising it for letting on hire.

(2) Where a notice has been served under subsection (1) of this section, the person on whom the notice has been served may, by notice in writing served on the Postmaster General, require the Postmaster General to refer the matter to the appeal tribunal and the Postmaster General, unless he revokes the notice, shall refer the matter to the tribunal accordingly.

(3) On any such reference, the tribunal shall hear the Postmaster General and the person at whose instance the reference was made and any other person appearing to them to be interested who desires to be heard and has, in accordance with the rules regulating the procedure of the tribunal, procured himself to be made a party to the reference, and, if they are satisfied that the apparatus in question complies with the requirements applicable to it under the regulations, shall direct the Postmaster General to revoke the notice and he shall revoke it accordingly :

Provided that the making by the tribunal of a direction under this subsection shall not, where the apparatus is subsequently altered, prevent the Postmaster General from serving a fresh notice under subsection (1) of this section with respect to the apparatus and the refusal by the tribunal to make a direction under this subsection shall not, where the apparatus is subsequently altered, prevent the Postmaster General from revoking the notice or the person on whom the notice was served from giving a further notice under subsection (2) of this section.

(4) The provisions of subsection (6) of section eleven of this Act shall apply in relation to any reference under this section as they apply in relation to any reference under subsection (3) of that section.

(5) Where a notice has been served under subsection (1) of this section, the person on whom the notice has been served shall, if he contravenes the provisions of the notice without the notice having been previously revoked by the Postmaster General, be guilty of an offence under this Act.

**Deliberate  
interference.**

**13.—(1)** Any person who uses any apparatus for the purpose of interfering with any wireless telegraphy shall be guilty of an offence under this Act.

(2) This section shall apply whether or not the apparatus in question is wireless telegraphy apparatus or apparatus to which any of the preceding provisions of this Part of this Act apply, and whether or not any notice under section eleven or section twelve of this Act has been given with respect to the apparatus, or, if given, has been varied or revoked.



## PART III

*Supplemental*

14.—(1) Subject to the provisions of Part I of this Act relating to offences committed in relation to apparatus on board foreign seagoing ships or foreign aircraft, any person committing any offence under this Act—

Penalties  
and legal  
proceedings.

(a) shall, if the offence is under Part I of this Act and consists either—

(i) in the installation or use, otherwise than under and in accordance with a wireless telegraphy licence, of any apparatus not designed or adapted for emission (as opposed to reception); or

(ii) in a contravention, in relation to any such apparatus, of any regulation made under the said Part I; or

(iii) in a failure or refusal to cause any licence or authority to be surrendered to the Postmaster General,

be liable on summary conviction, in the case of the first such offence, to a fine not exceeding ten pounds, and, in the case of any subsequent such offence, to a fine not exceeding fifty pounds;

(b) shall, if the offence is under Part II of this Act and consists in the use, or in the causing or permitting of the use, or in the selling, offering or advertising for sale, letting on hire or offering or advertising for letting on hire, of apparatus in contravention of a notice of the Postmaster General, not being apparatus the use of which is likely to cause undue interference with any wireless telegraphy used for the purposes of any safety of life service or any purpose on which the safety of any person or of any vessel, aircraft or vehicle may depend, be liable on summary conviction, in the case of the first such offence, to a fine not exceeding ten pounds, and, in the case of any subsequent such offence, to a fine not exceeding fifty pounds.

(c) shall, in the case of any other offence, be liable on summary conviction to imprisonment for a period not exceeding three months or to a fine not exceeding one hundred pounds or to both such imprisonment and such a fine.

(2) Where any offence under this Act has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting

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PART III  
—cont.

to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance, and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and in all the circumstances.

In this subsection, the expression “director”, in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body.

(3) Where a person is convicted of an offence under this Act consisting in any contravention of any of the provisions of Part I of this Act in relation to any station for wireless telegraphy or any wireless telegraphy apparatus or in the use of any apparatus for the purpose of interfering with any wireless telegraphy, the court may, in addition to any other penalty, order all or any of the apparatus of the station, or, as the case may be, of the apparatus in connection with which the offence was committed, to be forfeited to the Postmaster General.

(4) Except as otherwise expressly provided in this Act, no criminal proceedings for an offence under this Act shall be instituted in England, Wales or Northern Ireland except with the consent of the Postmaster General.

(5) Section seventy-six of the Post Office Act, 1908 (which gives to the Postmaster General power to compound proceedings) shall extend to proceedings for an offence under this Act in connection with apparatus for wireless telegraphy not designed or adapted for emission (as opposed to reception).

(6) Without prejudice to the right to bring separate proceedings for contraventions of this Act taking place on separate occasions, a person who is convicted of an offence under this Act consisting in the use of any station or apparatus, or in a failure or refusal to cause any licence or authority to be surrendered, shall, where the use, or failure or refusal continues after the conviction, be deemed to commit a separate offence in respect of every day on which the use, failure or refusal so continues.

(7) Nothing in the preceding provisions of this section shall limit any right of any person to bring civil proceedings in respect of the doing or apprehended doing of anything rendered unlawful by any provision of this Act, and, without prejudice to the generality of the preceding words, compliance with the provisions of this Act contraventions of which are declared to be offences

under this Act shall be enforceable by civil proceedings by the Crown for an injunction or for any other appropriate relief.

**PART III**  
—cont.

In the application of this subsection to Scotland, for the words "civil proceedings by the Crown for an injunction" there shall be substituted the words "civil proceedings by the Lord Advocate for an interdict".

(8) In this section, the expression "summary conviction", in relation to Northern Ireland, means conviction subject to, and in accordance with, the Summary Jurisdiction Acts, and the expression "the Summary Jurisdiction Acts" means, in relation to Northern Ireland, the Petty Sessions (Ireland) Act, 1851, and any Act (including any Act of the Parliament of Northern Ireland), whether passed before or after the passing of this Act, amending that Act.

15.—(1) If, in England, Wales or Northern Ireland, a justice of the peace, or, in Scotland, the sheriff, is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Act has been or is being committed, and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, vessel or aircraft so specified, he may grant a search warrant authorising any person or persons authorised in that behalf by the Postmaster General and named in the warrant, with or without any constables, to enter, at any time within one month from the date of the warrant, the premises specified in the information or, as the case may be, the vehicle, vessel or aircraft so specified and any premises upon which it may be, and to search the premises, or, as the case may be, the vehicle, vessel or aircraft, and to examine and test any apparatus found on the premises, vessel, vehicle or aircraft.

(2) If, in England, Wales or Northern Ireland, a justice of the peace, or, in Scotland, the sheriff, is satisfied upon an application supported by sworn evidence—

- (a) that there is reasonable ground for believing that, on any specified premises or in any specified vessel, aircraft or vehicle, apparatus to which section ten of this Act applies is to be found which does not comply with the requirements applicable to it under regulations made under that section; and
- (b) that it is necessary to enter those premises, or that vessel, aircraft or vehicle, for the purpose of obtaining such information as will enable the Postmaster General to decide whether or not to serve a notice under section eleven or section twelve of this Act; and
- (c) that access to the premises, vessel, aircraft or vehicle for the purpose of obtaining such information as aforesaid

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PART III  
—cont.

has, within fourteen days before the date of the application to the justice or sheriff, been demanded by a person authorised in that behalf by the Postmaster General and producing sufficient documentary evidence of his identity and authority, but has been refused,

the justice or sheriff may issue a written authorisation under his hand empowering any person or persons authorised in that behalf by the Postmaster General and named in the authorisation, with or without any constables, to enter the premises or, as the case may be, the vessel, aircraft or vehicle and any premises on which it may be and to search the premises, vessel, aircraft or vehicle with a view to discovering whether any such apparatus as aforesaid is situate thereon or therein, and, if he finds or they find any such apparatus thereon, or therein, to examine and test it with a view to obtaining such information as aforesaid :

Provided that an authorisation shall not be issued under this subsection unless either—

- (i) it is shown to the justice or sheriff that the Postmaster General is satisfied that there is reasonable ground for believing that the use of the apparatus in question is likely to cause undue interference with any wireless telegraphy used for the purposes of any safety of life service or any purpose on which the safety of any person or of any vessel, aircraft or vehicle may depend; or
- (ii) it is shown to the justice or sheriff that not less than seven days' notice of the demand for access was served on the occupier of the premises, or, as the case may be, the person in possession or the person in charge of the vessel, aircraft or vehicle, and that the demand was made at a reasonable hour and was unreasonably refused.

(3) Where under this section a person has a right to examine and test any apparatus on any premises or in any vessel, aircraft or vehicle, it shall be the duty of any person who is on the premises, or is in charge of, or in or in attendance on, the vessel, aircraft or vehicle, to give him any such assistance as he may reasonably require in the examination or testing of the apparatus.

(4) Any person who—

- (a) obstructs any person in the exercise of the powers conferred on him under this section; or
- (b) fails or refuses to give to any such person any assistance which he is under this section under a duty to give to him ; or

(c) discloses, otherwise than for the purposes of this Act or of any report of proceedings thereunder, any information obtained by means of the exercise of powers under this Act, being information with regard to any manufacturing process or trade secret,

PART III  
—cont.

shall be guilty of an offence under this Act, and criminal proceedings for an offence under paragraph (c) of this subsection may be instituted without the consent of the Postmaster General.

16.—(1) Any Order in Council under this Act may be revoked or varied by a subsequent Order in Council. Regulations and orders.

(2) The power to make orders conferred on the Postmaster General by section eight of this Act and any power conferred on him by any of the provisions of this Act to make regulations shall be exercisable by statutory instrument, and any statutory instrument made in the exercise of any of the said powers shall be subject to annulment in pursuance of a resolution of either House of Parliament.

17.—(1) Any expenses incurred for the purpose of this Act by the Postmaster General shall be defrayed out of moneys provided by Parliament, and any sums received by the Postmaster General under this Act, and any fines imposed for offences under this Act, shall be paid into the Exchequer. Financial provisions.

(2) Any expenses incurred under any provision of this Act by a welfare authority established under the Public Health and Local Government (Administrative Provisions) Act (Northern Ireland), 1946, shall be defrayed in like manner as the other expenses of that authority are, for the time being, defrayed.

18.—(1) If the date appointed for the coming into operation of section one of this Act is later than the date on which the Wireless Telegraphy Acts, 1904 to 1926, are limited to expire apart from this Act, those Acts shall continue in force until the date so appointed. Temporary continuation of Wireless Telegraphy Acts, 1904 to 1926, and transitional provisions.

(2) On the expiry of the said Acts the same consequences shall ensue as would have ensued if the said Acts had been permanent Acts repealed by this Act as from the date of the expiry thereof:

Provided that any licence granted under the said Acts which is in force immediately before the date of the expiry thereof shall, as from that date, be deemed to be a wireless telegraphy licence duly granted under this Act and shall, with any necessary modifications, have effect accordingly.

19.—(1) In this Act, except where the context otherwise requires, the expression "wireless telegraphy" means the emitting or receiving, over paths which are not provided by any Interpretation.

PART III  
—cont.

material substance constructed or arranged for that purpose, of electromagnetic energy of a frequency not exceeding three million megacycles a second, being energy which either—

- (a) serves for the conveying of messages, sound or visual images (whether the messages, sound or images are actually received by any person or not), or for the actuation or control of machinery or apparatus; or
- (b) is used in connection with the determination of position, bearing or distance, or for the gaining of information as to the presence, absence, position or motion of any object or of any objects of any class,

and references to stations for wireless telegraphy and apparatus for wireless telegraphy or wireless telegraphy apparatus shall be construed as references to stations and apparatus for the emitting or receiving as aforesaid of such electro-magnetic energy as aforesaid:

Provided that where—

- (i) a station or apparatus for wireless telegraphy cannot lawfully be used without a wireless telegraphy licence or could not lawfully be used without such a licence but for regulations under section one of this Act; and
- (ii) any such electro-magnetic energy as aforesaid which is received by that station or apparatus serves for the conveying of messages, sound or visual images; and
- (iii) any apparatus is electrically coupled with that station or apparatus for the purpose of enabling any person to receive any of the said messages, sound or visual images,

the apparatus so coupled shall itself be deemed for the purposes of this Act to be apparatus for wireless telegraphy.

(2) In this Act, the expression “station for wireless telegraphy” includes the wireless telegraphy apparatus of a ship or aircraft, and the expression “electric line” has the same meaning as in the Electric Lighting Act, 1882.

(3) Any reference in this Act to the emission of electromagnetic energy, or to emission (as opposed to reception), shall be construed as including a reference to the deliberate reflection of electro-magnetic energy by means of any apparatus designed or specially adapted for that purpose, whether the reflection is continuous or intermittent.

(4) In this Act, the expression “interference,” in relation to wireless telegraphy, means the prejudicing by any emission or reflection of electro-magnetic energy of the fulfilment of the purposes of the telegraphy (either generally or in part, and, without prejudice to the generality of the preceding words, as respects all, or as respects any, of the recipients or intended recipients

of any message, sound or visual image intended to be conveyed by the telegraphy), and the expression "interfere" shall be construed accordingly.

PART III  
—cont.

(5) In considering for any of the purposes of this Act, whether, in any particular case, any interference with any wireless telegraphy caused or likely to be caused by the use of any apparatus, is or is not undue interference, regard shall be had to all the known circumstances of the case and the interference shall not be regarded as undue interference if so to regard it would unreasonably cause hardship to the person using or desiring to use the apparatus.

(6) Any reference in this Act to the sending or the conveying of messages includes a reference to the making of any signal or the sending or conveying of any warning or information, and any reference to the reception of messages shall be construed accordingly.

(7) In this Act, the expressions "ship" and "vessel" have the meanings respectively assigned to them by section seven hundred and forty-two of the Merchant Shipping Act, 1894.

(8) References in this Act to apparatus on board a ship or vessel include references to apparatus on a kite or captive balloon flown from a ship or vessel.

(9) Any notice required or authorised by any provision of this Act to be served on any person may be served by registered post.

(10) Any reference in this Act to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment, including this Act.

20.—(1) This Act may be cited as the Wireless Telegraphy Act, 1949. Short title  
and extent.

(2) It is hereby declared that this Act extends to Northern Ireland.

(3) His Majesty may by Order in Council direct that all or any of the provisions of this Act shall extend to the Isle of Man or any of the Channel Islands with such adaptations and modifications, if any, as may be specified in the Order.

## SCHEDULES

## Section 7.

## FIRST SCHEDULE

PROCEDURE IN RELATION TO SUSPENSION AND REVOCATION OF  
AUTHORITIES TO WIRELESS PERSONNEL

1. The Postmaster General shall, on suspending the authority, serve on the person to whom it was issued a notice informing him of the suspension, of the grounds thereof and of his rights under the subsequent provisions of this Schedule, and further informing him that if he does not avail himself of those rights the Postmaster General may revoke the authority:

Provided that where it appears to the Postmaster General that it is not reasonably practicable to serve the notice on the said person, the Postmaster General, in lieu of serving the notice on him, shall take such steps, by advertisement or otherwise, to bring the notice to his knowledge as appear to the Postmaster General to be reasonable in the circumstances.

2.—(1) If, within such time and in such manner as may be specified in the notice, the person to whom the authority was issued requests that the question whether the authority should be revoked or the suspension thereof continued or terminated should be referred to an advisory committee, the Postmaster General, unless he terminates the suspension, shall refer that question to an advisory committee accordingly.

(2) Every such advisory committee shall consist of three persons appointed by the Postmaster General, of whom one shall be an independent chairman selected by the Postmaster General and two shall be persons nominated respectively by such body or bodies representing employers of wireless operators and such association or associations representing wireless operators as seem to the Postmaster General to be appropriate for the purpose.

(3) Where a question is referred to an advisory committee under this paragraph, the committee shall inquire into the matter, shall consider any representations made by the person to whom the authority was issued, and shall then make a report to the Postmaster General stating the facts as found by them and the action which, in their opinion, ought to be taken as respects the revocation of the authority or the continuation or termination of the suspension thereof, and the Postmaster General shall consider the report.

(4) After considering the report of the advisory committee or, as the case may be, on the expiration of the time referred to in subparagraph (1) of this paragraph without the person to whom the authority was issued having required in the manner therein referred to that the question should be referred to an advisory committee, the Postmaster General shall, as he thinks fit, either revoke the authority, or terminate the suspension thereof, or continue the suspension thereof for such period as he thinks fit.



(5) Where the Postmaster General revokes the authority or continues the suspension thereof, he shall, if requested so to do by the person to whom the authority was issued, inform him of the opinion which the advisory committee expressed as to the action which ought to be taken as respects the revocation of the authority or the continuation or termination of the suspension thereof.

1ST SCH.  
—cont.

3. Any expenses incurred by an advisory committee under this Schedule, to such extent as may be determined by the Postmaster General with the consent of the Treasury including such sums in respect of the expenses of the members of the committee as may be so determined, shall be paid out of moneys provided by Parliament.

## SECOND SCHEDULE

Section 9.

### PROVISIONS AS TO THE APPEAL TRIBUNAL

1.—(1) Subject to the provisions of this paragraph, the members of the appeal tribunal, other than any members appointed to act for a particular case, shall hold office for such period as may be determined at the time of their respective appointments.

(2) Any member of the tribunal may at any time by notice in writing to the Lord Chancellor resign his appointment.

(3) If a member of the tribunal becomes a member of the advisory committee, his office shall thereupon become vacant.

(4) The Lord Chancellor may declare the office of any member of the tribunal vacant on the ground of incapacity to perform the duties thereof, or on the ground of misconduct.

(5) If any member of the tribunal becomes bankrupt or makes an arrangement with his creditors, his office shall thereupon become vacant.

(6) In the application of the preceding provisions of this paragraph to members appointed by the Lord President of the Court of Session, the Lord Chief Justice of Northern Ireland or the Secretary of State, references to the Lord President, Lord Chief Justice or Secretary of State, as the case may be, shall be substituted for the references to the Lord Chancellor.

2. If any member of the tribunal is, by reason of illness, absence or other reasonable cause, for the time being unable to perform the duties of his office, either generally or in relation to any particular proceedings, the Lord Chancellor, the Lord President of the Court of Session, the Lord Chief Justice of Northern Ireland, or the President of the Institution of Electrical Engineers acting with the approval of the Council thereof, as the case may be, shall appoint some other duly qualified person to discharge the duties of that member for any period not exceeding six months at one time, or, as the case may be, in relation to those proceedings, and the person so appointed shall, during that period or in relation to those proceedings, have the same powers as the person in whose place he is appointed.

2ND SCH.  
—cont.

3.—(1) The provisions of the Arbitration Acts, 1889 to 1934, with respect to—

- (a) the administration of oaths and the taking of affirmations; and
- (b) the correction in awards of mistakes and errors; and
- (c) the summoning, attendance and examination of witnesses and the production of documents; and
- (d) the costs of the reference and award,

shall, with any necessary modifications, apply in respect of any proceedings in England and Wales before the appeal tribunal, but save as aforesaid the said Acts shall not apply to any proceedings before the appeal tribunal.

(2) The appeal tribunal shall, as respects proceedings in Scotland, have the like powers for securing the attendance of witnesses and the production of documents, and with regard to the examination of witnesses on oath and the awarding of expenses, as if the tribunal were an arbiter under a submission.

(3) Sub-paragraph (1) of this paragraph shall apply in relation to proceedings in Northern Ireland as it applies in relation to proceedings in England and Wales, with the substitution of references to the Arbitration Act (Northern Ireland), 1937, for the references to the Arbitration Acts, 1889 to 1934.

4. The power of the tribunal to award costs or expenses shall include power to order a sum to be paid to the Postmaster General in respect of the expenses of the tribunal:

Provided that an order under this paragraph shall only be made where, in the opinion of the tribunal, the person against whom the order is made was acting frivolously or vexatiously in requiring the matter in question to be referred to the tribunal or, as the case may be, in making or resisting the application before the tribunal.

5. The assessors shall give their opinions to the president on all matters of a technical nature and shall take such further part in the proceedings of the tribunal as he may direct, but the decision of the president or, in a case where additional members have been appointed, the decision of all, or, in the event of a difference of opinion, of the majority of, the members of the tribunal other than the assessors, shall, on all questions, be the decision of the tribunal.

6. Subject to the provisions of this Schedule and of Part II of this Act, the procedure in or in connection with any proceedings before the tribunal shall be such as may be determined by rules to be made by the tribunal with the approval of the Lord Chancellor as respects proceedings in England and Wales, of the Lord President of the Court of Session as respects proceedings in Scotland and of the Lord Chief Justice of Northern Ireland as respects proceedings in Northern Ireland.

7. Without prejudice to any method available by law for the proof of orders of the tribunal, a document purporting to be a copy of any such order and to be certified by the president of the tribunal to be a true copy thereof shall, in any legal proceedings, be sufficient evidence of the order until the contrary is proved.

2ND SCH.  
—cont.

*Table of Statutes referred to in this Act*

| Short Title                               | Session and Chapter  |
|-------------------------------------------|----------------------|
| Petty Sessions (Ireland) Act, 1851 ... .. | 14 & 15 Vict. c. 93. |
| Electric Lighting Act, 1882 ... ..        | 45 & 46 Vict. c. 56. |
| Merchant Shipping Act, 1894 ... ..        | 57 & 58 Vict. c. 60. |
| Post Office Act, 1908 ... ..              | 8 Edw. 7. c. 48.     |

## CHAPTER 55

### *Prevention of Damage by Pests Act, 1949*

#### ARRANGEMENT OF SECTIONS

##### PART I

##### RATS AND MICE

##### Section.

1. Local authorities for the purposes of Part I.
2. Duties of local authorities.
3. Obligation of occupiers of land to notify local authority of rats and mice.
4. Power of local authority to require action.
5. Remedies for failure to comply with notice under s. 4.
6. Additional powers of local authorities in relation to groups of premises.
7. Recovery of expenses under s. 5 or s. 6.
8. Provisions as to threshing and dismantling of ricks.
9. Power of local authority to require information as to interests in land.
10. Authentication of documents, service of notices, etc.
11. Exchequer grants to local authorities.
12. Powers of Minister with respect to functions of local authorities.

##### PART II

##### INFESTATION OF FOOD

13. Obligation of certain undertakers to give notice of occurrence of infestation.
14. Power of Minister to give directions to certain undertakers for preventing or mitigating infestation.
15. Appeal against directions under s. 14.
16. Powers of Minister in case of failure to comply with directions.
17. Offences against Part II.
18. Power of Minister to delegate to local authorities.

## PART III

## SUPPLEMENTAL

## Section.

19. Control of methods of destruction of pests, &c.
20. Amendment of Agriculture Act, 1947.
21. Regulations.
22. Powers of entry.
23. Application to shipping and aircraft.
24. Expenses of Common Council.
25. Compensation of officers.
26. Legal proceedings.
27. Financial provisions.
28. Interpretation.
29. Application to Northern Ireland.
30. Short title, repeal and commencement.

An Act to re-enact with modifications the Rats and Mice (Destruction) Act, 1919; to make permanent provision for preventing loss of food by infestation; and for purposes connected therewith. [30th July 1949.]

**BE** it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART I.

## RATS AND MICE.

Local  
authorities for  
the purposes  
of Part I.

1.—(1) The local authorities for the purposes of this Part of this Act in England and Wales shall be the Common Council of the City of London and the councils of metropolitan boroughs, county boroughs and county districts:

Provided that—

- (a) the local authority for any port health district, whether constituted before or after the commencement of this Act, shall be the port health authority; and
- (b) in relation to sewers vested in the council of any county, the functions of the local authority under this Part of this Act shall be exercisable by that council and not by any other authority.

(2) The local authorities for the purposes of this Part of this Act in Scotland shall be the local authorities within the meaning of the Public Health (Scotland) Act, 1945, and port local authorities within the meaning of section one hundred and seventy-two of the Public Health (Scotland) Act, 1897.

(3) Section six of the Public Health Act, 1936 (which provides for the constitution of united districts for any of the purposes of that Act) shall have effect as if the purposes of this Part of this Act were purposes of that Act.

PART I.  
—cont.

2.—(1) It shall be the duty of every local authority to take such steps as may be necessary to secure so far as practicable that their district is kept free from rats and mice, and in particular— Duties of local authorities.

- (a) from time to time to carry out such inspections as may be necessary for the purpose aforesaid ;
- (b) to destroy rats and mice on land of which they are the occupier and otherwise to keep such land so far as practicable free from rats and mice ;
- (c) to enforce the duties of owners and occupiers of land under the following provisions of this Part of this Act, and to carry out such operations as are authorised by those provisions.

(2) Every local authority shall keep such records and make such reports relating to their functions under this Part of this Act as may be required by any directions given by the Minister thereunder.

3.—(1) Subject to the provisions of this section, the occupier of any land shall give to the local authority forthwith notice in writing if it comes to his knowledge that rats or mice are living on or resorting to the land in substantial numbers. Obligation of occupiers of land to notify local authority of rats and mice.

(2) The foregoing subsection shall not apply to agricultural land, and the Minister may make regulations providing that that subsection shall not apply to such other land as may be prescribed by or under the regulations, or shall apply thereto subject to such modifications as may be so prescribed.

(3) A person shall not be required to give notice under this section to the local authority of any matters of which notice is given to the Minister in pursuance of Part II of this Act.

(4) Any person who fails to give a notice which he is required to give under this section shall be liable on summary conviction to a fine not exceeding five pounds.

4.—(1) If in the case of any land it appears to the local authority, whether in consequence of a notice given in respect of the land under the last foregoing section or otherwise, that steps should be taken for the destruction of rats or mice on the land or otherwise for keeping the land free from rats and mice, they may serve on the owner or occupier of the land a notice requiring him to take, within such reasonable period as may be specified in the notice, such reasonable steps for the purpose Power of local authority to require action.

PART I.  
—*cont.*

aforesaid as may be so specified ; and where the owner of any land is not also the occupier thereof separate notices may be served under this section on the owner and on the occupier.

(2) Any such notice may in particular require—

- (a) the application to the land of any form of treatment specified in the notice ;
- (b) the carrying out on the land of any structural repairs or other works so specified,

and may prescribe the times at which any treatment required by the notice is to be carried out.

(3) Where the local authority serve a notice under this section in relation to agricultural land, they shall forthwith inform the County Agricultural Executive Committee for the county in which the land is situated.

(4) If on a complaint made by the owner of any land it appears to a court of summary jurisdiction that the occupier of the land prevents the owner from carrying out any work which he is required to carry out by a notice under this section, the court may order the occupier to permit the carrying out of the work.

(5) Subsections (3) to (5) of section two hundred and ninety of the Public Health Act, 1936 (which provide for an appeal to a court of summary jurisdiction against certain notices requiring the execution of works under that Act) shall apply to any notice served under this section requiring the carrying out of any structural works as they apply to any such notice as is mentioned in subsection (1) of that section ; and sections three hundred to three hundred and two of that Act (which contain supplementary provisions relating to such appeals) shall have effect accordingly.

(6) In the application of this section to Scotland—

- (a) for the reference to the County Agricultural Executive Committee for the county in which the land is situated there shall be substituted a reference to the Agricultural Executive Committee for the area in which the land is situated ;
- (b) for references to a complaint and to a court of summary jurisdiction there shall be substituted references to an application and to the sheriff ;
- (c) for subsection (5) there shall be substituted the following subsection—

“ (5) Section twenty of the Housing (Scotland) Act, 1930 (which provides for an appeal to the sheriff against certain notices requiring the execution of

works under that Act) shall apply to any notice served under this section requiring the carrying out of any structural works as it applies to any such notice as is mentioned in paragraph (a) of subsection (1) of that section."

PART I.  
—cont.

5.—(1) Subject to the provisions of the last foregoing section with respect to appeals, if any person on whom a notice is served by the local authority under that section fails to take any steps required by the notice at the time or within the period prescribed by the notice, the local authority may themselves take those steps and recover from him any expenses reasonably incurred by them in doing so.

Remedies for failure to comply with notice under s. 4.

(2) Without prejudice to the provisions of subsection (1) of this section, but subject to the provisions of the last foregoing section with respect to appeals, a person who fails to take any steps as aforesaid shall be guilty of an offence and liable on summary conviction to a fine not exceeding in the case of a first offence fifty pounds, and in the case of a second or any subsequent offence one hundred pounds.

6.—(1) If it appears to the local authority that rats or mice are found in substantial numbers on any land comprising premises in the occupation of different persons and that it is expedient to deal with the land as one unit for the purpose of destroying rats or mice or keeping the land so far as practicable free from rats and mice, they may, without serving notices under section four of this Act on the occupiers or owners of those premises, themselves take in relation to the land such steps as they consider necessary or expedient for the purpose aforesaid :

Additional powers of local authorities in relation to groups of premises.

Provided that the steps taken by the local authority under this section shall not include the carrying out of any structural work.

(2) Without prejudice to the provisions of section twenty-two of this Act requiring notice to be given before entry upon land under that section, a local authority shall, before taking any steps under this section in relation to any premises, give to the occupier at least seven days' notice of their intention to do so, specifying the steps proposed to be taken.

(3) Any expenses reasonably incurred by a local authority in taking steps under this section in relation to any land may be recovered by that authority from the several occupiers of the premises comprised in that land in such proportion as may be just having regard to the cost of the work done on the several premises.

(4) For the purposes of this section, any premises which are unoccupied shall be deemed to be in the occupation of the owner, and references in this section to the occupier shall be construed accordingly.

PART I.  
—cont.Recovery of  
expenses  
under s. 5  
or s. 6.

7.—(1) Any expenses recoverable by a local authority under section five or section six of this Act may be recovered as a simple contract debt in any court of competent jurisdiction.

(2) Sections two hundred and ninety-one, two hundred and ninety-two and two hundred and ninety-four of the Public Health Act, 1936 (which provide respectively for charging on the premises expenses recoverable under that Act from the owner, for the inclusion of sums in respect of establishment charges in expenses recoverable under that Act, and for limiting the liability for expenses recoverable under that Act of owners receiving rent as agent or trustee) shall so far as applicable apply to expenses recoverable by a local authority under section five or section six of this Act as they apply to expenses recoverable under that Act by a local authority within the meaning of that Act.

(3) In proceedings under this section by a local authority for the recovery of any expenses incurred by them under section five of this Act, it shall not be open to the defendant to raise by way of defence any question which he could have raised on an appeal under section four of this Act.

(4) In the application of this section to Scotland, for subsection (2) there shall be substituted the following subsection—

“(2) Sections fifty-five, fifty-six and fifty-seven of the Water (Scotland) Act, 1946 (which provide respectively for charging orders in favour of local authorities in respect of expenses recoverable under that Act, for the recovery by instalments of expenses recoverable under that Act, and for limiting the liability for expenses recoverable under that Act of owners receiving rent in a fiduciary capacity) shall, so far as applicable, apply to expenses recoverable by a local authority under section five or section six of this Act as they apply to expenses recoverable under that Act by a local authority within the meaning of that Act.”

Provisions as  
to threshing  
and  
dismantling  
of ricks.

8.—(1) The Minister may make regulations for securing that such steps will be taken in connection with the threshing or dismantling of any rick of corn or other crops specified in the regulations as to ensure the destruction of rats or mice escaping from the rick.

(2) Regulations under this section may impose such requirements on the owner of any such rick, and on any person engaged in or concerned with the threshing or dismantling, as may appear to the Minister necessary for the purpose aforesaid; and any person who fails to comply with any of those requirements shall be liable on summary conviction to a fine not exceeding fifty pounds or such less amount, if any, as may be prescribed by the regulations.

(3) In the application of this section to Scotland, for references to a rick there shall be substituted a reference to a stack.



9.—(1) A local authority may, for the purpose of enabling them to perform any of their functions under this Part of this Act, require the occupier of any land, and any person who directly or indirectly receives rent in respect of any land, to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein, whether as freeholder, lessee, mortgagee or otherwise.

PART I.  
—cont.

Power of local authority to require information as to interests in land.

(2) Any person who, having been required by a local authority under this section to give them any information, fails to give that information, or knowingly makes any misstatement in respect thereof, shall be liable on summary conviction to a fine not exceeding five pounds.

(3) In the application of this section to Scotland for the words from "freeholder" to the end of subsection (1) there shall be substituted "superior, owner, heritable creditor, lessee or otherwise"; and the expression "heritable creditor" shall have the like meaning as in the Town and Country Planning (Scotland) Act, 1947.

10.—(1) Sections two hundred and eighty-four to two hundred and eighty-six of the Public Health Act, 1936 (which relate to the authentication of documents, the service of notices and the proof of proceedings of local authorities) shall apply to documents, notices and proceedings of local authorities in England and Wales under this Part of this Act (whether or not they are local authorities within the meaning of that Act) as they apply to documents, notices and proceedings of local authorities under that Act.

Authentication of documents, service of notices, etc.

(2) Sections three hundred and forty-seven, three hundred and forty-nine and three hundred and fifty of the Local Government (Scotland) Act, 1947 (which relate to the authentication of documents, the service of notices and evidence of proceedings of local authorities) shall apply to documents, notices and proceedings of a local authority in Scotland under this Part of this Act (whether or not being a local authority within the meaning of that Act) as they apply to documents, notices and proceedings of a local authority under that Act.

11. The Minister may make to local authorities, subject to such conditions as he may with the consent of the Treasury determine, grants equal to one half of the expenditure incurred by those authorities in the performance of their functions under this Part of this Act, so far as not recovered thereunder.

Exchequer grants to local authorities.

12.—(1) The functions of a local authority under this Part of this Act shall be exercised in accordance with any general or specific directions of the Minister, which may be given either to local authorities generally or to any particular local authority or class of local authorities :

Powers of Minister with respect to functions of local authorities.

Provided that the validity of anything done by a local authority in pursuance of this Act shall not be called in question on the

**PART I.**  
—*cont.*

ground that it was done otherwise than in accordance with any such directions as aforesaid.

(2) Where the Minister is satisfied, on complaint or otherwise, that any of the functions of a local authority under this Part of this Act are not being satisfactorily performed by the authority, he may by order empower any person named in the order to exercise those functions on behalf of the authority.

(3) Before making an order under this section, the Minister shall give to the local authority an opportunity of making representations to him and shall take into consideration any representations made and, if the authority so require, cause a local inquiry to be held; and the provisions of subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933 (which relate to the giving of evidence at, and defraying the cost of, local inquiries), shall have effect with respect to any such inquiry as if the Minister were a department for the purposes of that section.

(4) Any expenses incurred under this section by a person named in an order made by the Minister thereunder shall on demand be paid to the Minister by the local authority.

(5) An order under this section may be varied or revoked by a subsequent order.

(6) In the application of this section to Scotland, for subsection (3) there shall be substituted the following subsection:—

“(3) Before making an order under this section, the Secretary of State shall give to the local authority an opportunity of making representations to him and shall take into consideration any representations made and, if the authority so require, cause a local inquiry to be held; and the provisions of subsections (3) to (9) of section three hundred and fifty-five of the Local Government (Scotland) Act, 1947 (which relate to the giving of evidence at, and defraying the cost of, local inquiries), shall apply to any such inquiry.”

**PART II.****INFESTATION OF FOOD.**

Obligation  
of certain  
undertakers  
to give  
notice of  
occurrence of  
infestation.

13.—(1) Subject to the provisions of this section, every person whose business consists of or includes the manufacture, storage, transport or sale of food, shall give to the Minister forthwith notice in writing if it comes to his knowledge that any infestation is present—

(a) in any premises or vehicle, or any equipment belonging to any premises or vehicle, used or likely to be used in the course of that business for the manufacture, storage, transport or sale of food;

PART II.  
—cont.

(b) in any food manufactured, stored, transported or sold in the course of that business, or in any other goods for the time being in his possession which are in contact or likely to come into contact with food so manufactured, stored, transported or sold.

(2) Subject to the provisions of this section, every person whose business consists of or includes the manufacture, sale, repair or cleaning of containers shall forthwith give notice in writing to the Minister if it comes to his knowledge that any infestation is present in any container for the time being in his possession which is to be used for the reception of food in the course of any such business as is mentioned in subsection (1) of this section.

(3) The Minister may after consultation with such associations or bodies (if any) as appear to him to be representative of persons affected, make regulations—

- (a) for relaxing or excluding the requirements of this section in such cases and subject to such conditions (if any) as may be prescribed by or under the regulations ;
- (b) for prohibiting or restricting the delivery in the course of business of any food or other goods in respect of which notice is or is required to be given to the Minister under this section.

14.—(1) Without prejudice to the provisions of any regulations made under the last foregoing section, the Minister may, if he is satisfied, whether in consequence of a notice under the last foregoing section or otherwise, that it is necessary to do so for the purpose of preventing or mitigating damage to food, give such directions under the following provisions of this section as he thinks expedient.

Power of Minister to give directions to certain undertakers for preventing or mitigating infestation.

(2) Directions may be given under this section to any person whose business consists of or includes the manufacture, storage, transport or sale of food—

- (a) prohibiting or restricting the use for the manufacture, storage, transport or sale of food in the course of that business of any premises or vehicle, or any equipment belonging to any premises or vehicle, which is or is likely to become infested ;
- (b) prohibiting or restricting the acceptance, delivery, retention or removal in the course of that business of any infested food or of any other infested goods which are likely to come into contact with food manufactured, stored, transported or sold as aforesaid ;
- (c) requiring the carrying out, within such time as may be specified in the directions, of any structural works, or the application of any form of treatment, being works

PART II.  
—cont.

or treatment appearing to the Minister to be necessary for preventing or remedying infestation in any such premises, vehicle, equipment, food or other goods as aforesaid.

(3) Directions may be given under this section to any person whose business consists of or includes the manufacture, sale, repair or cleaning of containers, requiring the treatment of any infested container, or of any infested premises in which the business is carried on, in such manner as may be specified in the directions, and prohibiting the removal of any such container until it has been so treated.

(4) Where the Minister is satisfied that any food or container in the possession of a person carrying on any such business as is mentioned in subsection (2) or subsection (3) of this section is so infested that the infestation cannot reasonably be remedied by any form of treatment, he may give directions under this section to that person requiring him to destroy it within such time and by such means as may be specified in the directions.

Appeal against  
directions  
under s. 14.

15.—(1) Where directions are given under the last foregoing section requiring the carrying out of any structural works, or the destruction of any food or container, any person who is aggrieved thereby may—

- (a) in the case of directions requiring the carrying out of any structural works, within twenty-one days from the service of the directions ;
- (b) in the case of directions requiring the destruction of any food or container, within seven days from the service of the directions,

appeal to a court of summary jurisdiction for the petty sessional division or place in which the works are required to be carried out or, as the case may be, in which the food or container is for the time being situated.

(2) Upon any such appeal the court, if satisfied that the directions are for any reason invalid, or that any requirement thereof is excessive or unreasonable, may quash or amend the directions, as the case may be, but in any other case shall dismiss the appeal :

Provided that if and so far as the appeal is based on the ground of some informality, defect or error in or in connection with the directions, the court shall dismiss the appeal if satisfied that the informality, defect or error was not a material one.

(3) Any directions given under the last foregoing section requiring the carrying out of any structural works, or the destruction of any food or container, shall include a statement of the right of appeal under this section, and of the time within which such an appeal may be brought.

(4) An appeal shall lie to quarter sessions from the decision of a court of summary jurisdiction under this section in respect of directions requiring the carrying out of any structural works.

PART II.  
—cont.

(5) In the application of this section to Scotland—

(a) in subsection (1), for the words from “to a court” to the end of the subsection there shall be substituted the words “by way of an application to the sheriff in whose jurisdiction the works are required to be carried out or, as the case may be, in which the food or container is for the time being”;

(b) subsection (4) shall not apply.

16.—(1) Subject to the provisions of the last foregoing section given by the Minister under section fourteen of this Act fails to comply with any requirement of the directions within the period prescribed thereby, then, without prejudice to any proceedings which may be taken against him in respect of an offence under this Part of this Act, the Minister may by order authorise any person named in the order to take, on behalf of the person in default, such steps as the Minister considers necessary for securing compliance with that requirement.

Powers of  
Minister in  
case of  
failure to  
comply with  
directions.

(2) The amount of any expenses reasonably incurred by a person authorised as aforesaid in carrying out works under this section may be recovered by the Minister from the person in default.

(3) In proceedings for the recovery of any expenses under this section, it shall not be open to the defendant to raise by way of defence any question which he could have raised on an appeal under the last foregoing section.

17. Subject to the provisions of this Part of this Act with respect to appeals, any person who contravenes or fails to comply with this Part of this Act or any directions given thereunder shall be guilty of an offence and liable on summary conviction to a fine not exceeding in the case of a first offence one hundred pounds, and in the case of a second or any subsequent offence two hundred pounds.

Offences  
against  
Part II.

18.—(1) The Minister may with the consent of any local authority for the purposes of Part I of this Act by order delegate to that authority any of his functions under this Part of this Act (except subsection (3) of section thirteen of this Act), subject to such restrictions and conditions as may be specified in the order.

Power of  
Minister to  
delegate to  
local  
authorities.

(2) An order made under this section delegating functions to a local authority may direct that in such cases as may be prescribed by the order any notice of infestation required to be given under section thirteen of this Act shall be given to the local authority instead of being given to the Minister.

PART II.  
—cont.

(3) Any order under this section shall provide for the repayment by the Minister to the local authority of any expenses incurred by them in the performance of functions delegated by the order so far as those expenses are not otherwise recoverable under this Act.

(4) An order under this section may be revoked or varied by a subsequent order.

## PART III.

## SUPPLEMENTAL.

Control of  
methods of  
destruction of  
pests, &c.

19.—(1) The Minister may make regulations for controlling the methods for keeping down or destroying rats, mice, insects or mites which may be used by persons carrying on business in the provision of services for that purpose ; and such regulations may in particular—

- (a) approve different methods for use in different circumstances ;
- (b) prohibit the use by persons to whom the regulations apply of any method other than a method so approved.

(2) Any person who fails to comply with regulations made under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding in the case of a first offence one hundred pounds, and in the case of a second or any subsequent offence two hundred pounds.

Amendment of  
Agriculture  
Act, 1947.

20.—(1) No notice served after the commencement of this Act under section ninety-eight of the Agriculture Act, 1947 (which enables the Minister to require the destruction of animals to which that section applies) shall require any person to take any steps which he could have been required to take by a notice served under section four of this Act ; but nothing in this subsection shall affect the provisions of section one hundred and one of the said Act of 1947 as to the rendering by the Minister of assistance in the destruction of animals to which the said section ninety-eight applies and the recovery by the Minister of any charge made in respect of any such assistance.

(2) The purposes for which the Minister may exercise his powers under the said section one hundred and one shall include the rendering of assistance in the prevention or treatment of any infestation.

(3) In the application of this section to Scotland, for references to sections ninety-eight and one hundred and one of the Agriculture Act, 1947, there shall respectively be substituted references to sections thirty-nine and forty-two of the Agriculture (Scotland) Act, 1948.

21.—(1) Any power of the Minister to make regulations under this Act, and the power of the Minister to give general directions under section twelve of this Act and to make orders under section eighteen of this Act, shall be exercisable by statutory instrument. PART III.  
—cont.  
Regulations.

(2) Any statutory instrument containing an Order in Council or regulations made under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

22.—(1) Any person duly authorised in writing by a local authority for the purposes of Part I of this Act, or by a person empowered by the Minister to exercise functions of a local authority under that Part, may, at any reasonable time, enter upon any land— Powers of  
entry.

(a) for the purpose of carrying out any inspection required by the said Part I to be carried out by the local authority;

(b) for the purpose of ascertaining whether there is or has been, on or in connection with the land, any failure to comply with any requirement of the said Part I or of any notice served thereunder ;

(c) for the purpose of taking any steps authorised by section five or section six of this Act to be taken by the local authority on or in relation to the land.

(2) Any person duly authorised in writing by the Minister, or by a local authority to whom functions of the Minister under Part II of this Act are delegated, may, at any reasonable time, enter upon any land—

(a) for the purpose of ascertaining whether there is or has been, on or in connection with the land or any vehicle thereon, any failure to comply with any requirement of the said Part II or of any directions given thereunder ;

(b) for the purpose of taking any steps authorised to be taken on or in relation to the land under the said Part II by a person named in an order made by the Minister or by that authority thereunder,

and where any such person has entered on any premises for the purposes specified in paragraph (a) of this subsection, he may take samples of any food found on those premises.

(3) Any person authorised under this section to enter upon any land shall, if so required, produce evidence of his authority before so entering, and shall not demand admission as of right to any land which is occupied unless twenty-four hours' notice of the intended entry has been given to the occupier.

(4) Any person who wilfully obstructs a person acting in the exercise of his powers under this section shall be liable on

PART III.  
—cont.

summary conviction to a fine not exceeding in the case of a first offence five pounds, and in the case of a second or any subsequent offence twenty pounds.

(5) If any person who, in compliance with the provisions of this section, is admitted into a factory, workshop or work place, discloses to any person any information obtained by him therein as to any manufacturing process or trade secret, he shall, unless the disclosure is made in the course of performing his duty in connection with the purpose for which he was authorised to enter the premises, be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months.

(6) If any land is damaged in the exercise of a power of entry conferred under this section, compensation in respect of that damage may be recovered by any person interested in the land from the local authority on whose behalf the entry was effected, or from the Minister, as the case may be.

Application to  
shipping and  
aircraft.

23.—(1) His Majesty may by Order in Council direct that the provisions of this Act shall apply, subject to such exceptions and modifications as may be prescribed by the Order, in relation to vessels or aircraft as they apply in relation to land :

Provided that Part I of this Act shall not be applied by any such Order in Council in relation to vessels employed in trading or going between a place in the United Kingdom, the Channel Islands or the Isle of Man and a place not within the United Kingdom, the Channel Islands or the Isle of Man.

(2) Any Order in Council made under this section may be varied or revoked by a subsequent Order in Council.

Expenses  
of Common  
Council.

24. Subsections (3) and (5) of section two hundred and eighty-seven of the Public Health (London) Act, 1936 (which relate to the expenses of the Common Council and the port health authority of the port of London under that Act) shall apply to expenses incurred under this Act as they apply to expenses incurred under that Act.

Compensation  
of officers.

25.—(1) The Minister shall by regulations provide for the payment of compensation, subject to such exceptions or conditions as may be specified in the regulations—

(a) by the councils of counties, to persons who, immediately before the commencement of this Act, were employed by such councils for the purposes of their functions under the Rats and Mice (Destruction) Act, 1919, or would have been so employed but for any war service



in which they were engaged, and who suffer loss of employment or loss or diminution of emoluments which is attributable to the passing of this Act ;

PART III.  
—cont.

- (b) by any local authority in whose case an order is made under subsection (2) of section twelve of this Act, to persons who immediately before that order came into force were employed by that authority for the purposes of their functions under Part I of this Act, or would have been so employed but for any war service in which they were engaged, and who suffer loss of employment or loss or diminution of emoluments which is attributable to the order or anything done thereunder.

(2) Any such regulations may include provision as to the manner in which and the persons to whom any claim for compensation under this section is to be made, and for the determination of all questions arising under the regulations.

(3) In this section, the expression " war service " means service in any of His Majesty's forces and such other employment as may be prescribed by regulations made under this section.

**26.—(1)** Proceedings for an offence under this Act shall not, **Legal** in England and Wales, be instituted except by or with the **proceedings.** consent of the Minister or the local authority.

(2) Where an offence under this Act is committed by a body corporate, every person who, at the time of the commission of the offence, was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that it was committed without his consent or connivance and that he exercised any such diligence to prevent its commission as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

(3) For the purposes of the last foregoing subsection, the expression " director ", in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body.

**27.—(1)** There shall be paid out of moneys provided by **Financial** Parliament— **provisions.**

(a) any expenses of the Minister under this Act ;

(b) any increase in the Exchequer Equalisation Grant payable under Part I or Part II of the Local Government Act, 1948, attributable to any expenditure of a local authority under this Act ;

PART III.  
—*cont.*

(c) any expenses of the Minister in carrying out research in matters connected with the functions of the Minister and of local authorities under this Act.

(2) Any receipts of the Minister under this Act shall be paid into the Exchequer.

**Interpretation.** 28.—(1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“ agricultural land ” has the same meaning as in the Agriculture Act, 1947, or, in Scotland, the Agriculture (Scotland) Act, 1948 ;

“ container ” includes sacks, boxes, tins and other similar articles ;

“ defendant ”, in relation to Scotland, means defender ;

“ food ” includes any substance ordinarily used in the composition or preparation of food, the seeds of any cereal or vegetable, and any feeding stuffs for animals, but does not include growing crops ;

“ infestation ” means the presence of rats, mice, insects or mites in numbers or under conditions which involve an immediate or potential risk of substantial loss of or damage to food, and “ infested ” shall be construed accordingly ;

“ land ” includes land covered with water, and any building or part of a building ;

“ manufacture ” includes processing ;

“ the Minister ” means the Minister of Agriculture and Fisheries, or, in relation to Scotland, the Secretary of State ;

“ owner ” has the same meaning as in the Public Health Act, 1936, or, in Scotland, the Public Health (Scotland) Act, 1897.

(2) For the purposes of Part I of this Act, any land which is vested in or under the control of a local authority (whether or not being the local authority for the purposes of that Part) and is not occupied by any other person shall be deemed to be occupied by that authority.

Application to  
Northern  
Ireland.

29.—(1) Section twenty-three of this Act shall extend to Northern Ireland, and for that purpose shall have effect as if the reference therein to the provisions of this Act included a reference to any corresponding provisions for the time being in force in Northern Ireland.

(2) No limitation or restriction imposed on the power of the parliament of Northern Ireland to make laws shall extend to prevent that parliament from enacting a provision the purposes whereof are similar to the purposes of any provision of this Act other than the said section twenty-three.

PART III.  
—cont.

(3) Subject to the foregoing provisions of this section, this Act shall not extend to Northern Ireland.

30.—(1) This Act may be cited as the Prevention of Damage by Pests Act, 1949.

Short title,  
repeal and  
commence-  
ment.

(2) The Rats and Mice (Destruction) Act, 1919, is hereby repealed.

9 & 10 Geo. 5.  
c. 72.

(3) This Act shall come into force on the thirty-first day of March, nineteen hundred and fifty.

### Table of Statutes referred to in this Act

| Short Title                                               | Session and Chapter              |
|-----------------------------------------------------------|----------------------------------|
| Public Health (Scotland) Act, 1897 ... ..                 | 60 & 61 Vict. c. 38.             |
| Rats and Mice Destruction Act, 1919 ... ..                | 9 & 10 Geo. 5. c. 72.            |
| Housing (Scotland) Act, 1930 ... ..                       | 20 & 21 Geo. 5. c. 40.           |
| Local Government Act, 1933 ... ..                         | 23 & 24 Geo. 5. c. 51.           |
| Public Health Act, 1936 ... ..                            | 26 Geo. 5 & 1 Edw. 8.<br>c. 49.  |
| Public Health (London) Act, 1936 ... ..                   | 26 Geo. 5. & 1 Edw. 8.<br>c. 50. |
| Public Health (Scotland) Act, 1945 ... ..                 | 9 & 10 Geo. 6. c. 15.            |
| Water (Scotland) Act, 1946 ... ..                         | 9 & 10 Geo. 6. c. 42.            |
| Local Government (Scotland) Act, 1947 ... ..              | 10 & 11 Geo. 6. c. 43.           |
| Agriculture Act, 1947 ... ..                              | 10 & 11 Geo. 6. c. 48.           |
| Town and Country Planning (Scotland) Act,<br>1947. ... .. | 10 & 11 Geo. 6. c. 53.           |
| Local Government Act, 1948 ... ..                         | 11 & 12 Geo. 6. c. 26.           |
| Agriculture (Scotland) Act, 1948 ... ..                   | 11 & 12 Geo. 6. c. 45.           |

## CHAPTER 56

An Act to substitute a new condition for the first of the contribution conditions for death grant set out in paragraph 5 of the Third Schedule to the National Insurance Act, 1946. [30th July 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. Paragraph 5 of the Third Schedule to the National Insurance Act, 1946, shall have effect, and be deemed always to have had effect, with the substitution, for head (a) of sub-paragraph (1)

Substitution  
of new  
condition.  
9 & 10 Geo. 6.  
c. 67.

thereof (which specifies, as one of the contribution conditions for death grant, the payment by the person by whom the conditions are to be satisfied of not less than twenty-six contributions of the appropriate class in respect of the period between that person's entry into insurance and the relevant time as defined by that paragraph), of the following head:—

“(a) not less than twenty-six contributions of the appropriate class have been paid by or credited to the relevant person in respect of the period between the appointed day and the relevant time; and”.

Short title,  
citation and  
extent.

2.—(1) This Act may be cited as the National Insurance Act, 1949, and the National Insurance Acts, 1946 and 1948, and this Act may be cited together as the National Insurance Acts, 1946 to 1949.

(2) This Act shall not extend to Northern Ireland.

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## CHAPTER 57

### *Airways Corporations Act, 1949*

#### ARRANGEMENT OF SECTIONS

##### Section

1. Merger of British South American Airways Corporation with British Overseas Airways Corporation.
2. Stock and borrowing powers.
3. Disposal of excess revenue.
4. Accounts, etc.
5. Additional deputy chairman of British Overseas Airways Corporation.
6. Pending proceedings.
7. Construction of references, etc.
8. Short title.

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An Act to provide for the merger of the British South American Airways Corporation with the British Overseas Airways Corporation; to authorise the appointment of an additional deputy chairman of the British Overseas Airways Corporation; and for purposes connected with the matters aforesaid.

[30th July 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Merger of  
British South  
American  
Airways  
Corporation  
with British  
Overseas  
Airways  
Corporation.

1.—(1) On the passing of this Act all property of the British South American Airways Corporation situated in the United Kingdom, all aircraft of that Corporation registered in the United Kingdom and all rights, liabilities and obligations of that Corporation which are enforceable in the United Kingdom shall by virtue of this Act and without further assurance be transferred to the British Overseas Airways Corporation.

(2) As from the passing of this Act—

(a) the British South American Airways Corporation shall have power, without consideration, to transfer to the British Overseas Airways Corporation any property or rights not transferred by virtue of the foregoing subsection ; and

(b) the British Overseas Airways Corporation shall have power, without consideration, to undertake any liabilities or obligations of the British South American Airways Corporation not transferred as aforesaid.

(3) Without prejudice to the provisions of section fifty-two of the Finance Act, 1946 (which exempts from stamp duty certain documents connected with statutory schemes for the carrying on of undertakings under national ownership or control)—

(a) stamp duty shall not be payable on any conveyance, agreement or other instrument executed in pursuance of the last foregoing subsection ; and

(b) section eight of the Finance Act, 1899 (which imposes stamp duty in respect of loan capital) shall not apply to any loan capital transferred by virtue of this Act.

(4) When the Minister of Civil Aviation is satisfied that the necessary arrangements have been made for transferring to the British Overseas Airways Corporation any property, rights, liabilities and obligations of the British South American Airways Corporation not transferred by virtue of subsection (1) of this section, he may by order direct that the British South American Airways Corporation shall be dissolved on such day as may be specified in the order (in this Act referred to as "the appointed day").

(5) The power of the Minister of Civil Aviation to make an order under the last foregoing subsection shall be exercisable by statutory instrument.

Stock and  
borrowing  
powers.

2.—(1) Section seven of the Civil Aviation Act, 1946, and subsection (1) of section eight of that Act (which enable the new Corporations established by that Act to borrow money and issue stock) shall cease to have effect in relation to the British South American Airways Corporation.

(2) As from the date of the passing of this Act, the three per cent. British South American Airways Stock, 1980-1983, shall be deemed to be stock issued by the British Overseas Airways Corporation, and shall be charged accordingly on the undertaking and the property and revenues of that Corporation; and as from the sixteenth day of February, nineteen hundred and fifty, that stock shall be deemed to be of the same issue as the three per cent. Airways Stock, 1980-1983, and shall be subject to the terms and conditions applicable to the last-mentioned stock.

(3) Any stock issued by the British Overseas Airways Corporation, whether before or after the passing of this Act, including stock deemed to be so issued by virtue of the last foregoing subsection, may be described by such title as that Corporation may with the approval of the Minister of Civil Aviation determine; and accordingly subsection (1) of section fourteen of the British Overseas Airways Act, 1939, shall have effect as if for the words "to be called 'Airways Stock'" there were substituted the words "in this Act referred to as 'Airways Stock'".

(4) Subsection (2) of section ten of the Civil Aviation Act, 1946 (which restricts the amount which may be outstanding in respect of borrowing by the British South American Airways Corporation), shall cease to have effect.

(5) Subsection (3) of the said section ten (which restricts the amount which may be outstanding in respect of borrowing by the British Overseas Airways Corporation) shall have effect as if for the words "fifty million pounds" there were substituted the words "sixty million pounds"; and for the purposes of that subsection, temporary loans raised by the British South American Airways Corporation and not repaid before the passing of this Act shall be treated as temporary loans raised by the British Overseas Airways Corporation.

(6) Subsection (1) of section thirteen of the British Overseas Airways Act, 1939 (which enables the British Overseas Airways Corporation to borrow money) shall have effect as if at the beginning of paragraph (c) of the subsection there were inserted the words "the promotion of other undertakings", and for the words "on behalf of" there were substituted the words "for the benefit of".

(7) Nothing in this section shall affect any guarantee by the Treasury of stock issued by the British South American Airways

Corporation, or of any temporary loan issued by that Corporation; and in relation to any sums which may be issued out of the Consolidated Fund under subsection (2) of section nine of the Civil Aviation Act, 1946, in respect of any such guarantee, subsection (3) of the said section nine (which charges such sums on the undertaking of the Corporation concerned) shall have effect as if the Corporation concerned were the British Overseas Airways Corporation.

3. For the purposes of the proviso to subsection (2) of section eighteen of the Civil Aviation Act, 1946 (which limits, by reference to the grants made to any of the three Corporations, the sums which that Corporation may be required to pay into the Exchequer by virtue of a direction under that section), any grant made before the passing of this Act to the British South American Airways Corporation shall, in relation to any direction given under that section after the passing of this Act, be deemed to have been made to the British Overseas Airways Corporation.

Disposal  
of excess  
revenue.

4.—(1) In respect of the financial year ending with the thirty-first day of March, nineteen hundred and fifty, and any subsequent financial year beginning before the appointed day— Accounts, etc.

(a) the statement of accounts prepared by the British Overseas Airways Corporation under section twenty-one of the Civil Aviation Act, 1946, may extend to the accounts of the British South American Airways Corporation, and in that case no such statement shall be prepared or sent to the Minister under that section by the British South American Airways Corporation; and

(b) the report made to the Minister by the British Overseas Airways Corporation under subsection (1) of section twenty-two of the said Act may extend to the operations of the British South American Airways Corporation, and in that case no report shall be made under that subsection by the British South American Airways Corporation.

(2) Any programme or estimate which, during the period between the passing of this Act and the appointed day, is submitted to the Minister by the British Overseas Airways Corporation in accordance with subsection (1) of section twelve of the Civil Aviation Act, 1946, or subsection (4) or subsection (5) of section twenty-two of that Act may extend to the services, receipts and expenditure of the British South American Airways Corporation, and in any such case no programme or estimate shall be so submitted by the British South American Airways Corporation.

Additional  
deputy  
chairman of  
British  
Overseas  
Airways  
Corporation.

5.—(1) Two deputy chairmen of the British Overseas Airways Corporation may be appointed, and accordingly the following subsections shall be substituted for subsections (2) and (3) of section one of the British Overseas Airways Act, 1939 :—

“(2) The Corporation shall consist of a chairman, not more than two deputy chairmen, and such number of other members as the Minister of Civil Aviation may from time to time think fit :

Provided that the total number of members of the Corporation shall be not less than five nor more than eleven.

(3) The members of the Corporation shall be appointed by the Minister of Civil Aviation, who shall also appoint members of the Corporation to be chairman and deputy chairman or deputy chairmen respectively.”

(2) Paragraph 8 of the First Schedule to the Civil Aviation Act, 1946 (which enables the Minister, in certain circumstances, to consult with the deputy chairman of any of the three Corporations instead of with the chairman) shall have effect in relation to the British Overseas Airways Corporation, at any time when two deputy chairmen of that Corporation hold office, as if for the reference to the deputy chairman there were substituted a reference to either of the deputy chairmen.

Pending  
proceedings.

6. Any proceeding or cause of action pending or existing immediately before the passing of this Act by or against the British South American Airways Corporation may be continued and enforced by or against the British Overseas Airways Corporation as it might have been by or against the British South American Airways Corporation if this Act had not been passed.

Construction  
of references,  
etc.

7.—(1) On and after the appointed day, references to the British South American Airways Corporation in any enactment, order, rule, regulation or other instrument shall be construed as references to the British Overseas Airways Corporation :

Provided that this subsection shall not apply to any such reference as aforesaid in the Civil Aviation Act, 1946, or regulations made thereunder, or in section fifty-seven of the Finance Act, 1947.

(2) Any undertaking which immediately before the appointed day is associated with the British South American Airways Corporation under the terms of an arrangement by virtue of which it is an associate of that Corporation within the meaning of section fourteen of the Civil Aviation Act, 1946, shall be deemed, on and after the appointed day, to be so associated with the British Overseas Airways Corporation and to be an associate of that Corporation accordingly.



(3) Without prejudice to the provisions of section one of this Act and of the last foregoing section, all deeds, bonds, agreements and instruments which are subsisting immediately before the appointed day and affect the British South American Airways Corporation shall on and after the appointed day be as of full force and effect against or in favour of the British Overseas Airways Corporation, and enforceable as fully and effectually as if, instead of the British South American Airways Corporation, the British Overseas Airways Corporation had been named therein or had been a party thereto.

8. This Act may be cited as the Airways Corporations Act, Short title. 1949.

*Table of Statutes Referred to in this Act*

| Short Title                               | Session and Chapter    |
|-------------------------------------------|------------------------|
| Finance Act, 1899 ... ..                  | 62 & 63 Vict. c. 9.    |
| British Overseas Airways Act, 1939 ... .. | 2 & 3 Geo. 6. c. 61.   |
| Finance Act, 1946 ... ..                  | 9 & 10 Geo. 6. c. 64.  |
| Civil Aviation Act, 1946 ... ..           | 9 & 10 Geo. 6. c. 70.  |
| Finance Act, 1947 ... ..                  | 10 & 11 Geo. 6. c. 35. |

## CHAPTER 58

An Act to amend the law with respect to customs in the Isle of Man. [30th July 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) The duties of customs payable on tea under section five of the Act of 1938 shall cease to be payable, but in lieu thereof there shall, until the first day of August, nineteen hundred and fifty, in the case of tea removed or imported into the Isle of Man and not being an Empire product, be payable a duty of customs at the rate of twopence the pound.

(2) This section shall be deemed to have had effect as from the ninth day of April, nineteen hundred and forty-nine.

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**Wines.**

2.—(1) In lieu of the duties imposed on wines by section three of the Act of 1948, there shall, until the first day of August, nineteen hundred and fifty, be payable, on the removal or importation of wines into the Isle of Man, duties of customs at the rates set out in the First Schedule to this Act, the rates specified in the second column thereof applying to wines which are not Empire products and those specified in the third column to wines which are:

12 & 13 Geo. 6.  
c. 47. Provided that if by virtue of subsection (2) of section four of the Finance Act, 1949, the rates chargeable for light wines which are Empire products are increased either generally or as respects wines produced or manufactured in any particular country, the Governor may from time to time make such orders as may be necessary to provide that this subsection has the same effect as respects wines removed or imported into the Isle of Man as the said section four has for the time being as respects wines imported into Great Britain or Northern Ireland.

53 & 54 Vict.  
c. 8.

(2) Subsection (2) of section eight of the Customs and Inland Revenue Act, 1890 (which provides that wine rendered sparkling in warehouse is to be deemed to be sparkling wine for the purpose of certain duties charged on sparkling wine), shall apply for the purposes of the duties charged on sparkling wine by this section as it applied for the purposes of the duty mentioned in that subsection.

(3) In this section, the expression "wine" includes the lees of wine, but does not include wine made in Great Britain or Northern Ireland.

(4) This section shall be deemed to have had effect as from the ninth day of April, nineteen hundred and forty-nine.

**Sweets.**

3.—(1) In lieu of the duties imposed on sweets by section four of the Act of 1948, there shall, until the first day of August, nineteen hundred and fifty, be payable, on the removal or importation of sweets into the Isle of Man, the following duties of customs—

- (a) in the case of sparkling sweets not exceeding twenty-seven degrees proof spirit, a duty at the rate of one pound eight shillings per gallon;
- (b) in the case of sparkling sweets exceeding twenty-seven degrees proof spirit, a duty at the rate of one pound sixteen shillings per gallon;
- (c) in the case of other sweets not exceeding twenty-seven degrees proof spirit, a duty at the rate of ten shillings per gallon;
- (d) in the case of other sweets exceeding twenty-seven degrees proof spirit, a duty at the rate of one pound ten shillings per gallon.

(2) In this section, the expression "sweets" means any liquor which is made in Great Britain or Northern Ireland from fruit and sugar, or from fruit or sugar mixed with any other material, and which has undergone a process of fermentation in the manufacture thereof, and includes British wines, made wines, mead and metheglin.

(3) This section shall be deemed to have had effect as from the ninth day of April, nineteen hundred and forty-nine.

4.—(1) In lieu of the duties imposed on matches by section six **Matches.** of the Act of 1940, there shall, until the first day of August, nineteen hundred and fifty, be payable, on the removal or importation of matches into the Isle of Man, duties of customs at the rates specified in the Second Schedule to this Act.

(2) For the purposes of the duties under this section, a match which has more than one point of ignition shall be reckoned as so many matches as there are points of ignition.

(3) The Commissioners may make regulations with respect to the collection of the duties under this section, and may for that purpose apply, with the necessary modifications, to matches removed or imported into the Isle of Man, any enactments applicable to duties on matches imported into Great Britain and Northern Ireland.

(4) This section shall be deemed to have come into operation on the ninth day of April, nineteen hundred and forty-nine.

5.—(1) In lieu of the duties imposed on mechanical lighters **Mechanical** and component parts thereof by section seven of the Act of 1940, **lighters.** there shall, until the first day of August, nineteen hundred and fifty, be payable, on the removal or importation into the Isle of Man of any article, being a mechanical lighter or component part of a mechanical lighter other than a flint, the following duties of customs—

(a) in the case of any such article shown to the satisfaction of the Commissioners to be constructed solely for the purpose of igniting gas for domestic use—

(i) if manufactured in Great Britain or Northern Ireland, a duty of four shillings;

(ii) if not so manufactured, a duty of five shillings;

(b) in the case of any other such article—

(i) if manufactured in Great Britain or Northern Ireland, a duty of six shillings;

(ii) if not so manufactured, a duty of seven shillings.

(2) The Commissioners may, subject to such conditions (if any), as they think fit to impose, exempt from the duties under this section any mechanical lighters which are shown to their satisfaction to be intended to be used as parts of miners' lamps, and the component parts of any such mechanical lighters.

(3) In this section, the expression “mechanical lighter” means any mechanical or chemical contrivance which is portable and is intended for producing a spark or flame, whether by itself or when brought into contact with gas.

(4) The Commissioners may make regulations with respect to the collection of the duties under this section and may for that purpose apply, with the necessary modifications, to mechanical lighters removed or imported into the Isle of Man any enactments applicable to duties on mechanical lighters imported into Great Britain and Northern Ireland.

(5) This section shall be deemed to have come into operation on the ninth day of April, nineteen hundred and forty-nine.

Annual duties  
(continuation).

6.—(1) Subject to the provisions of this section, the duties of customs imposed on goods removed or imported into the Isle of Man, being goods of the descriptions set out in the first column of the following Table, by the respective enactments set out in the second column of that Table, shall continue to be payable until the first day of August, nineteen hundred and fifty:—

TABLE

| Description of goods                                                                            | Enactment imposing duty                                                                                                                                                                                                                                                                                               |
|-------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ale and beer ... ..                                                                             | Section one of the Act of 1940.                                                                                                                                                                                                                                                                                       |
| Cocoa ... ..                                                                                    | Section four of the Act of 1924.                                                                                                                                                                                                                                                                                      |
| Hops and extracts, essences and other similar preparations (other than hop oil) made from hops. | Section five of the Act of 1925.                                                                                                                                                                                                                                                                                      |
| Hop oil ... ..                                                                                  | Section three of the Act of 1929.                                                                                                                                                                                                                                                                                     |
| Silk and artificial silk and articles made wholly or in part from silk or artificial silk.      | Section seven of the Act of 1925, as amended by section eight of the Act of 1926, section nine of the second Act of 1932, section four of the Act of 1933, section three of the Act of 1936, section three of the Act of 1937, section four of the Act of 1947 and subsection (2) of section five of the Act of 1948. |
| Spirits ... ..                                                                                  | Section two of the Act of 1948.                                                                                                                                                                                                                                                                                       |
| Tobacco ... ..                                                                                  | Section one of the Act of 1948.                                                                                                                                                                                                                                                                                       |

(2) Where any enactment set out in the second column of the foregoing Table confers power on the Governor to make orders varying or repealing the duties of customs payable on the goods referred to in that enactment or imposing a new duty on such goods, the provisions of that enactment relating to the said power shall continue in force until the said first day of August.

nineteen hundred and fifty, and the foregoing provisions of this section shall have effect subject to any orders made in pursuance of any such power (whether before or after the commencement of this Act) which are for the time being in force.

(3) This section shall be deemed to have come into operation on the first day of August, nineteen hundred and forty-nine.

7.—(1) This Act may be cited as the Isle of Man (Customs) Act, 1949. Short title,  
interpretation  
and repeals.

(2) In this Act the expression " Empire product " has the same meaning as in section five of the Act of 1919 as amended by any subsequent enactment.

(3) The enactments set out in the Third Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule with effect as from the ninth day of April, nineteen hundred and forty-nine.

## SCHEDULES

### FIRST SCHEDULE

Section 2.

#### RATES OF DUTIES ON WINES

| Description of wine                                                                                                                                      | Rate of duty per gallon |                   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|-------------------|
|                                                                                                                                                          | Non-Empire<br>product   | Empire<br>product |
|                                                                                                                                                          | £ s. d.                 | £ s. d.           |
| Light wines:—                                                                                                                                            |                         |                   |
| Still—                                                                                                                                                   |                         |                   |
| not in bottle at ... ..                                                                                                                                  | 0 13 0                  | 0 11 0            |
| in bottle at ... ..                                                                                                                                      | 1 7 6                   | 1 4 6             |
| Sparkling at ... ..                                                                                                                                      | 1 17 6                  | 1 15 6            |
| Other wines:—                                                                                                                                            |                         |                   |
| Still—                                                                                                                                                   |                         |                   |
| not in bottle at ... ..                                                                                                                                  | 2 10 0                  | 2 0 0             |
| in bottle at ... ..                                                                                                                                      | 2 12 6                  | 2 1 6             |
| Sparkling at ... ..                                                                                                                                      | 3 2 6                   | 2 12 6            |
| together, in the case of wine exceeding 42 degrees proof spirit, with an additional duty for each degree or fraction of a degree of the excess at ... .. | 0 4 2                   | 0 3 4             |

For the purposes of this Schedule, the expression " light wine " means wine not exceeding 25 degrees or, in the case of wine being an Empire product, 27 degrees of proof spirit.

## Section 4.

## SECOND SCHEDULE

| RATES OF DUTIES ON MATCHES                                                                              |  | £ s. d. |
|---------------------------------------------------------------------------------------------------------|--|---------|
| For every 1,000 containers in which there are not more than 10 matches ... ..                           |  | 0 19 11 |
| For every 1,000 containers in which there are more than 10 matches, but not more than 20 matches ... .. |  | 1 19 10 |
| For every 1,000 containers in which there are more than 20 matches, but not more than 30 matches ... .. |  | 2 19 9  |
| For every 144 containers in which there are more than 30 matches, but not more than 50 matches ... ..   |  | 0 14 5  |
| For every 144 containers in which there are more than 50 matches—                                       |  |         |
| For the first 50 matches ... ..                                                                         |  | 0 14 5  |
| For every additional 5 matches or part of 5 matches in excess of 50 matches ... ..                      |  | 0 1 5½  |
| And so in proportion for any less number of containers.                                                 |  |         |

## Section 7.

## THIRD SCHEDULE

## ENACTMENTS REPEALED

| Session and Chapter       | Short Title                          | Extent of Repeal                                |
|---------------------------|--------------------------------------|-------------------------------------------------|
| 1 & 2 Geo. 6.<br>c. 68.   | The Isle of Man (Customs) Act, 1938. | Section five.                                   |
| 3 & 4 Geo. 6.<br>c. 49.   | The Isle of Man (Customs) Act, 1940. | Sections six and seven and the Fifth Schedule.  |
| 11 & 12 Geo. 6.<br>c. 61. | The Isle of Man (Customs) Act, 1948. | Sections three and four and the Third Schedule. |

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## CHAPTER 59

### *Licensing Act, 1949*

#### ARRANGEMENT OF SECTIONS

##### PART I

##### STATE MANAGEMENT DISTRICTS

## Section

1. Extension of State management to new towns.
2. Restriction of sale and supply, otherwise than by Secretary of State, of intoxicating liquor in State management districts.
3. Acquisition of land.
4. Provision of alternative accommodation where licensed premises acquired.
5. Provisions as to licences in suspense in State management districts.
6. Expenses and receipts of Secretary of State.
7. Consequential amendment.
8. General provisions as to application of Part I to Scotland.

## PART II

## LICENSING AUTHORITIES

## Section

9. Counties.
10. County boroughs and City of London.
11. Constitution and procedure of licensing authorities in counties.
12. Constitution and procedure of licensing authorities in county boroughs and City of London.
13. Division of counties for compensation purposes.
14. Repeal of s. 8 of Act of 1910.
15. Expenses of members of licensing courts and courts of appeal in Scotland.
16. Disqualification of justices.
17. Commencement of Part II.

## PART III

## MISCELLANEOUS

18. Special hours certificates for certain hotels and restaurants.
19. Special hours certificates for certain clubs.
20. Grant of special hours certificates limited to part only of year.
21. Later permitted hours where special hours certificate in force.
22. Revocation of special hours certificates.
23. Supplementary provisions as to special hours certificates.
24. Prohibition of consumption of intoxicating liquor outside permitted hours at parties organised for gain.
25. Supplementary provisions as to parties organised for gain.
26. Increase of penalties for offences under Refreshment Houses Act, 1860.
27. Relief against disqualification orders.
28. Restriction of retail sales by spirit or wine dealers without justices' licence.
29. Removal of off-licences.
30. Persons under eighteen not to be employed in bars.
31. Terms of appointment of members of licensing planning committees.
32. Power to vary proposals of licensing planning committees.
33. Removals in licensing planning areas.
34. Simplification of procedure for licensing planning proposals in London.
35. Licensing Planning Acts not to apply in London to restaurant licences.
36. Power to amend constitution of London Licensing Planning Committee.
37. Suspension of licence where business in temporary premises discontinued.
38. Fixing of notices on church doors.
39. Permitted hours in the metropolis.
40. Application of licensing laws to Isles of Scilly.

## PART IV

## SUPPLEMENTARY

41. Repeals.
42. Interpretation.
43. Short title, extent and citation.

## SCHEDULES :

First Schedule—State Management Districts.

Part I—Existing State Management Districts.

Part II—Ancillary functions exercisable by Secretary of State.

Part III—Supplemental provisions as to exercise of functions of Secretary of State.

Second Schedule—Section Forty of Act of 1910 as amended by this Act.

Third Schedule—Certification of Club Premises for Music and Dancing.

Fourth Schedule—Enactments Repealed.

Part I—Enactments repealed as from passing of Act.

Part II—Enactments repealed as from appointed day.

An Act to extend State management to new towns and to make further provision as respects State management districts; to amend the law relating to licensing justices and confirming and compensation authorities; to provide for the payment of allowances to members of licensing courts and courts of appeal in Scotland; to prohibit in certain cases the supply and consumption of intoxicating liquor outside the permitted hours and to amend the law as to permitted hours, and to make further provision as respects refreshment houses and spirit and wine dealers and as respects the removal of off-licences; to restrict the employment of persons under eighteen in bars; to amend the Licensing Planning (Temporary Provisions) Acts, 1945 and 1946, and to extend the provisions of the Finance Act, 1946, as to the suspension of justices' licences; to make further provision as to certain notices; to provide for the application of the licensing laws to the Isles of Scilly; and for purposes connected with the matters aforesaid. [30th July 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

## PART I.

## STATE MANAGEMENT DISTRICTS.

Extension of State management to new towns.

1.—(1) The provisions of this section shall have effect for extending to all new towns the State management of the liquor trade in operation in the districts specified in Part I of the First Schedule to this Act (being the Carlisle, Cromarty Firth and



Gretna districts specified in the Second Schedule to the Act of 1921) and for declaring the powers exercisable by the Secretary of State for the purposes of State management.

PART I.  
—cont.

(2) Any such district or new town is in this Part of this Act referred to as a "State management district".

(3) In this Part of this Act the expression "new town" means an area designated as the site of a proposed new town under section one of the New Towns Act, 1946, by an order (whether made before or after the passing of this Act) which has become operative :

Provided that—

- (a) except in this section the said expression does not include any such area after the development corporation established therefor has been dissolved ;
- (b) if, by reason of the revocation or variation of any such order as aforesaid, land ceases to be, or to be comprised in, the site of a proposed new town, the Secretary of State shall by order direct that as from such date as may be specified in the order (being the date on which the revocation or variation takes effect or the earliest date thereafter which appears to the Secretary of State practicable) the land shall be deemed no longer to be comprised in a State management district.

The power conferred on the Secretary of State under proviso (b) to this subsection to make orders shall be exercisable by statutory instrument.

(4) The Secretary of State may in the State management districts sell intoxicating liquor for consumption either on or off the premises where it is sold, and may carry on any of the activities specified in Part II of the First Schedule to this Act in accordance with the provisions of the said Part II ; and the provisions of Part III of that Schedule shall have effect in relation to the carrying on by him of those activities:

Provided that nothing in this subsection or the said Part II shall authorise the Secretary of State, at any premises where he carries on a business of selling intoxicating liquor for consumption off, but not on, the premises, to carry on any other business except the sale of mineral waters or other non-intoxicating drinks for consumption off the premises, tobacco or matches.

(5) There shall be constituted, in accordance with the following provisions of this section, local advisory committees for the purpose of assisting the Secretary of State in the exercise of his functions relating to the State management districts.

(6) The development corporation for every new town shall, as soon as may be after the passing of this Act or the coming into operation of the order under section one of the New Towns Act, 1946, designating the site of the new town, whichever is the

**PART I.**  
**—cont.**

later, consult with every local authority whose area includes any part of the new town and with the licensing justices for every licensing district which includes any part thereof, and also with such other persons and bodies of persons as appear to the corporation requisite to be consulted, as to the constitution of the local advisory committee for the new town, and shall then prepare a draft scheme for the constituting of the committee.

(7) A development corporation by whom a draft scheme is prepared under the last foregoing subsection shall—

- (a) send a copy thereof to every such local authority and to the licensing justices for every such licensing district as aforesaid, together with a notice specifying the time (not being less than twenty-eight days) within which representations with respect to the draft scheme may be made to the corporation ;
- (b) publish in one or more local newspapers circulating in the area of the new town a notice specifying the time aforesaid and a place or places where copies of the draft scheme will be available for inspection at all reasonable hours ;
- (c) submit to the Secretary of State a scheme for the constitution of the local advisory committee either in terms of the draft or with such modifications as appear expedient to the corporation, having regard to any representations duly made ;
- (d) forward to the Secretary of State, together with the scheme, any representations so made as aforesaid.

(8) Any scheme under this section—

- (a) shall specify the number of members of the advisory committee, the persons by whom and manner in which the several members are to be appointed, and the period for which they are to hold office ;
- (b) may contain provisions with respect to the manner in which the scheme may be varied and as to the duration thereof and the making of a new scheme to take effect on the expiry of the previous scheme ;
- (c) shall have effect when confirmed by the Secretary of State, either as submitted to him or subject to any modifications made by him after consultation with the development corporation.

(9) The provisions of the three last foregoing subsections shall apply in relation to each of the districts specified in Part I of the First Schedule to this Act—

- (a) with the substitution for references to the development corporation of references to the persons acting as a local advisory committee in the district at the passing of this Act ;

- (b) with the omission of the reference to the coming into operation of the order designating the site of the new town ; and
- (c) subject to the provisions of the last foregoing paragraph, with the substitution for references to a new town of references to the district ;

and until the scheme for the constitution of the local advisory committee for the district has been confirmed by the Secretary of State the persons mentioned in paragraph (a) of this subsection shall be the local advisory committee for the district.

(10) In this section the expression " local authority " means the council of a county, county borough or county district.

(11) The Secretary of State shall cause such accounts to be kept in relation to the State management districts as the Treasury may direct, and shall cause an annual report to be presented to Parliament as to his procedure in connection with the management of the liquor trade in those districts.

(12) In the application of this section to Scotland—

- (a) the expression " local authority " means a county, town or district council ;
- (b) the expression " licensing justices " means " licensing court " ;
- (c) any reference to a licensing district shall be construed as a reference to any burgh, county or district for which there is a separate licensing court.

2.—(1) No person, other than a person acting on behalf of the Secretary of State, shall sell intoxicating liquor by retail in a State management district, and no person, other than as aforesaid, shall supply intoxicating liquor in any licensed premises or club in a State management district :

*Restriction of sale and supply, otherwise than by Secretary of State, of intoxicating liquor in State management districts.*

Provided that this subsection shall not apply—

- (a) to anything done in premises which were licensed premises or a registered club when State management came into operation in the district in which the premises are situated and have continued to be licensed premises or a registered club, as the case may be, since that time ;
- (b) to anything done under the written authority of the Secretary of State and in accordance with such terms and conditions as may be specified by him ;
- (c) to anything done on premises of a class specified by order of the Secretary of State.

(2) Any person who contravenes the last foregoing subsection shall be liable on summary conviction to a fine not exceeding thirty pounds.

(3) The power to make orders conferred by paragraph (c) of the proviso to subsection (1) of this section shall be exercisable by statutory instrument, and any order under that paragraph may be made either generally or as respects any particular State management district.

**PART I.**  
—*cont.*

(4) In this section the expression " licensed premises " includes any premises or place where intoxicating liquors are sold by retail under a licence, whether a justices' licence or not.

**Acquisition of  
land.**

3.—(1) For the purposes of his functions under this Part of this Act the Secretary of State may—

- (a) by agreement purchase or take on lease any land, whether in a State management district or elsewhere ;
- (b) subject to the provisions of this section, acquire by compulsory purchase any licensed premises in a State management district and any land in such a district required for the erection or extension of, or otherwise for use in connection with, any premises in a State management district in which the sale of intoxicating liquor by retail is, or is to be, carried on on behalf of the Secretary of State :

Provided that before acquiring any land in a new town (whether by agreement or compulsorily) the Secretary of State shall consult with the development corporation.

(2) The following provisions shall have effect in relation to the compulsory acquisition under this Part of this Act of licensed premises in a State management district—

- (a) the provisions of the Finance Act, 1946, as to the suspension of justices' licences where licensed premises are acquired or proposed to be acquired compulsorily shall not have effect as respects any such compulsory acquisition or any proposal therefor ;
- (b) after the service of a notice to treat for any such acquisition of any interest in licensed premises in a State management district, the licence shall not be removable under section twenty-four of the Act of 1910 (which relates to ordinary and special removals of licences from one premises to other premises).

(3) For the purposes of the two last foregoing subsections, a licence shall be treated as being in force notwithstanding that it may be in suspense under any enactment other than the Finance Act, 1946, and references in those subsections to licensed premises shall be construed accordingly, and as including the site of licensed premises.

(4) The powers of compulsory purchase conferred on the Secretary of State by subsection (1) of this section shall be exercisable for the purchase of any particular land on his being authorised to purchase the land in accordance with the provisions of the Acquisition of Land (Authorisation Procedure) Act, 1946, and that Act shall apply accordingly as if paragraph (b) of subsection (1) of section one thereof (which refers to the compulsory purchase of land by the Minister of Transport under certain enactments) included a reference to any compulsory purchase by the Secretary of State under this section.

(5) The power of compulsory purchase conferred by paragraph (b) of subsection (1) of this section shall not extend to the purchase of any interest in land, being an interest belonging to a development corporation ; but nothing in this subsection or in subsection (2) of section two or in section five of the New Towns Act, 1946 (which relate to the powers of a development corporation to dispose of land) shall be taken to limit the power of such a corporation, with any consent of the Minister of Town and Country Planning requisite under the said section five, to dispose under that section of any such interest on a purchase by agreement under paragraph (a) of subsection (1) of this section, or to limit the power of the said Minister to give any such consent.

(6) So much of section two of the Ordnance Board Transfer Act, 1855, as provides that, where a Secretary of State ceases to hold office, the land mentioned in that section shall by virtue of that Act be transferred to and vested in his successor as therein provided shall apply to the Secretary of State in relation to land vested in him for the purposes of his functions under this Part of this Act.

(7) Any officer of the Valuation Office of the Inland Revenue Department, or any other person if authorised by the Secretary of State, may at any reasonable time enter upon land for the purpose of surveying it in connection with any proposal for the compulsory purchase of the land, or any adjacent land, under this section, and any person who wilfully obstructs a person acting in the exercise of a right of entry conferred under this section shall be liable on summary conviction to a fine not exceeding five pounds, or in the case of a second or subsequent offence twenty pounds :

Provided that a person proposing to exercise a power of entry conferred under this section—

- (a) shall, if so required, produce some duly authenticated document showing his authority ;
- (b) shall not demand admission as of right to any land which is occupied unless twenty-four hours' notice of the intended entry has been given to the occupier.

(8) In the application of this section to Scotland—

- (a) for any reference to the Acquisition of Land (Authorisation Procedure) Act, 1946, there shall be substituted a reference to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947 ;
- (b) in paragraph (b) of subsection (2), for the words from "section twenty-four," to the end of the paragraph there shall be substituted the words "paragraph 10 of Part II of the Sixth Schedule to the Finance Act, 1942 (which relates to the removal of certificates from one premises to other premises) " ;

**PART I.**  
—*cont.*

(c) in paragraph (b) of subsection (1) the words from the beginning to "section," and subsection (5), shall be omitted ;

(d) any reference to a licence includes a reference to a certificate as defined in Part VII of the Licensing (Scotland) Act, 1903.

Provision of  
alternative  
accommoda-  
tion where  
licensed  
premises  
acquired.

4.—(1) Notwithstanding anything in subsection (2) of section five of the New Towns Act, 1946 (which relates to the provision of accommodation where land is acquired by a development corporation), a development corporation shall not have any duty to afford, to a person formerly carrying on a business of selling intoxicating liquor by retail on land in a State management district, any opportunity of obtaining alternative accommodation for such a business.

(2) Without prejudice to the provisions of the last foregoing subsection, where licensed premises in a new town are acquired by the Secretary of State under the last foregoing section, and in consequence of the acquisition the resident tenant or manager quits the premises, the provisions of subsection (2) of section five of the New Towns Act, 1946, shall have effect, so far as relates to the provision of living accommodation for the resident tenant or manager, as if the premises had been acquired by the development corporation under the said Act of 1946.

(3) The Secretary of State shall so far as is practicable secure that a resident tenant or manager of licensed premises acquired by the Secretary of State under the last foregoing section shall have the opportunity, if the business previously carried on in the premises is continued by the Secretary of State, of being employed in the carrying on thereof on terms not less favourable than those appropriate to a manager employed in a business such as was carried on in the premises before their acquisition.

(4) In this section the expression " resident tenant or manager," in relation to premises acquired by the Secretary of State as aforesaid, means a person who, immediately before the acquisition thereof by the Secretary of State, was residing in the premises and was either the holder or one of joint holders of the justices' licence in respect thereof or was employed as manager of the premises by the holder of the licence.

5.—(1) Where a justices' licence is in suspense under any enactment, and the premises in respect of which it was last in force for all purposes are, or the site of those premises is, in a State management district, the Secretary of State on the application of the holder of the licence shall direct that as from the date of the direction, or such later date as may be agreed between the Secretary of State and the holder of the licence, the licence shall be extinguished :

Provisions as  
to licences in  
suspense in  
State  
management  
districts.

Provided that where the licence is in suspense under the Finance Act, 1942, this subsection shall not have effect if—

**PART I.**  
—cont.

(a) a notice to treat has been served for the compulsory acquisition under section three of this Act of any interest in the premises or site, or

(b) such an interest has been acquired under that section by agreement.

(2) In respect of the extinguishment of a licence under this section the Secretary of State shall pay to the holder of the licence such compensation as may be agreed or, in default of agreement, as may be determined by the Lands Tribunal.

(3) For the purposes of any reference to the Lands Tribunal under the last foregoing subsection, section five of the Acquisition of Land (Assessment of Compensation) Act, 1919 (which relates to costs) shall have effect with the substitution for the references to the acquiring authority of references to the Secretary of State.

(4) Compensation under this section shall be determined without regard to the fact that by reason of the provisions of section two of this Act the revival or removal of the licence would or might be prevented.

(5) In the application of this section to Scotland, subsections (2) and (3) of this section shall have effect as if, for the words "the Lands Tribunal" there were substituted the words "the Lands Tribunal for Scotland", and the following proviso were inserted at the end of the said subsection (2), that is to say:

" Provided that until sections one to three of the Lands Tribunal Act, 1949, come into force as respects Scotland the expression 'the Lands Tribunal for Scotland' shall be construed as meaning an official arbiter appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919, and the following provisions of the said Act of 1919, that is to say, section three thereof (which relates to procedure), section five thereof (which relates to costs) as modified by sections five and ten of the said Act of 1949, but with the substitution for references to the acquiring authority of references to the Secretary of State, and section six thereof (which relates to the statement of special cases) as modified by section ten of the said Act of 1949, shall apply for the purposes of this subsection "

6. All expenditure of the Secretary of State under this Part of this Act shall be defrayed out of moneys provided by Parliament, and all receipts of the Secretary of State in connection therewith shall be paid into the Exchequer. Expenses and receipts of Secretary of State.

PART I.  
—*cont.*  
Consequential  
amendment.

7. In section eighteen of the Act of 1921 (which defines the licensed premises to which that Act applies as including premises where the Secretary of State carries on business as the successor of the Central Control Board (Liquor Traffic)), for the words "carries on business as the successor of the Board" there shall be substituted the words "carries on a business of selling intoxicating liquor by retail in the exercise of powers conferred by Part I of the Licensing Act, 1949".

General  
provisions as  
to application  
of Part I  
to Scotland.

8. Subject to any express provision contained in this Part of this Act, the following provisions shall have effect for the general application thereof to Scotland:—

the expression "intoxicating liquor" means excisable liquor;

the expression "justices' licence" means a certificate as defined in Part VII of the Licensing (Scotland) Act, 1903;

the expression "licensed premises" means premises in respect of which a certificate as defined in the said Part VII has been granted and is in force;

the expression "registered club" has the same meaning as in Part V of that Act.

## PART II.

### LICENSING AUTHORITIES.

Countries.

9.—(1) As respects a licensing district being a petty sessional division of a county—

(a) the licensing justices for the purposes of the Act of 1910 shall be a committee of the justices acting in and for the petty sessional division, to be known as the divisional licensing committee, instead of the whole body of justices acting as aforesaid;

(b) the confirming authority and the compensation authority for the said purposes shall be a committee of quarter sessions to be known as the county confirming and compensation committee, instead of quarter sessions.

(2) In accordance with paragraph (b) of the last foregoing subsection, section five of the Act of 1910 (which enables parts of counties for which quarter sessions have been customarily held separately to be treated for the purposes of the functions of quarter sessions as confirming and compensation authorities as if those parts were separate counties) shall be amended by the substitution, in subsection (2) of that section, for the words "of quarter sessions as confirming and compensation authority" of the words "of a county confirming and compensation committee and of quarter sessions in relation to that committee".



10.—(1) As respects a licensing district being a county borough, the confirming authority and the compensation authority for the purposes of the Act of 1910 shall be a committee of the borough justices, to be known as the borough confirming and compensation committee, instead of the whole body of borough justices.

PART II  
—cont.

County  
boroughs and  
City of  
London.

(2) References in this Part of this Act to a county borough shall be construed, in accordance with subsection (4) of section two of the Act of 1910, as including the City of London.

11.—(1) A divisional licensing committee shall be appointed by the justices acting in and for the petty sessional division, and the committee shall be so appointed in the month of October, November or December for the year beginning with the following first day of January.

Constitution  
and procedure  
of licensing  
authorities  
in counties.

(2) A divisional licensing committee shall consist of such number of the said justices as those justices may determine, not being less than five nor more than fifteen.

(3) Notwithstanding anything in paragraph (a) of subsection (1) of the last but one foregoing section, where the total number of the said justices (excluding any who are under a general disqualification from sitting as members of the committee) is less than ten, the committee may if the justices so determine consist of all the justices.

(4) A casual vacancy arising in a divisional licensing committee from death, resignation, or otherwise may be filled up by the justices by whom the committee is appointed.

(5) The quorum of a divisional licensing committee shall be three.

(6) The members of a divisional licensing committee retiring at the end of a year may be re-appointed, and if for any cause members are not appointed in any year to succeed the retiring members, the retiring members may continue to act until their successors are appointed.

(7) The mode of appointment of county confirming and compensation committees, and the number and quorum of those committees, shall be determined by rules made by quarter sessions with the approval of the Secretary of State.

(8) Quarter sessions may, if they think fit, make rules as to the procedure of a county confirming and compensation committee (so far as not already provided for), and as to the costs to be incurred in proceedings on the confirmation of new justices' licences and the persons by whom those costs are to be paid; and in subsection (3) of section thirteen of the Act of 1910 (which provides that a confirming authority may award such costs as they think just to the party who succeeds in the proceedings before them) the words from "to the party" to "before them" shall cease to have effect.

PART II.  
—cont.

Constitution and procedure of licensing authorities in county boroughs and City of London.

**12.—(1)** Subject to the provisions of this section, section three of the Act of 1910 (which provides for the constitution of borough licensing committees) shall apply to a borough confirming and compensation committee, with the substitution of references to such a committee for references to a borough licensing committee; and subsection (8) of the last foregoing section shall apply to a borough confirming and compensation committee, with the substitution—

- (a) of a reference to such a committee for the reference to a county confirming and compensation committee;
- (b) of a reference to the borough justices for the reference to quarter sessions.

(2) The borough licensing committee for a county borough or a borough confirming and compensation committee shall be appointed in the month of October, November or December for the year beginning with the following first day of January.

(3) The borough licensing committee for a county borough shall not consist of less than five justices nor of more than fifteen.

(4) A borough confirming and compensation committee shall not consist of less than nine justices nor of more than fifteen, and not more than one third of the members of the committee shall be members of the borough licensing committee.

Division of counties for compensation purposes.

**13.** For the purposes of the powers and duties relating to compensation of a county confirming and compensation committee, quarter sessions may if they think fit divide their area into districts, and in that case the foregoing provisions of this Part of this Act, and the provisions of the Act of 1910, shall operate as if for the purposes of the said powers and duties those districts were separate counties having the same quarter sessions:

Provided that the same committee shall for the purposes of the said powers and duties be the confirming and compensation committee for each of the districts.

Repeal of s. 8 of Act of 1910.

**14.** Section eight of the Act of 1910 (which empowers in certain cases justices of a county to act in a borough having a separate commission of the peace) shall cease to have effect.

Expenses of members of licensing courts and courts of appeal in Scotland.

**15.—(1)** Part VI (except section one hundred and fourteen) of the Local Government Act, 1948 (which provides for the payment of certain allowances to members of local authorities and other bodies) shall apply with any necessary modifications to members of licensing courts and courts of appeal, as if such courts were among the bodies included in subsection (1) of section one hundred and eleven as read with subsection (3) of section one hundred and eighteen of that Act.

(2) Any amounts by way of allowances payable under the last foregoing subsection shall be payable by the council of the county

or burgh which is liable, under subsection (3) or (4) or (5) of section eight of the Licensing (Scotland) Act, 1903, to defray any necessary expenses in respect of the proceedings of any such court, and subsection (6) of that section shall apply accordingly.

PART II.  
—cont.

(3) Any increase attributable to the provisions of this section in the sums payable out of moneys provided by Parliament under Part II of the Local Government Act, 1948, shall be defrayed out of moneys so provided.

16.—(1) In subsection (1) of section forty of the Act of 1910 (which disqualifies a justice from acting or being a member of any committee for the purposes of that Act if, among other cases, he holds any share in a company carrying on a brewing or other business in the licensing district, or in the district or districts adjoining the licensing district, in which the justice usually acts), after the words "this Act," in each place where they occur, there shall be inserted the words "in any county or county borough," and for the words from "in the licensing district" to "usually acts" there shall be substituted the words "in that county or county borough." Disqualifica-  
tion of  
justices.

(2) A person shall be disqualified from being appointed a member of a divisional or borough licensing committee, or of a county or borough confirming and compensation committee, if he holds any such share as is mentioned in the said subsection (1) unless before his appointment as a member of the committee he has disclosed the fact that he has such a holding to the justices appointing him; and a member of any such committee who acquires any such share shall cease to be a member thereof, but may be re-appointed if before his re-appointment he has disclosed the fact that he has such a holding to the justices re-appointing him:

Provided that (without prejudice to the penal provisions of subsection (4) of the said section forty) no act done by any justice disqualified by this subsection, or by a justice who by virtue thereof has ceased to be a member of a committee, shall be invalid by reason only of the disqualification or cessation of membership.

(3) Notwithstanding anything in the last foregoing subsection, a person who is the beneficial owner of any such share held by him (whether his beneficial ownership extends to the whole holding or to part thereof or to an interest therein only) shall not be appointed or re-appointed to be a member of any such committee unless the justices appointing him are satisfied that the extent to which the company in question carries on or is interested in the business of brewing, distilling, making of malt for sale or retailing of malt or of any intoxicating liquor is so small in comparison with its whole business that the fact that the said person is interested in the company affords no reasonable ground for suggesting that he is not a proper person to be a member of such a committee.

PART II.  
—cont.

(4) Save as aforesaid, a justice shall not be disqualified under the said subsection (1) by reason only that he holds any such share as aforesaid.

(5) In subsection (4) of the said section forty (which provides that if any justice declared by the Act of 1910 not to be qualified to act thereunder knowingly acts as a justice for any of the purposes thereof, he shall be liable to a penalty) for the words from "declared by this Act" to "purposes thereof" there shall be substituted the words "knowing that the circumstances are such that under this Act he is disqualified for acting for any of the purposes thereof, acts as a justice for that purpose".

(6) In this section the expression "share" includes stock.

(7) In accordance with the provisions of this Act, the said section forty shall have effect as set out in the Second Schedule to this Act.

Commence-  
ment of  
Part II.

17.—(1) The provisions of this Part of this Act, except section fifteen thereof, shall come into operation on such date as the Secretary of State may by order appoint.

(2) An order of the Secretary of State under this section may contain such transitional provisions as appear to the Secretary of State expedient in consequence of the coming into operation of the said provisions of this Part of this Act.

(3) The power conferred on the Secretary of State by this section to make orders shall be exercisable by statutory instrument.

PART III.

MISCELLANEOUS.

Special hours  
certificates for  
certain hotels  
and  
restaurants.

18.—(1) If, on an application in that behalf, the licensing justices are satisfied as respects licensed premises in any part of the metropolis, being a part specified for the purposes of this section by order of the Secretary of State,—

- (a) that the premises are a hotel or restaurant to which this section applies ;
- (b) that a music and dancing licence is in force as respects the premises ; and
- (c) that the whole or any part of the premises is structurally adapted, and bona fide used, or intended to be used, for the purposes of providing for persons resorting to the premises music and dancing and substantial refreshment to which the sale of intoxicating liquor is ancillary,

the licensing justices shall grant a certificate under this section (hereinafter referred to as a "special hours certificate") as respects the premises or part thereof as to which they are satisfied as mentioned in paragraph (c) of this subsection, and the provisions of section twenty-one of this Act shall apply accordingly.

(2) The hotels and restaurants to which this section applies are—

- (a) premises for which the excise licence for the time being in force is a licence the duty in respect of which is the reduced duty payable under section forty-five of the Finance (1909-10) Act, 1910 ;
- (b) premises for which the excise licence for the time being in force is a licence granted in pursuance of regulations under subsection (5) of the said section forty-five (which relates to the granting of licences on the provisional payment of reduced duty in the case of new hotels and restaurants) ;
- (c) premises structurally adapted and bona fide used as mentioned in subsection (1) of the said section forty-five, being premises as to which the Secretary of State certifies that he is satisfied that no application under the said section forty-five has been made in respect of the period for which the excise licence for the time being in force was granted but that if such an application had been made such a licence could properly have been granted as is mentioned in paragraph (a) or paragraph (b) of this subsection.

(3) An application for a certificate of the Secretary of State under paragraph (c) of the last foregoing subsection shall be made in such form, and accompanied by such evidence, as may be prescribed by regulations of the Secretary of State.

(4) Where a special hours certificate has been granted in respect of premises, or a part of premises, in respect of which the Secretary of State has granted a certificate under the said paragraph (c), and has not been revoked, the holder of the licence shall at such time in each subsequent year as may be so prescribed make a return to the Secretary of State, in such form and accompanied by such evidence as may be so prescribed, of the receipts in the preceding year from the sale of intoxicating liquor and of the total receipts in that year from the business of all descriptions carried on by him in the premises ; and if

- (a) the return required by this subsection is not duly made, or
- (b) the Secretary of State is not satisfied, by any such return, that the receipts from the sale of intoxicating liquor in the preceding year were less in the case of a restaurant than three-fifths, and in the case of any other premises than one-half, of the said total receipts,

the Secretary of State may give notice to the holder of the licence that the Secretary of State is not satisfied as aforesaid.

In this subsection the expression "year" means a period of twelve months ending with the thirty-first day of March.

## PART III.

—*cont.*

(5) The powers of the licensing justices under this section may be exercised by them at their general annual licensing meeting or any transfer session.

Special hours certificates for certain clubs.

**19.—(1)** If, on an application in that behalf as respects the premises of a registered club, being premises situated in a part of the metropolis for the time being specified by an order under subsection (1) of the last foregoing section, the magistrate is satisfied—

- (a) that a certificate granted under the Third Schedule to this Act is in force as respects the premises ; and
- (b) that the whole or any part of the premises is structurally adapted, and bona fide used, or intended to be used, for the purpose of providing for the members of the club music and dancing and substantial refreshment to which the supply of intoxicating liquor is ancillary,

the magistrate shall grant a certificate under this section (hereinafter referred to as a "special hours certificate") as respects the premises or the part thereof as to which he is satisfied as mentioned in paragraph (b) of this subsection, and the provisions of section twenty-one of this Act shall apply accordingly.

(2) Section eighty-one of the Act of 1910 (which empowers constables to enter licensed premises for the purpose of preventing or detecting offences) shall apply to any premises as respects the whole or any part whereof a special hours certificate is in force under this section as it applies to licensed premises.

Grant of special hours certificates limited to part only of year.

**20.** Where on an application for a special hours certificate the licensing justices or the magistrate are or is satisfied that the premises or part of premises to which the application relates are used, or intended to be used, as mentioned in paragraph (c) of subsection (1) of section eighteen of this Act, or paragraph (b) of subsection (1) of the last foregoing section, as the case may be, during part only of the year, the justices or magistrate may grant a certificate limited so as to be in force only during that part of the year.

Later permitted hours where special hours certificate in force.

**21.—(1)** The following provisions of this section shall apply as respects the permitted hours for any premises or part of premises in respect of which a special hours certificate has been granted.

(2) The holder of the licence or the secretary of the club, as the case may be, may give notice to the superintendent of the police of the district wherein the premises are situated that from such date (not being earlier than fourteen days after the giving of the notice) as may be specified therein the provisions of the next following subsection are to have effect as respects the premises or part of premises to which the special hours certificate relates.

(3) As from the date specified under the last foregoing subsection, but subject to the provisions of this section, while the special hours certificate is in force the following provisions shall have effect as respects the premises or part of premises to which the certificate relates, that is to say :—

- (a) notwithstanding anything in the Act of 1921, the permitted hours shall be the hours from half past twelve in the afternoon to two o'clock on the following morning, with a break from three o'clock until half past six in the afternoon, so however that this paragraph shall not affect the sale, supply or consumption of intoxicating liquor at any time on Sunday ;
- (b) paragraph (a) of section five of the Act of 1921 (which authorises the consumption of intoxicating liquor with a meal within half an hour after the conclusion of the permitted hours if the liquor was supplied during the permitted hours and served at the same time as the meal and for consumption with the meal) shall have effect, in relation to the conclusion, on any day except Sunday, of the second part of the permitted hours, as if the words " with a meal " and the words from " and served " to " with the meal " were omitted ; and
- (c) section three of the Act of 1921 (which provides for an extension of an hour in certain premises as respects intoxicating liquor sold for consumption with a meal) shall not apply :

Provided that—

- (i) if, on any occasion when the permitted hours would apart from this proviso end at two o'clock in the morning, music and dancing is not provided after midnight, the permitted hours shall cease at midnight, and if on any such occasion the provision of music and dancing comes to an end at a time between midnight and two o'clock in the morning the permitted hours shall cease at that time ;
  - (ii) nothing in this subsection shall affect the sale or consumption of intoxicating liquor at any drinking bar.
- (4) If while the provisions of the last foregoing subsection have effect the holder of the licence or the secretary of the club, as the case may be, gives notice to the superintendent of the police of the district wherein the premises are situated that from such date (not being earlier than fourteen days after the giving of the notice) as may be specified therein the said provisions are to cease to have effect, they shall cease to have effect accordingly.

PART III.  
—cont.

(5) While the provisions of subsection (3) of this section have effect as respects any premises or part of premises in respect of which a special hours certificate is in force under section eighteen of this Act, there shall be kept affixed in some conspicuous place therein a notice stating the effect of the said provisions; and if this subsection is not complied with the holder of the licence shall be liable on summary conviction to a fine not exceeding five pounds.

Revocation of  
special hours  
certificates.

22.—(1) At any time while a special hours certificate is in force, the Commissioner of Police for the metropolis may apply to the licensing justices if the certificate was granted under section eighteen of this Act, or to the magistrate if it was granted under section nineteen thereof for the revocation of the certificate on the ground that while the certificate has been in force—

- (a) the premises or part of premises to which the certificate relates have not been used as mentioned in paragraph (c) of subsection (1) of section eighteen or paragraph (b) of subsection (1) of section nineteen of this Act, as the case may be; or
- (b) a person has been convicted of having on the said premises or part contravened section four of the Act of 1921 (which prohibits the sale, supply or consumption of intoxicating liquor outside the permitted hours),

or that on the whole the persons resorting to the premises or part are there, at times when the sale or supply of intoxicating liquor therein is lawful by virtue only of the special hours certificate, for the purpose of obtaining intoxicating liquor rather than for the purpose of dancing or obtaining refreshments other than intoxicating liquor; and if the justices or magistrate are or is satisfied as to the ground of the application they or he may revoke the certificate.

(2) At any time while a special hours certificate granted under section nineteen of this Act is in force the Commissioner of Police for the metropolis may apply to the magistrate for the revocation of the certificate on the ground that the revocation thereof is expedient by reason of the occurrence of disorderly or indecent conduct on the premises or part to which the certificate relates; and if the magistrate is satisfied as to the ground of the application he shall revoke the certificate.

(3) Without prejudice to the provisions of subsection (1) of this section, if, in the case of a special hours certificate granted under section eighteen of this Act—

- (a) at any time while the certificate is in force no music and dancing licence is in force as respects the premises or part of premises to which the certificate relates; or



(b) on an application under section forty-five of the Finance (1909-10) Act, 1910, the applicant fails to satisfy the Commissioners of Customs and Excise of the matters requisite for the reduction of duty under that section ; or

(c) the Secretary of State gives a notice under subsection (4) of section eighteen of this Act,

the certificate shall thereby be revoked.

(4) Without prejudice to the provisions of subsection (1) of this section, if, in the case of a special hours certificate granted under section nineteen of this Act, at any time while the certificate is in force no certificate under the Third Schedule to this Act is in force, the special hours certificate shall thereby be revoked.

23.—(1) In the foregoing provisions of this Part of this Act— <sup>Supplementary provisions</sup>

(a) the expression “ the magistrate ”, in relation to any premises, means a metropolitan police magistrate for the police court division in which the premises are situated ; and <sup>as to special hours certificates.</sup>

(b) the expression “ music and dancing licence ” means a licence granted by the London County Council for the keeping or using of any premises for public dancing, singing, music or other public entertainment.

(2) References in the said provisions to providing music and dancing and refreshment shall be construed as references to providing the same on every weekday, subject to any break in the provision thereof either for a period or periods not exceeding two weeks in any twelve successive months or on any special occasion or by reason of any emergency ; and references in the said provisions to providing dancing shall be construed as references to providing facilities for dancing which are adequate having regard to the number of persons for whose reception in the premises or part of premises in question provision is made.

(3) A certificate purporting to be issued on behalf of the Commissioners of Customs and Excise and certifying that any premises are such as are specified in paragraph (a) or (b) of subsection (2) of section eighteen of this Act shall be receivable in evidence and shall be sufficient proof, unless the contrary is shown, that the premises are such premises.

(4) The Secretary of State may make rules as to the procedure on any application under the foregoing provisions of this Part of this Act.

(5) Any notice under the foregoing provisions of this Part of this Act shall be in writing, and may be given by post.

(6) Any power conferred on the Secretary of State by the said provisions to make an order, rules or regulations shall be exercisable by statutory instrument.

PART III.  
—cont.  
Prohibition of  
consumption  
of intoxicating  
liquor outside  
permitted  
hours at  
parties  
organised for  
gain.

24.—(1) It shall be unlawful outside the permitted hours to supply or consume intoxicating liquor at any party organised for gain and taking place in premises kept or habitually used for the purpose of parties so organised at which intoxicating liquor is consumed :

Provided that this subsection shall not apply to anything done at a party taking place on licensed premises, or at a canteen, mess or registered club as part of the activities of the canteen, mess or club, or at any party in respect of which an occasional licence has been granted.

(2) In this section the expression "outside the permitted hours" means, as respects anything done at any place on any day, outside the hours on that day during which, by or under section one or section two of the Act of 1921, intoxicating liquor is allowed to be sold in licensed premises in the licensing district in which the said place is :

Provided that the break in the permitted hours shall not be treated as outside the permitted hours.

(3) If any person—

- (a) supplies intoxicating liquor in contravention of subsection (1) of this section ;
- (b) being the occupier of any premises, permits them to be used for a party, and that subsection is contravened at the party ;
- (c) being a person concerned in the organisation of a party permits any person to supply or consume intoxicating liquor thereat in contravention of the said subsection (1) ; or
- (d) being a person licensed to sell intoxicating liquor, delivers such liquor outside the permitted hours to any premises kept or habitually used as mentioned in that subsection or permits it to be so delivered ;

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds or, in the case of a second or subsequent offence, to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine.

(4) Any person who consumes intoxicating liquor in contravention of subsection (1) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding five pounds or, in the case of a second or subsequent offence, to a fine not exceeding thirty pounds.

(5) For the purposes of this section, a party shall be deemed to have been organised for gain if any pecuniary advantage accrued

or was intended to accrue to any person concerned in the organisation thereof as a result of the party, and in determining whether any such advantage so accrued or was intended to accrue no account shall be taken of any expenditure incurred in connection with the party :

PART III.  
—*cont.*

Provided that a party shall not be deemed to have been organised for gain by reason only that any person concerned in the organisation thereof took part or intended to take part in the playing of any game, or made or intended to make bets with respect thereto, if the arrangements were such as to give him no greater chance of winning than any other person.

(6) For the purpose of this section, a person shall be deemed to have been concerned in the organisation of a party if he took any part in procuring the assembly of the party or in acting as host or assisting the host at the party.

(7) Nothing in this section shall affect the delivery or supply of intoxicating liquor to, or the consumption of intoxicating liquor by, a person in premises in which he is for the time being residing ; and in determining for the purposes of this section whether a party is being held in any premises, or whether any premises are kept or habitually used for the purpose of holding parties, the presence of persons residing in the premises shall be disregarded.

(8) In the case of premises in a part of the metropolis specified for the purposes of subsection (1) of section eighteen of this Act, the following provisions shall have effect—

(a) before the first day of February, nineteen hundred and fifty, any time at which the consumption of intoxicating liquor would be lawful on premises of a club as respects which subsection (3) of section twenty-one of this Act had effect for the time being shall be treated for the purposes of this section as not being outside the permitted hours ;

(b) where it is proposed that such premises shall become premises of a registered club, application may be made for the grant of a certificate under the Third Schedule to this Act and of a special hours certificate under section nineteen of this Act before the registration of the club and its occupation of the premises, and accordingly references in that Schedule and section to a registered club and premises thereof shall include references to a club proposed to be registered and to premises proposed to be occupied by the club.

25.—(1) If a justice of the peace is satisfied upon information on oath that there is reasonable ground for supposing that any premises within the jurisdiction of the justice are kept or habitually used for the holding of parties at which the provisions

Supplementary provisions as to parties organised for gain.

PART III.  
—*cont.*

of subsection (1) of the last foregoing section are contravened, he may grant a warrant under his hand authorising any constable named in the warrant, together with any other constables, to enter the premises, if need be by force, at any time or times within one month from the date of the warrant, and to search the premises, and to seize and remove any intoxicating liquor found therein which there is reasonable ground to suppose is in the premises for the purpose of being supplied or consumed in contravention of the provisions of the last foregoing section.

(2) Any constable may demand the name and address of any person found in any premises in which he seizes any liquor as aforesaid, and if any person required under this subsection to give his name and address fails to give them, or gives a false name or address, he shall on summary conviction be liable to a fine not exceeding five pounds.

(3) In the event of any person being convicted of an offence under the last foregoing section in respect of the premises in which any liquor is seized under this section, the liquor so seized and the vessels containing the liquor shall be forfeited; and the provisions of section one hundred and five of the Act of 1910 (which relates to the application of forfeitures) shall apply to forfeitures under this section as they apply to forfeitures under that Act.

Increase of penalties for offences under Refreshment Houses Act, 1860.

26.—(1) The court before which under section nine of the Refreshment Houses Act, 1860 (which imposes penalties for keeping unlicensed refreshment houses) a person is adjudged liable to forfeit any sum may, where it is proved that the said person has previously been convicted of an offence to which this section applies, make a disqualification order under this section.

(2) If, where by virtue of the last foregoing subsection the court have power to make a disqualification order under this section, a licence under the said Act of 1860 is in force as respects the refreshment house in question, the court may, in addition to or in substitution for the making of the disqualification order, adjudge that the licence shall be forfeited.

(3) Sections eighteen and thirty-two of the said Act of 1860 (which provide for penalties for obstructing the police from entering refreshment houses, for allowing unlawful gaming therein, for allowing prostitutes, thieves or disorderly or drunken persons to be therein and for permitting contraventions of licences under that Act) shall have effect as if those sections provided for the following penalties, that is to say—

(a) if the person convicted has not previously been convicted of an offence to which this section applies, a fine not exceeding five pounds;

- (b) if he has been previously convicted of such an offence, a fine not exceeding twenty pounds or forfeiture of his licence under the said Act of 1860 or both such fine and such forfeiture ;

PART III.  
—cont.

and where in a case falling within paragraph (b) of this subsection the court impose forfeiture of a licence they may also make a disqualification order under this section.

(4) In accordance with the last foregoing subsection, in the said section eighteen for the words from “ for the first offence ” to the end of the section, and in the said section thirty-two for the words from “ upon conviction thereof ” to the end of the section there shall be substituted the words “ be liable on summary conviction to the penalties provided by section twenty-six of the Licensing Act, 1949 ”.

(5) A disqualification order under this section may, at the discretion of the court, be either—

- (a) an order disqualifying the person in question, for such period not exceeding five years from the date of the order as may be specified in the order, from holding or obtaining a licence under the said Act of 1860 ; or
- (b) an order prohibiting a licence under that Act from being granted within such period as aforesaid to any person in respect of the premises at which the offence in question was committed ; or
- (c) an order imposing both such a disqualification and such a prohibition :

Provided that any such order as is mentioned in paragraph (b) or (c) of this subsection shall not be made unless an opportunity has been given to any person interested in the premises and applying to be heard by the court to show cause why the order should not be made.

(6) Any licence obtained in contravention of a disqualification order made under this section shall be absolutely null and void to all intents and purposes.

(7) The offences to which this section applies are—

- (a) the keeping of a refreshment house in contravention of section nine of the said Act of 1860 ;
- (b) any offence under section eighteen or thirty-two of the said Act ; and
- (c) the commission by a person keeping a refreshment house of any offence against section sixty-five of the Act of 1910 or any offence against subsection (3) of section twenty-four of this Act committed in connection with any party at that refreshment house.

**PART III.**  
**—cont.**  
**Relief against**  
**disqualifica-**  
**tion orders.**

**27.—(1)** At any time while a disqualification order made under the last foregoing section is in force, a court of summary jurisdiction, on complaint by any person affected by the order, may revoke the order or vary it by reducing any period of disqualification or prohibition specified in the order.

(2) Where on a complaint made under this section the relief asked for is the revocation or variation of an order imposing such a prohibition as is mentioned in paragraph (b) of subsection (5) of the last foregoing section, or is or includes the revocation or variation of so much of an order under paragraph (c) of that subsection as imposes such a prohibition, any summons granted on the complaint shall be served on the chief officer of police of the police area in which the premises affected by the prohibition are situated.

(3) Any person who has made a complaint under this section and is aggrieved by the decision of the court on that complaint may appeal to quarter sessions.

**Restriction of**  
**retail sales by**  
**spirit or wine**  
**dealers**  
**without**  
**justices'**  
**licence.**

**28.—(1)** Subject to the provisions of this section, and notwithstanding anything in subsection (1) of section one hundred and eleven of the Act of 1910 (which enables spirit dealers and wine dealers in certain circumstances to take out retailers' off-licences without a justices' licence) the said subsection (1) shall not authorise a dealer to sell any spirits or wine by retail at any premises without a justices' licence except—

- (a) to a person holding an excise licence for the sale of intoxicating liquor ;
- (b) to a mess or registered club ;
- (c) for delivery outside Great Britain ; or
- (d) to a person engaged, at the premises in question or elsewhere, in any business carried on by the dealer.

(2) Where at the general annual licensing meeting next held after the passing of this Act a dealer in liquor of any description applies for a justices' licence authorising him to hold an excise licence for the sale by retail of liquor of that description at any premises, and proves to the satisfaction of the justices—

- (a) that at all times between the fifteenth day of November, nineteen hundred and forty-eight, and the date of the application an excise licence taken out by virtue of the said subsection (1) of section one hundred and eleven of the Act of 1910 has been in force, and
- (b) that the licence authorised the sale of liquor of the description in question at the premises to which the application relates, or, if the business which at the time of the application is being carried on in those premises was at any time since the said fifteenth day of November being carried on in other premises, then in those other premises,

his application shall be treated for the purposes of the Act of 1910 and of section seven of the Act of 1945 (which restricts the granting of new licences in licensing planning areas) as if it were an application for the renewal of such a justices' licence as aforesaid, and the provisions of the Act of 1910 as to the renewal of justices' licences shall apply accordingly.

PART III.  
—cont.

(3) Where, during the period beginning with the passing of this Act and ending with the date on which the general annual licensing meeting is next held after that date, intoxicating liquor of any description is sold in the course of the business carried on at any premises, the provisions of subsection (1) of this section shall not apply to that sale if an excise licence authorising the sale of liquor of that description and taken out by virtue of the said subsection (1) of section one hundred and eleven of the Act of 1910 has been in force at all times since the fifteenth day of November, nineteen hundred and forty-eight, in respect of the premises at which that business has from time to time been carried on since that day.

(4) If at the said licensing meeting the person carrying on the business makes such an application as is mentioned in subsection (2) of this section, the period mentioned in the last foregoing subsection shall be extended until the determination of the application and, if the licence is granted, shall be further extended till the fifth day of April next following.

(5) A certificate purporting to be signed by an officer of Customs and Excise authorised in that behalf, stating that an excise licence authorising the sale by retail of intoxicating liquor of any description is, or was at any time specified in the certificate, in force in respect of any premises so specified, and that the licence was taken out by virtue of the said subsection (1) of section one hundred and eleven of the Act of 1910, shall be sufficient evidence of the facts stated in the certificate.

29. Paragraph (5) of section twenty-six of the Act of 1910 Removal of off-licences.  
(which provides that the justices shall not make an order for the ordinary removal of a justices' licence unless they are satisfied that no objection is made by the owner of the premises from which the licence is to be removed, or by the holder of the licence, or by any other person whom the justices may determine to have the right to object to the removal) shall have effect, in relation to the making of an order for the removal of a justices' off-licence, as if for the words from "by the owner" to "any other person" there were substituted the words "by the holder of the licence or by any person, other than the holder of the licence".

30.—(1) If any person under the age of eighteen years is employed in any bar of licensed premises at a time when the bar is open for the sale or consumption of intoxicating liquor, the Persons under eighteen not to be employed in bars.

**PART III.**  
—cont.

holder of the licence shall be liable on summary conviction to a fine not exceeding five pounds in the case of a first offence, or twenty pounds in the case of a second or any subsequent offence.

(2) For the purposes of this section, a person shall not be deemed to be employed in a bar by reason only that in the course of his employment in some other part of the premises he enters the bar for the purpose of giving or receiving any message or of passing to or from some other part of the premises, being a part to or from which there is no other convenient means of access or egress and not being itself a bar.

(3) For the purposes of this section a person shall be deemed to be employed by the person for whom he works, notwithstanding that he receives no wages for his work.

(4) Where in any proceedings under this section it is alleged that a person was at any time under the age of eighteen, and he appears to the court then to have been under that age, for the purposes of the proceedings he shall be deemed then to have been under that age unless the contrary is shown.

(5) In this section the expression "bar" includes any place exclusively or mainly used for the sale and consumption of intoxicating liquor.

- (6) In the application of this section to Scotland—  
 the expression "licence" means a certificate as defined in Part VII of the Licensing (Scotland) Act, 1903 ;  
 the expression "licensed premises" means premises in respect of which a certificate as defined in the said Part VII has been granted and is in force ;  
 the expression "intoxicating liquor" means exciseable liquor.

Terms of  
 appointment  
 of members  
 of licensing  
 planning  
 committees.

31. For subsection (3) of section two of the Act of 1945 (which provides that the term and conditions of office of a member of a licensing planning committee shall be such as may be determined by the Secretary of State on his appointment) there shall be substituted, as respects members of such committees holding office at the passing of this Act or appointed thereafter, the following subsection :—

" (3) The appointment of a member of any such committee (unless his office is earlier abolished by the expiration of this Act, by the variation under the next following section of the licensing planning area, or by the revocation thereunder of the order constituting that area) shall be for a term of three years, and shall be subject to such conditions as may be determined by the Secretary of State :

Provided that a member of such a committee appointed to fill a casual vacancy shall hold office only until the end of the term of office of the person in whose place he was appointed "



32. Proposals of a licensing planning committee under section five of the Act of 1945 may be varied by subsequent proposals formulated by the committee, and submitted to and confirmed by the Minister, in the like manner and subject to the like provisions as the original proposals.

PART III.  
—cont.  
Power to vary proposals of licensing planning committees.

33. Notwithstanding anything in subsection (1) of section six of the Act of 1945 (which prohibits ordinary or special removals to premises in a licensing planning area) such a removal may be authorised to premises in such an area which are licensed premises if the licensing justices are satisfied that the licensing planning committee have no objection to the removal.

Removals in licensing planning areas.

34.—(1) The provisions of section five of the Act of 1945 (which relates to the submission and approval of proposals by licensing planning committees) shall, as respects proposals to which this section applies, have effect subject to the following provisions of this section.

Simplification of procedure for licensing planning proposals in London.

(2) This section applies to proposals for planning removals within London and proposals for the surrender of licences in respect of premises in London, not being proposals for removals from or to a place in, or the surrender of licences in respect of premises in, any area for the time being designated by order of the Minister of Town and Country Planning as an area of large-scale re-development.

The power conferred on the said Minister by this subsection to make orders shall be exercisable by statutory instrument.

(3) Proposals to which this section applies shall be formulated by the appropriate sub-committee of the licensing planning committee instead of by that committee, and shall be submitted to that committee instead of to the Minister of Town and Country Planning; and accordingly in subsections (1) and (2) of the said section five references to the licensing planning committee shall in relation to proposals to which this section applies be construed as references to the appropriate sub-committee of that committee, and references to the Minister of Town and Country Planning shall in relation to such proposals be construed as references to the licensing planning committee.

(4) In relation to proposals to which this section applies the following provisions shall have effect in substitution for the provisions of subsections (3) and (4) of the said section five (which relate to the approval of proposals and provide for the hearing of objectors, and the holding of a public local inquiry in certain cases)—

(a) if no objection to the proposals is made to the licensing planning committee within the time and in the manner stated in the notice of the proposals published by the

**PART III.**  
—*cont.*

sub-committee under subsection (2) of the said section five, or if all objections so made are withdrawn, the licensing planning committee may, if they think fit, confirm the proposals, either with or without modifications;

- (b) in any other case, the licensing planning committee shall before confirming the proposals, afford to any person making an objection an opportunity of appearing before and being heard by the committee, and may then confirm the proposals either with or without modification.

(5) The coming into operation of an order under subsection (2) of this section, or of an order varying or revoking such an order, shall not affect the proceedings in relation to any proposals submitted for confirmation before the coming into operation of the order.

Licensing  
Planning Acts  
not to apply  
in London to  
restaurant  
licences.

35. The Licensing Planning (Temporary Provisions) Acts, 1945 and 1946, shall not, in London, apply to licences which, under any enactment or by virtue of any condition imposed under subsection (1) of section fourteen of the Act of 1910, authorise the sale of intoxicating liquor only for consumption with a meal in a restaurant.

Power to  
amend  
constitution of  
London  
Licensing  
Planning  
Committee.

36.—(1) If, after consultation with the London quarter sessions and the London County Council it appears to the Secretary of State expedient so to do by reason of the reduction under any enactment (whether passed before or after the passing of this Act) of the number of petty sessional divisions in London, the Secretary of State may by order direct that sub-paragraphs (ii) and (iii) of paragraph (a) of subsection (2) of section ten of the Act of 1945 (which provide that the number of members of the London Licensing Planning Committee appointed by quarter sessions and by the London County Council respectively shall be twelve) shall have effect as if for the number twelve, in each place in which it occurs, there were substituted such lower number as may be specified in the order.

(2) The power to make orders conferred by this section shall be exercisable by statutory instrument.

Suspension of  
licence where  
business in  
temporary  
premises  
discontinued.

37.—(1) Where the Commissioners of Customs and Excise are satisfied, on an application made to them for a certificate under this subsection,—

- (a) that a business carried on in licensed premises, being temporary premises, has been temporarily discontinued on account of those premises ceasing to be available or on account of the period specified in the certificate of the licensing planning committee, under section nine

of the Act of 1945, relating to the premises, and any extension of that period under subsection (3) of the said section nine, having expired ; and

PART III.  
—cont.

- (b) that the requirements of paragraph (b) of subsection (2) of section twelve of the Finance Act, 1946, are satisfied, that is to say that the removal of the licence to other premises, not being temporary premises, reasonably satisfactory to the person by whom the business was carried on would be prevented by the restriction on removals imposed by subsection (1) of section six of the Act of 1945, or by its being otherwise impracticable to provide such other premises as aforesaid,

they shall certify accordingly.

(2) Where a certificate is granted under this section, the like consequences shall ensue with respect to the justices' licence which was in force for the temporary premises immediately before the discontinuance of the business as would have ensued if the reason for the discontinuance had been a compulsory acquisition of the premises and the certificate had been given under subsection (2) of section twelve of the Finance Act, 1946 (which provides for justices' licences going into suspense on the compulsory acquisition of the premises), and accordingly—

- (a) the licence shall be, and shall be deemed to have been, in suspense by virtue of the said section twelve from the time of the discontinuance until the time when it is again in force for all purposes, or extinguished, by virtue of the provisions in that behalf in the First Schedule to the Finance Act, 1946 ;
- (b) subsections (4) and (5) of the said section twelve and the said First Schedule shall, so far as applicable, have effect with respect to the licence subject to the necessary modification that for any reference therein to compulsory acquisition of the premises there shall be substituted a reference to the premises becoming no longer available ; and
- (c) the licence shall not be, and shall be deemed not to have been, avoided by virtue of subsection (3) of section nine of the Act of 1945 (which limits the time for which a licence may be in force for temporary premises) by reason of any period delimited under that section expiring after the discontinuance of the business, except so far as the said subsection (3) has effect on any further temporary premises removal of the licence after being in suspense.

38. Any provision of the Act of 1910 requiring a notice, or a copy of a notice, to be fixed on the door of a church or chapel

Fixing of notices on church doors.

PART III.  
—*cont.*

shall have effect as if it required the notice or copy to be fixed either on the door of the church or chapel or on some public and conspicuous place near the door thereof.

Permitted  
hours in the  
metropolis.

39.—(1) So much of subsection (2) of section one of the Act of 1921 as provides that the permitted hours on week days shall, in the case of licensed premises, be such as may be fixed by order of the licensing justices of the licensing district shall have effect subject to the following provisions of this section.

(2) As respects licensed premises in the metropolis, an order made by the licensing justices under the said subsection (2) shall not fix the permitted hours so as to end earlier than half past ten at night.

(3) Where by virtue of any such order as aforesaid, being an order in force immediately before the passing of this Act, the permitted hours are so fixed, as respects any licensed premises in the metropolis, as to end earlier than half past ten at night, the following provisions shall have effect, that is to say—

- (a) during the period beginning with the passing of this Act and ending with the date of the general annual licensing meeting or transfer sessions next held after the passing of this Act (whichever of the two first occurs) the order shall continue to have effect as if this section had not been enacted ;
- (b) notwithstanding anything contained in the Act of 1921 or in any rules made thereunder, the order may be revoked or varied by the licensing justices at the transfer sessions next held after the passing of this Act, if those sessions occur before the general annual licensing meeting next held as aforesaid ;
- (c) if at the general annual licensing meeting or transfer sessions mentioned in paragraph (a) of this subsection the licensing justices do not revoke the order or vary it so as to comply with the provisions of the last foregoing subsection, the order shall, on the expiration of the period mentioned in the said paragraph (a), cease to have effect as respects the said licensed premises.

Application  
of licensing  
laws to Isles  
of Scilly.

40.—(1) As respects the Isles of Scilly the Secretary of State may by order provide—

- (a) for substituting, for the provisions of the Act of 1910 prohibiting the sale or supply of intoxicating liquor except as authorised by or under that Act, a prohibition on the sale or supply thereof except as authorised by annual or occasional permits granted by the Joint Police Committee for the Isles of Scilly and in accordance with such conditions as may be specified in the permits ;

(b) for the exercise by that Committee of the functions of the licensing justices under the enactments relating to the permitted hours for the sale or supply of intoxicating liquor and of the functions of the local authority under the enactments relating to general and special orders of exemption.

PART III.  
—*cont.*

(2) An order under this section may contain such supplemental and consequential provisions as appear to the Secretary of State necessary or expedient for the purposes of the order, including supplemental or consequential provisions excluding, modifying or adapting any enactment relating to the sale or supply of intoxicating liquor in its application to the Isles of Scilly.

(3) The power to make orders conferred by this section shall be exercisable by statutory instrument.

#### PART IV.

##### SUPPLEMENTARY.

41.—(1) The enactments specified in the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule. Repeals.

(2) As respects the enactments specified in Part II of the said Schedule, this section shall come into operation on the date specified by order under section seventeen of this Act.

42.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say— Interpretation.

“ Act of 1910 ” means the Licensing (Consolidation) Act, 1910 ;

“ Act of 1921 ” means the Licensing Act, 1921 ;

“ Act of 1945 ” means the Licensing Planning (Temporary Provisions) Act, 1945 ;

“ canteen ” means a canteen in which the sale or supply of intoxicating liquor is carried on under the authority of the Secretary of State or the Admiralty, or under an authorisation granted under regulation 60AA of the Defence (General) Regulations, 1939 ;

“ development corporation ” has the same meaning as in the New Towns Act, 1946 ;

“ London ” means the administrative county of London ;

“ mess ” means an authorised mess of members of His Majesty’s naval, military or air forces ;

PART IV.  
—cont.

“ police area ” means a police area within the meaning of section thirty of the Police Pensions Act, 1921, or a combined area constituted by an amalgamation scheme made under the Police Act, 1946, or a police area resulting from the division of any such combined area under section six of the said Act of 1946, and “ chief officer of police ” means, as respects any police area, the officer who is for the time being the chief officer of police of that area within the meaning of section thirty of the Police Pensions Act, 1921, or the chief constable of any such combined area, or area resulting from the division of a combined area, as aforesaid ;

“ registered ” in relation to a club means registered under the Act of 1910 ;

and other expressions have the same meaning as in the Act of 1910.

(2) A conviction for any offence shall not after five years from the date of the conviction be receivable in evidence against any person for the purpose of subjecting him under Part III of this Act to an increased fine or other penalty.

(3) Any power conferred by this Act on the Secretary of State or the Minister of Town and Country Planning to make an order shall be construed as including power in the like manner and subject to the like provisions to vary or revoke the order.

(4) Any reference in this Act to any other enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment, including this Act.

Short title,  
extent and  
citation.

43.—(1) This Act may be cited as the Licensing Act, 1949.

(2) Part II of this Act, except section fifteen thereof, and Part III of this Act, except section thirty thereof, shall not extend to Scotland.

(3) This Act shall not extend to Northern Ireland.

(4) The Licensing Acts, 1910 to 1934, and this Act as it applies to England and Wales may be cited together as the Licensing Acts, 1910 to 1949.

(5) The Licensing (Scotland) Acts, 1903 to 1934, and this Act as it applies to Scotland may be cited together as the Licensing (Scotland) Acts, 1903 to 1949.

## SCHEDULES.

## FIRST SCHEDULE.

Section 1.

## STATE MANAGEMENT DISTRICTS.

## PART I.

*Existing State Management Districts.*

The Carlisle district :—

The city of Carlisle, the petty sessional division of Cumberland Ward (except so much of the old parish of Castle Sowerby as is comprised in the parish of Dalston), so much of the old parish of Dalston as is comprised in the parish of Skelton in the petty sessional division of Penrith, the petty sessional division of Maryport, so much of the petty sessional division of Wigton as lies to the north-west of a line drawn parallel to and one-quarter of a mile south-east of the main road from Carlisle to Cockermouth, the petty sessional division of Longtown (except the parishes of Nichol Forest, Solport, and Bewcastle, and the old parish of Bellbank), and the parishes of Bothel and Threapland, Plumbland, Gilcruix and Broughton Moor and the old parishes of Tallentire and Dovenby, in the petty sessional division of Cockermouth, all in the county of Cumberland.

In the foregoing provisions of this Schedule the expression "old parish" means a parish as existing immediately before the coming into operation of the Cumberland Review Order, 1934.

The Cromarty Firth district :—

The burghs of Cromarty, Dingwall, and Invergordon, and the parishes of Rosskeen, Alness, Kiltearn, Dingwall, Urquhart, Resolis, Cromarty, and Fodderty (except that part of that parish which immediately before the coming into operation of section nine of the Water (Scotland) Act, 1949, was known as the special water district of Strathpeffer), in the county of Ross and Cromarty.

The Gretna district :—

The burgh of Annan, and the parishes of Annan, Canonbie, Cummertrees, Dornock, Gretna, Half Morton, Hoddom, Kirkpatrick-Fleming and Middlebie, in the county of Dumfries.

## PART II.

*Ancillary Functions exercisable by Secretary of State.*

1. The provision and maintenance in a State management district of hotels and inns where accommodation and meals are provided and intoxicating liquor is sold.

2. The provision and maintenance in a State management district of premises where meals and refreshments may be obtained, whether or not intoxicating liquor is sold thereat.

1ST SCH.  
—cont.

3. The provision of entertainment or recreation at premises in a State management district provided by the Secretary of State for the sale of intoxicating liquor, meals or refreshments.

4.—(1) The brewing of beer (as defined in section fifty-two of the Finance (1909-10) Act, 1910), the blending, reducing or bottling of any intoxicating liquor, and, in the Carlisle district specified in Part I of this Schedule, the manufacture of table waters, that is to say, aerated waters and beverages sold or kept for sale in bottles, other than—

- (a) liquors for the sale of which an excise licence is required, or
- (b) syrups or other liquors intended to be consumed only in a diluted form,

for sale in, or to persons in, a State management district.

(2) The Secretary of State may by order declare that, during such period as may be specified in the order, the last foregoing sub-paragraph shall have effect as if the words "in the Carlisle district specified in Part I of this Schedule" were omitted.

(3) The power of the Secretary of State to make orders under this paragraph shall be exercisable by statutory instrument subject to annulment by resolution of either House of Parliament.

5. The provision and maintenance of storage accommodation, and the provision of transport, in connection with the carrying on of any activity referred to in the foregoing paragraphs of this Part of this Schedule.

6. The carrying on of any business which, by reason of being carried on outside the State management districts, does not fall within section one of this Act or the foregoing paragraphs of this Schedule, so long as the business is carried on in the premises in which at the commencement of this Act it was being carried on on behalf of the Secretary of State in pursuance of any of the provisions of Part II of the Act of 1921 or the Third Schedule thereto.

7. The carrying on of such activities and the doing of such things (including, without prejudice to the generality of this paragraph, the purchase of the whole or any part of any business and the assets and liabilities thereof), incidental to any of the activities specified in section one of this Act and the foregoing paragraphs of this Schedule as appear to the Secretary of State necessary or expedient.

### PART III.

#### *Supplemental provisions as to exercise of functions of Secretary of State.*

8. Notwithstanding anything in the enactments relating to the sale and supply of intoxicating liquor, to the sale of tobacco and to entertainments and recreation, any of the activities specified in section one of this Act and the foregoing provisions of this Schedule may be carried on by or on behalf of the Secretary of State, in premises



occupied by him, without the need for any licence, and shall not be subject to any restrictions imposed by law on the carrying on of such activities :

1ST SCH.  
—cont.

Provided that—

- (a) any person engaged in any such activity on behalf of the Secretary of State shall be subject to any statutory provisions affecting the holders of licences, and the occupiers of premises licensed, for that activity in like manner as if he were the holder of the appropriate licence, and to any restrictions imposed by law on persons carrying on that activity ; and
- (b) where in any area as defined by section fifteen of the Temperance (Scotland) Act, 1913, being an area situated in whole or in part in a State management district, a resolution has been declared carried as a result of a poll taken under the said Act, the Secretary of State shall give effect to that resolution in that area or, as the case may be, in such part thereof as is situated in a State management district.

9.—(1) Any instrument in connection with the acquisition, management or disposal of any land or other property in the exercise of the functions of the Secretary of State relating to State management districts, being an instrument to which the Secretary of State is expressed to be a party, shall be deemed to be validly executed by him if it is executed on his behalf by an Under Secretary of State or any other person authorised in that behalf by the Secretary of State, and any such instrument purporting to have been executed as aforesaid on behalf of the Secretary of State shall, until the contrary is proved, be deemed to have been so executed on his behalf.

(2) The method provided by this paragraph for the execution of such an instrument as aforesaid shall be in addition to any other method available by law for the execution of such an instrument on behalf of the Secretary of State, and this paragraph shall not be construed as affecting the validity of any method by which other instruments may be executed on behalf of the Secretary of State.

(3) This paragraph shall not extend to Scotland.

10. In the application of this Schedule to Scotland the expression "intoxicating liquor" means exciseable liquor, and the expression "licence" includes a certificate as defined in Part VII of the Licensing (Scotland) Act, 1903.

## SECOND SCHEDULE.

Section 16.

### SECTION FORTY OF ACT OF 1910 AS AMENDED BY THIS ACT.

40.—(1) No justice shall act for any purpose under this Act in any county or county borough, or be capable of being appointed or being a member of any committee therein for any such purpose, who is, or is in partnership with, a common brewer, distiller, maker of malt for sale, or retailer of malt or of any intoxicating liquor, in that county or county borough : Disqualification  
of justices.

Provided that this provision shall not prevent a justice adjudicating in the case of persons charged with offences under section twelve of the Licensing Act, 1872, or section two of the Licensing Act, 1902.

2ND SCH.  
—cont.

(2) No justice who holds any share or stock in a company which is such a brewer, distiller, maker of malt or retailer as aforesaid in any county or county borough shall be capable of being appointed or being a member of any divisional licensing committee or county confirming and compensation committee in the county, or of any borough licensing or confirming and compensation committee in the borough, as the case may be, unless before his appointment as a member of the committee he has disclosed to the justices appointing him the fact that he holds the share or stock :

Provided that a member of any such committee disqualified from being a member thereof by acquiring any such share or stock may be re-appointed if before his re-appointment he has disclosed to the justices re-appointing him the fact that he has acquired the share or stock.

(3) A person who is the beneficial owner of any such share or stock as aforesaid held by him (whether his beneficial ownership extends to the whole holding or to a part thereof or to an interest therein only) shall not be appointed or re-appointed to be a member of any such committee as aforesaid unless the justices appointing or re-appointing him are satisfied that the extent to which the company in question carries on or is interested in the business of brewing, distilling, making of malt for sale or retailing of malt or of any intoxicating liquor is so small in comparison with its whole business that the fact that the said person is interested in the company affords no reasonable ground for suggesting that he is not a proper person to be a member of such a committee.

(4) No justice shall act for any purpose under this Act in respect of any premises in the profits of which that justice is interested, or of which he is wholly or partly the owner, lessee, or occupier, or for the owner, lessee, or occupier of which he is manager or agent :

Provided that a justice shall not be disqualified under this provision to act in respect of any premises by reason of his having vested in him a legal interest only, and not a beneficial interest, in those premises or the profits thereof.

(5) No act done by any justice disqualified by this section shall be invalid by reason only of that disqualification, and no act done by any justice who by virtue of this section has ceased to be a member of a committee shall be invalid by reason only of the cessation of membership.

(6) If any justice, knowing that the circumstances are such that under this Act he is disqualified from acting for any of the purposes thereof, acts as a justice for that purpose he shall be liable in respect of each offence to a fine not exceeding one hundred pounds, to be recovered by action in the High Court :

Provided that a justice shall not be liable to a fine in respect of more than one offence committed by him under this section before the institution of any proceedings for the recovery of the fine.

## THIRD SCHEDULE.

Sections 19, 22,  
24.

## CERTIFICATION OF CLUB PREMISES FOR MUSIC AND DANCING.

1. Where, on the application of the secretary of a registered club, the London County Council are satisfied as respects any premises of the club situated as mentioned in subsection (1) of section nineteen of this Act that the premises (whether or not they are kept or intended to be kept for public dancing, music or other public entertainment of the like kind) in all other respects fulfil the Council's requirements for the grant of a music and dancing licence, the Council may grant a certificate under this Schedule as respects the premises.

2. A certificate under this Schedule may be granted on such terms, and subject to such conditions or restrictions, as the Council may think fit and, subject to the following provisions of this Schedule, shall remain in force for such period as may be specified therein.

3. A certificate granted under this Schedule may from time to time be renewed by the London County Council on the application of the secretary of the club; and the foregoing provisions of this Schedule shall apply to the renewal of such certificates as they apply to the grant thereof.

4. Where a certificate under this Schedule as respects a club has been granted or renewed subject to any condition or restriction, the condition or restriction may be waived or modified by the London County Council on the application of the secretary of the club.

5. If while a certificate is in force under this Schedule it appears to the London County Council—

(a) that any condition or restriction subject to which the certificate was granted or last renewed, as the case may be, has not been complied with or, in the case of a condition or restriction which has been modified under the last foregoing paragraph, that the condition or restriction as so modified has not been complied with, and

(b) that the condition or restriction has not been waived under the last foregoing paragraph,

the Council may, after giving to the secretary of the club not less than seven days' notice that the Council are considering revoking the certificate, specifying the ground for the revocation thereof, and after affording to the secretary an opportunity of being heard by a person appointed by the Council for the purpose, revoke the certificate.

## FOURTH SCHEDULE.

Section 41.

## ENACTMENTS REPEALED.

## PART I.

*Enactments Repealed as from passing of Act.*

Session and Chapter.	Enactment Repealed.	Extent of Repeal.
11 & 12 Geo. 5. c. 42.	The Licensing Act, 1921	Part II and the Second, Third and Fourth Schedules.

4TH SCH.  
—cont.

## PART II.

*Enactments Repealed as from appointed day.*

Session and Chapter.	Enactment Repealed.	Extent of Repeal.
10 Edw. 7 and 1 Geo. 5. c. 24.	The Licensing (Consolidation) Act, 1910.	In section two, subsection (2) and, so far as they relate to county boroughs, paragraphs (b) and (c) of subsection (3); in section three so far as it relates to county boroughs, in subsection (1) the words from "during" to the end of the subsection and subsection (2); in section five, subsection (1); section six; section eight; in section thirteen, in subsection (3) the words from "to the party" to "before them", and subsection (4); in section forty, subsection (5).

*Table of Statutes referred to in this Act*

Short Title	Session and Chapter
Ordnance Board Transfer Act, 1855 ... ..	18 & 19 Vict. c. 117.
Refreshment Houses Act, 1860 ... ..	23 & 24 Vict. c. 27.
Licensing Act, 1872 ... ..	35 & 36 Vict. c. 94.
Licensing Act, 1902 ... ..	2 Edw. 7. c. 28.
Licensing (Scotland) Act, 1903 ... ..	3 Edw. 7. c. 25.
Finance (1909-10) Act, 1910 ... ..	10 Edw. 7 & 1 Geo. 5. c. 8.
Licensing (Consolidation) Act, 1910 ... ..	10 Edw. 7 & 1 Geo. 5. c. 24.
Temperance (Scotland) Act, 1913 ... ..	3 & 4 Geo. 5. c. 33.
Acquisition of Land (Assessment of Compensation) Act, 1919 ... ..	9 & 10 Geo. 5. c. 57.
Police Pensions Act, 1921 ... ..	11 & 12 Geo. 5. c. 31.
Licensing Act, 1921 ... ..	11 & 12 Geo. 5. c. 42.
Finance Act, 1942 ... ..	6 & 7 Geo. 6. c. 28.
Licensing Planning (Temporary Provisions) Act, 1945 ... ..	8 & 9 Geo. 6. c. 15.
Police Act, 1946 ... ..	9 & 10 Geo. 6. c. 46.
Acquisition of Land (Authorisation Procedure) Act, 1946 ... ..	9 & 10 Geo. 6. c. 49.
Finance Act, 1946 ... ..	9 & 10 Geo. 6. c. 64.
New Towns Act, 1946 ... ..	9 & 10 Geo. 6. c. 68.
Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947 ... ..	10 & 11 Geo. 6. c. 42.
Local Government Act, 1948 ... ..	11 & 12 Geo. 6. c. 26.
Water (Scotland) Act, 1949 ... ..	12 & 13 Geo. 6. c. 31.
Lands Tribunal Act, 1949 ... ..	12 & 13 Geo. 6. c. 42.

## CHAPTER 60

### *Housing Act, 1949*

#### ARRANGEMENT OF SECTIONS

##### PART I

##### AMENDMENTS OF THE HOUSING ACT, 1936

###### Section.

1. Removal of references to the working classes from certain provisions of the Housing Act, 1936.
2. Quashing of certain demolition orders.
3. Preservation of certain houses unfit for human habitation.
4. Power of local authorities to make advances for purpose of increasing housing accommodation.
5. Power of local authorities to guarantee repayment of advances by building societies.
6. Power of local authorities to make allowances to certain persons displaced.
7. Power of local authorities to provide board and laundry facilities.
8. Power of local authorities to sell furniture to persons housed by, or by arrangement with, them.
9. Acquisition of land for improvement of housing accommodation.
10. Revival of power to make byelaws as to number of persons permitted to occupy working-class houses.
11. Extension of power of county court to vary terms of leases, &c.
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31. Arrangements by local authorities with housing associations and development corporations for improvement of housing accommodation.

*Reduction of Amount of Exchequer Contributions*

32. Reduction of amount of exchequer contributions.

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## SCHEDULES :

First Schedule.—Amendments of the Housing Act, 1936, for Purposes of Removal of References to the Working Classes.

Second Schedule.—Adaptations of the Housing Act, 1936, and the Housing (Financial and Miscellaneous Provisions) Act, 1946.

Third Schedule.—Enactments Repealed.

An Act to amend the Housing Act, 1936; to promote the improvement of housing accommodation by authorising the making of contributions out of the Exchequer and of grants by local authorities; to amend the Housing (Financial and Miscellaneous Provisions) Act, 1946, with respect to the amounts of contributions payable thereunder out of the Exchequer, and certain other enactments relating to the making of contributions out of the Exchequer in respect of the provision of housing accommodation; to authorise the making out of the Exchequer of contributions in respect of the provision of hostels and of grants in respect of building experiments; to extend and amend other enactments relating to housing and domestic water supply; and for purposes connected with the matters aforesaid.

[30th July 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**PART I**

**AMENDMENTS OF THE HOUSING ACT, 1936**

1. For the purpose of extending the provisions of the Housing Act, 1936 (hereafter in this Act referred to as "the principal Act"), so as to enable account to be taken of the housing conditions and housing needs of all members of the community, the provisions of the principal Act specified in the first column of the First Schedule to this Act shall have effect subject to the amendments specified in relation to those provisions respectively

Removal of references to the working classes from certain provisions of the Housing Act, 1936.

**PART I**  
—cont.

in the second column of that Schedule, being amendments whereof the effect is to—

(a) remove the limitation confining—

(i) the duties of a local authority under section seventy-one of the principal Act with respect to the consideration of the needs of their district with respect to the provision of further housing accommodation and the preparation and submission to the Minister of Health (hereafter in this Act referred to as “the Minister”) of proposals for the provision of new houses; and

(ii) the power of a local authority under section seventy-two of the principal Act to provide housing accommodation,

to the provision of housing accommodation, and houses, for the working classes;

(b) extend to all dwellings the powers conferred on a local authority by Part II of the principal Act with respect to the repair, demolition and closing of insanitary dwellings occupied, or of a type suitable for occupation, by persons of the working classes;

(c) extend to all persons the provisions of Part III of the principal Act for securing the protection of persons of the working classes who will be displaced as a result of action taken under a resolution of a local authority declaring an area to be a clearance area or an improvement area;

(d) remove the limitation confining to houses for the working classes the class of houses for the purposes of the construction, improvement or purchase of which money may be lent by the Public Works Loan Commissioners under section ninety-two of the principal Act;

(e) remove the limitation confining the obligations with respect to re-housing imposed by section one hundred and thirty-seven of, and the Eleventh Schedule to, the principal Act on persons who acquire land under an Act or order to the re-housing of persons of the working-classes; and

(f) make adaptations of the principal Act consequential on the making of the amendments whereof the effect is specified in the foregoing paragraphs;

and section one hundred and thirty-six of the principal Act (which limits the standard of re-housing accommodation) shall cease to have effect.

Quashing of certain demolition orders.

**2. Where—**

(a) a person who, within the meaning of the principal Act, is an owner of a house to which a demolition order under Part II of that Act applies (being an order which



became operative before the first day of January, nineteen hundred and forty-six) makes, within the period of twelve months from the commencement of this Act, a written request to the local authority by whom the order was made to exercise in relation to the house the powers conferred on them by this section; and

- (b) the local authority are satisfied that, as a result of the execution of works since the time when the demolition order became operative, the house is fit for human habitation,

the local authority may apply to the county court within the jurisdiction of which the house is situate for an order quashing the demolition order, and on the application the judge may, if he is satisfied that the house is so fit, make an order quashing the demolition order.

3.—(1) Where, apart from this section, a local authority would be under a duty to make a demolition order under Part II of the principal Act with respect to—

Preservation  
of certain  
houses unfit  
for human  
habitation.

- (a) a house with respect to which a building preservation order under section twenty-nine of the Town and Country Planning Act, 1947, is in force;
- (b) a house included in a list compiled or approved under section thirty of that Act by the Minister of Town and Country Planning; or
- (c) a house, other than as aforesaid, in respect of which there is for the time being in force a notice given by that Minister to the local authority stating that the architectural or historic interest of the house is sufficient to render it inexpedient that the house should be demolished pending determination of the question whether or not it should be made the subject of such a building preservation order as aforesaid or included in such a list as aforesaid;

they shall, instead, make a closing order prohibiting the use of the house for any purpose other than a purpose approved by them, and shall serve a copy of the order upon every person upon whom they would be required by subsection (1) of section eleven of the principal Act to serve a notice issued by them under that subsection.

(2) Where, in the case of a house with respect to which a demolition order made under Part II of the principal Act by a local authority applies (whether or not that order has become operative), either—

- (a) a building preservation order under the said section twenty-nine takes effect with respect to the house; or

**PART I**  
—cont.

- (b) the house is included in such a list as aforesaid ; or
- (c) the Minister of Town and Country Planning gives to the local authority such a notice as aforesaid ;

the local authority shall determine the demolition order and make a closing order prohibiting the use of the house for any purpose other than a purpose approved by them, and shall serve notice that the demolition order has been determined and a copy of the closing order upon every such person as aforesaid.

(3) The approval of a local authority under this section shall not be unreasonably withheld, and a local authority by whom a closing order is made under this section shall determine the order on being satisfied that the house to which it relates has been rendered fit for human habitation.

(4) The following provisions of the principal Act, namely,—

- (a) section fourteen (which imposes a penalty for using premises in contravention of a closing order made under Part II of that Act) ;
- (b) section fifteen (which relates to appeals to the county court against notices, demands and orders under that Part of that Act) ;
- (c) section eighteen (which empowers local authorities to pay allowances to persons displaced from premises to which closing orders so made apply) ; and
- (d) section nineteen (which contains provisions for the protection of owners of houses),

shall have effect in relation to a closing order made under this section, to a refusal to determine such an order, to a withholding of approval in relation to the use for any purpose of a house to which such an order applies, and to a house to which such an order applies as they have effect in relation to a closing order under Part II of that Act, to a refusal to determine such an order, to a withholding of approval in relation to the use for any purpose of a house to which such an order applies and to a house to which such an order applies, as if references therein to a closing order included references to a closing order made under this section and references to Part II of that Act included references to this section ; and section one hundred and sixty of that Act (which empowers the county court to determine or vary a lease of premises in respect of which a demolition order has become operative) shall have effect in relation to a closing order made under this section which has become operative and to a house to which such an order applies as it has effect in relation to a demolition order which has become operative and to a house to which such an order applies, as if the reference to a demolition order included a reference to a closing order made under this section.

4.—(1) A local authority for the purposes of Part V of the principal Act or a county council may, subject to such conditions as may be approved by the Minister, advance money, subject to the provisions hereinafter contained, to any persons for the purpose of—

- (a) acquiring houses ;
- (b) constructing houses ;
- (c) converting into houses buildings which have been acquired by those persons or acquiring buildings and converting them into houses ; or
- (d) altering, enlarging, repairing or improving houses ;

whether the houses or buildings are within or without the district of the authority or council.

(2) Before advancing money under this section for the purpose specified in paragraph (a) of the foregoing subsection the local authority or county council shall satisfy themselves that the house or houses to be acquired is or are, or will be made, in all respects fit for human habitation, and before so advancing money for any of the purposes specified in paragraphs (b) to (d) of that subsection the local authority or county council shall satisfy themselves that the house or houses to be constructed, altered, enlarged, repaired or improved or into which the building or buildings is or are to be converted, as the case may be, will, when the construction, alteration, enlargement, repair, improvement or conversion has been completed, be in all respects so fit.

(3) The following provisions shall have effect with respect to an advance under this section:—

- (a) the advance, together with interest thereon, shall be secured by a mortgage of lands the subject of the carrying out of the purpose for which the advance is made;
- (b) the amount of the principal of the advance shall not exceed, in the case of a house or houses to be acquired, ninety per cent. of the value of the mortgaged security, and, in any other case, ninety per cent. of the value which it is estimated the mortgaged security will bear when the construction, conversion, alteration, enlargement, repair or improvement has been carried out ;
- (c) the mortgage deed may provide for repayment being made either by instalments of principal or by an annuity of principal and interest combined, so, however, that in the event of any of the conditions subject to which the advance is made not being complied with, the balance for the time being unpaid shall become repayable on demand by the local authority or county council and that the said balance may, in any event,

PART I  
—cont.

Power of local authorities to make advances for purpose of increasing housing accommodation.

**PART I**  
—*cont.*

be repaid on one of the usual quarter days by the person for the time being entitled to the equity of redemption after one month's written notice of intention to repay has been given to the local authority or county council;

- (d) where the advance is for any of the purposes specified in paragraphs (b) to (d) of subsection (1) of this section it may be made by instalments from time to time as the works of construction, conversion, alteration, enlargement, repair or improvement progress;
- (e) the advance shall not be made except after a valuation duly made on behalf of the local authority or county council; and
- (f) no advance shall be made on mortgage of lands unless the estate therein proposed to be mortgaged is either an estate in fee simple absolute in possession or an estate for a term of years absolute whereof a period of not less than ten years in excess of the period fixed for the repayment of the advance remains unexpired on the date on which the mortgage is executed.

(4) An advance under this section shall not be made if the estimated value of the fee simple in possession free from incumbrances of the house in respect of which assistance is to be given exceeds five thousand pounds, but such an advance may be made in addition to assistance given by the local authority in respect of the same house under any other Act or any other provision of this Act.

In the case of an advance for the construction of one or more structurally separate and self-contained flats, the estimated value for the purposes of the foregoing limitation shall, as respects any flat, be the estimated value of the flat.

(5) Section ninety of the principal Act shall cease to have effect and paragraphs (a) and (c) of subsection (1) of section ninety-one of that Act shall cease to have effect except as respects undertakings thereunder given before the commencement of this Act.

Power of local authorities to guarantee repayment of advances by building societies.

5.—(1) A local authority for the purposes of Part V of the principal Act or a county council may, in accordance with proposals in that behalf made by them and approved by the Minister, guarantee the repayment to a society incorporated under the Building Societies Acts, 1874 to 1939, or the Industrial and Provident Societies Acts, 1893 to 1928, of any advances, with interest thereon, made by the society to any of its members for the purpose of enabling them to build or acquire houses, whether within or without the district of the authority or council.

(2) Where, upon the submission to the Minister by a local authority or county council of proposals under this section, the

Minister is satisfied that the proposed guarantee extends only to the principal of, and interest on, the amount by which the sum to be advanced by the society in question exceeds the sum which would normally be advanced by it without the guarantee of the local authority or county council, and that the liability under the guarantee of the local authority or county council cannot be greater than two-thirds of that principal and interest, the Minister, if he approves the proposals, may, with the consent of the Treasury, undertake to reimburse to the local authority or county council out of moneys provided by Parliament not more than one-half of any loss sustained by them under the terms of the guarantee.

(3) Subsection (4) of the last foregoing section shall apply to guarantees given under this section with the substitution for references to advances made of references to guarantees given.

(4) In paragraph 3 of Part I of the Schedule to the Building Societies Act, 1939 (which paragraph specifies, as one of the classes of additional security which may be taken into account in determining the amount of advances by building societies to their members, a guarantee given by a local authority or a county council under paragraph (b) of subsection (1) of section ninety-one of the Housing Act, 1936), after the words "the Housing Act, 1936," there shall be inserted the words "or section five of the Housing Act, 1949".

(5) Paragraph (b) of subsection (1) of section ninety-one of the principal Act and section one hundred and ten thereof shall cease to have effect except as respects undertakings thereunder given before the commencement of this Act.

6. A local authority for the purposes of Part V of the principal Act may pay to any person displaced from a house or other building which has been purchased by them under that Part of that Act such reasonable allowance as they think fit towards his expenses in removing, and to any person carrying on any trade or business in any such house or other building they may pay also such reasonable allowance as they think fit towards the loss which, in their opinion, he will sustain by reason of the disturbance of his trade or business consequent on his having to quit the house or building, and in estimating that loss they shall have regard to the period for which the premises occupied by him might reasonably have been expected to be available for the purpose of his trade or business and the availability of other premises suitable for that purpose.

Power of local authorities to make allowances to certain persons displaced.

7.—(1) The power of a local authority under Part V of the principal Act to provide housing accommodation shall include power to provide, in connection with the provision of such accommodation for any persons, such facilities for obtaining meals and refreshments and such facilities for doing laundry and such laundry services as accord with the needs of those persons.

Power of local authorities to provide board and laundry facilities.

**PART I**  
—cont.

(2) A local authority may make such reasonable charges for meals and refreshments provided by the authority by virtue of this section and to persons availing themselves of facilities for doing laundry or laundry services so provided as the authority may determine.

(3) This section shall be deemed always to have had effect, and the reference in this section to Part V of the principal Act shall be construed as including a reference to the corresponding provisions of any Act repealed by that Act or by the Housing Act, 1925.

(4) A Justices' licence granted under the Licensing Acts, 1910 to 1934, for the sale of intoxicating liquor in connection with the provision of facilities for obtaining meals and refreshments under this section shall only authorise the sale of such liquor for consumption with a meal, and a local authority shall in carrying on any activities under this section be subject to all enactments and rules of law relating thereto, including the enactments relating to the sale of intoxicating liquor, in like manner as other persons carrying on the like activities.

Power of local authorities to sell furniture to persons housed by, or by arrangement with, them.

8.—(1) Without prejudice to their powers under subsection (2) of section seventy-two of the principal Act (which, amongst other things, empowers a local authority to fit out, furnish and supply a house erected, converted or acquired by them with all requisite furniture, fittings and conveniences), a local authority for the purposes of Part V of that Act shall have power and be deemed always to have had power to sell, or supply under a hire-purchase agreement, furniture to the occupants of houses provided by the authority or by a housing association under arrangements made with the authority, and, for that purpose, to buy furniture.

(2) In this section the expression "hire-purchase agreement" has the same meaning as in the Hire Purchase Act, 1938.

Acquisition of land for improvement of housing accommodation.

9.—(1) The purposes for which land may be acquired under Part V of the principal Act by a local authority shall include—

- (a) the carrying out thereon by them of works for the purpose of, or connected with, the alteration, enlargement, repair or improvement of an adjoining house;
- (b) the sale or lease of the land under the powers conferred by this section with a view to the carrying out on the land by a person other than the local authority of such works as aforesaid.

(2) Where a local authority have acquired any land for the purposes of paragraph (b) of the foregoing subsection, they may, with the consent of the Minister, sell or lease the land to any person for the purpose and under the condition that that person will carry out thereon, in accordance with plans approved by the authority, the works with a view to the carrying out of which the land was acquired, and subsections (3) and (5) of

section seventy-nine of the principal Act (which relate to the price at which land may be sold and the rent at which it may be leased under that section and to the exclusion of provisions of the Lands Clauses Consolidation Act, 1845, relating to the sale of superfluous land) shall apply to the sale and leasing of land under this subsection as they apply to the sale and leasing of land under that section.

(3) In this section the expression "sale" includes a sale in consideration of a chief rent, rentcharge or other similar periodical payment, and the expression "sell" has a corresponding meaning.

10. Paragraph (a) of subsection (1) of section six of the principal Act (which included amongst the purposes for which byelaws with respect to working-class houses may be made under that subsection the fixing of the number of persons who may occupy such a house and the separation of the sexes therein, and which ceased to have effect as from the appointed day within the meaning of Part IV of that Act) shall again have effect, but the operation of byelaws made for the purposes specified in that paragraph shall be limited to houses let in lodgings or occupied by members of more than one family.

Revival of power to make byelaws as to number of persons permitted to occupy working-class houses.

11. The power of the county court under section one hundred and sixty-three of the principal Act to vary the terms of a lease or other instrument imposing a prohibition or restriction on the conversion of a house into two or more tenements shall be exercisable in any case where planning permission has been granted under Part III of the Town and Country Planning Act, 1947, for the use as two or more separate dwelling-houses of a building previously used as a single dwelling-house in like manner as such power is exercisable on proof to the satisfaction of the court that, owing to changes in the character of the neighbourhood, a house cannot readily be let as a single tenement but could readily be let if converted into two or more tenements.

Extension of power of county court to vary terms of leases, &c.

12.—(1) Subsection (2) of section eighty-one of the principal Act (which provides that where housing operations under Part V of that Act have been carried out by a local authority outside their own area, and for the purposes of the operations public streets or roads have been constructed and completed by that local authority, the liability to maintain the streets or roads shall vest in the council of the borough or district in which the operations were carried out unless that council are, or on appeal the Minister is, satisfied that the streets or roads have not been properly constructed in accordance with the plans and specifications approved by the Minister) shall not apply to the liability to maintain a public street or road in a rural district constructed, by a local authority other than the council of the district, for the purposes of housing operations under the said

Liability to maintain certain streets and roads in rural districts.

**PART I**  
—*cont.*

Part V, and completed by them after the commencement of this Act, but that liability shall, unless the council of the county are, or on appeal the Minister is, satisfied that the street or road has not been properly constructed in accordance with the plans and specifications approved by the Minister, vest in the council of the county which comprises the rural district.

(2) Any liability to maintain a street or road which, at the commencement of this Act, is vested in the council of a rural district by virtue of the said subsection (2) or the corresponding provision of an enactment repealed by the principal Act shall be transferred to and vested in the council of the county which comprises the rural district unless that council are, or on appeal the Minister is, satisfied that the street or road was not properly constructed in accordance with the plans and specifications approved by the Minister or that it has not been maintained in a proper state of repair.

(3) Where, in the case of a street or road the liability to maintain which would, under the last foregoing subsection, have been transferred to the council of a county had the council or the Minister not been satisfied as mentioned in that subsection, that council are, or on appeal the Minister is, at any time after the liability would have been so transferred, satisfied that the street or road has been brought into a proper state of construction and repair, the liability to maintain it shall be transferred to and vested in that council.

(4) Where, at the commencement of this Act, an appeal is pending under subsection (2) of the said section eighty-one with respect to a street or road in a rural district, subsection (1) of this section shall apply to the street or road as if it had been completed after the commencement of this Act.

(5) In this section the expression "street" has the same meaning as it has for the purposes of the principal Act.

Amendments  
as to local  
authority for  
Part V of the  
principal Act  
in London  
(other than  
the City).

13. For subsections (4) and (5) of section one hundred and three of the principal Act (which respectively contain provisions for determining, as respects the administrative county of London other than the City of London, the question whether the London County Council or the metropolitan borough council are to be the local authority for the purposes of Part V of that Act except as regards the provision of houses outside the administrative county of London and the carrying out of reviews of housing conditions and submission to the Minister of proposals for the provision of new houses, and provisions relating to the transfer of powers), there shall be substituted the following subsections:—

"(4) As respects a metropolitan borough, the council of the borough shall be the local authority for the purposes of this Part of this Act save as regards the provision of any



houses outside the borough and the carrying out of such reviews of housing accommodation and the submission to the Minister of such proposals for the provision of new houses as are required by this Part of this Act.

(5) Without prejudice to the powers conferred on a metropolitan borough council by this Act, the London County Council shall be a local authority for the purposes of this Part of this Act as respects any part of the administrative county of London, other than the City of London, for all the purposes of this Part of this Act other than those for which it is the local authority to the exclusion of the metropolitan borough council:

Provided that the London County Council shall not develop land in a metropolitan borough for the purpose only of meeting the needs of the borough without the consent of the council thereof.

(6) If it appears to the Minister to be expedient that the needs of a metropolitan borough with respect to the provision of housing accommodation should be satisfied by the provision by the council of that borough of such accommodation outside the administrative county of London or within another metropolitan borough, he may by order provide for the transfer to that council, to such extent as appears to him to be requisite for that purpose, of any powers which, by virtue of subsection (2) or (5) of this section, are powers of the London County Council”.

14.—(1) Notwithstanding anything in section one hundred and seventeen of the principal Act, all expenses incurred (whether before or after the commencement of this Act) by the London County Council in the execution of the principal Act, other than expenses which are directed by the following subsection to be defrayed as expenses incurred for special county purposes, shall be defrayed as expenses incurred for general county purposes.

Housing  
expenses of  
London  
County  
Council.

(2) The following expenses incurred (whether before or after the commencement of this Act) by the London County Council shall be defrayed as expenses incurred for special county purposes, namely—

- (a) expenses incurred by way of making contributions under paragraph 1, 2 or 3 of the Eighth Schedule to the principal Act; and
- (b) all other expenses incurred in the execution of that Act which are attributable to the exercise by the Council of their powers under the Housing of the Working Classes Act, 1890, not being expenses so incurred in respect of houses or other buildings provided or land acquired or appropriated under the last-mentioned Act after the sixth day of February, nineteen hundred and nineteen.

## PART II

FINANCIAL ASSISTANCE TOWARDS IMPROVEMENT OF HOUSING  
ACCOMMODATION*Exchequer Contributions for Improvement of Housing  
Accommodation by Local Authorities*

Exchequer contributions towards losses incurred by local authorities in improving housing accommodation.

15.—(1) With a view to encouraging the improvement of housing accommodation by local authorities, the Minister may approve proposals (hereafter in this Act referred to as “improvement proposals”) submitted to him by a local authority for—

- (a) the provision of dwellings by the authority by means of the conversion of houses or other buildings ;
  - (b) the improvement of dwellings by the authority ;
- and may, subject to and in accordance with the provisions of this Part of this Act, make, out of moneys provided by Parliament, a contribution towards the annual loss likely to be incurred by a local authority as a result of giving effect to approved improvement proposals.

(2) Before approving any improvement proposals the Minister shall satisfy himself as to the following requirements, that is to say,—

- (a) that, as respects dwellings to be provided in accordance with the proposals, the dwellings will provide satisfactory housing accommodation for a period of not less than thirty years from the completion of the works necessary for the conversion of the buildings in question, and, as respects dwellings to be improved in accordance with the proposals, the dwellings as so improved will provide such accommodation for a period of not less than thirty years from the completion of the improvements ; and
- (b) that all such dwellings as aforesaid will conform with such requirements with respect to their construction and physical condition and the provision of services and amenities as may be specified for the purposes of this section by the Minister :

Provided that if, in relation to all or any of the said dwellings, the Minister is not satisfied that the dwellings or dwelling will conform with a particular requirement specified under paragraph (b) of this subsection, he may, notwithstanding that fact, approve the proposals if he is satisfied that, in all the circumstances of the case, conformity with that requirement would be impracticable.

Nature, and amounts, of contributions.

16. A contribution under the last foregoing section towards the annual loss likely to be incurred by a local authority as a result of giving effect to approved improvement proposals shall

be a sum equal to three-quarters of that loss, payable annually for the period of twenty financial years beginning with the year in which the carrying out of the proposals is completed.

PART II  
—cont.

17.—(1) For the purposes of this Part of this Act, the amount of the annual loss likely to be incurred by a local authority as a result of giving effect to approved improvement proposals shall be determined by the Minister. Determination of annual loss.

(2) For the purpose of a determination under the foregoing subsection regard shall be had to expense proposed to be incurred by the local authority in acquiring interests in land for the purpose of giving effect to the proposals, the estimated cost of executing works of conversion or improvement in accordance with the proposals, the annual income which, if effect were not given to the proposals, might reasonably be expected to accrue to the authority from interests owned by them in buildings proposed to be converted or dwellings proposed to be improved, and the annual income which may reasonably be expected to accrue to the authority from the dwellings provided or improved as a result of giving effect to the proposals, and to any other matter which appears to the Minister to be relevant.

(3) It shall be the duty of a local authority by whom improvement proposals are submitted to the Minister to furnish to him such estimates and such particulars with respect to the proposals as he may require for the purposes of this section.

18.—(1) A local authority shall, in respect of approved improvement proposals carried out by them, make out of the general rate fund, for each financial year for which a sum is payable by the Minister by way of contribution under section fifteen of this Act towards the annual loss likely to be incurred by the authority as a result of giving effect to the proposals, a contribution of an amount equal to the difference between the amount of that loss as determined by the Minister and the sum so payable. Local authorities' contributions.

(2) In its application to the London County Council this section shall have effect with the substitution, for the reference to the general rate fund, of a reference to the county fund.

#### *Exchequer Contributions for Improvement of Housing Accommodation by Development Corporations*

19. The Minister may approve any proposals for the provision or improvement of dwellings submitted to him by a development corporation which he would have power to approve under the foregoing provisions of this Part of this Act if they were submitted to him by a local authority, and the like contribution shall be made by the Minister to a development corporation out of moneys provided by Parliament towards the Exchequer contributions towards losses incurred by development corporations in improving housing accommodation.

**PART II**  
—*cont.*

annual loss likely to be incurred by the corporation as a result of giving effect to proposals approved under this section as would have been made by him had the proposals been submitted by a local authority.

*Grants by Local Authorities for Improvement of Housing Accommodation by Persons other than Local Authorities*

Grants to persons other than local authorities for improvement of housing accommodation.

20.—(1) Subject to the provisions of this Part of this Act, a local authority may give assistance in respect of—

(a) the provision of dwellings, by a person other than a local authority or county council, by means of the conversion of houses or other buildings ;

(b) the improvement of dwellings by such a person ;

by way of making a grant (hereafter in this Part of this Act referred to as an “improvement grant”) in respect of expenses incurred for the purposes of the execution of the works of conversion or improvement (hereafter in this Part of this Act referred to as “improvement works”) if, before the improvement works are begun, an application in that behalf is made to the authority by that person (hereafter in this Part of this Act referred to as “the applicant”) and approved by them.

(2) An application under this section for an improvement grant must contain full particulars of the improvement works proposed to be carried out and of the land on which those works are proposed to be carried out, together with plans and specifications of the works and an estimate of the expenses to be incurred for the purposes of the execution thereof, and, where the application relates to the provision or improvement of more than one dwelling, the said estimate must specify the proportion of the estimated expenses that is attributable to each dwelling proposed to be provided or improved.

(3) Before approving an application under this section for an improvement grant the local authority shall satisfy themselves as to the following requirements, that is to say,—

(a) that, as respects dwellings to be provided by means of the improvement works, the dwellings will provide satisfactory housing accommodation for a period of not less than thirty years from the completion of the works, and, as respects dwellings to be improved by means of the improvement works, the dwellings as so improved will provide such accommodation for a period of not less than thirty years from the completion of the works ;

(b) that all such dwellings as aforesaid will conform with such requirements with respect to their construction and physical condition and the provision of services and amenities as may be specified for the purposes of this section by the Minister;

- (c) that the applicant has, in every parcel of land on which the improvement works are proposed to be carried out (other than land proposed to be sold or leased to him under section nine of this Act), an interest constituting either an estate in fee simple absolute in possession or a term of years absolute whereof a period of not less than thirty years remains unexpired at the date of the application:

Provided that if, in relation to all or any of the said dwellings, the local authority are not satisfied that the dwellings or dwelling will conform with a particular requirement specified under paragraph (b) of this subsection, they may, notwithstanding that fact, with the consent of the Minister approve the application if they are satisfied that, in all the circumstances of the case, conformity with that requirement would be impracticable.

(4) No application under this section for an improvement grant shall be entertained unless—

- (a) in a case where the application relates only to the provision or improvement of a single dwelling, the amount of the expenses estimated to be incurred for the purposes of the execution of the improvement works ; or
- (b) in any other case, the proportion of those expenses attributable to each dwelling proposed to be provided or improved ;

is neither less than one hundred pounds or such other amount as may for the time being be prescribed nor more than six hundred pounds or such other amount as may for the time being be prescribed :

Provided that where, in a case falling within paragraph (a) of this subsection, the amount of the expenses estimated to be incurred exceeds six hundred pounds or other the maximum amount for the time being prescribed under this subsection or, in a case falling within paragraph (b) of this subsection, all or any of the proportions of those expenses attributable to the several dwellings exceeds that amount, the local authority may, with the consent of the Minister, entertain the application if they are satisfied that, in all the circumstances of the case, there is good reason so to do.

(5) Where a local authority approve an application under this section they shall notify the applicant of the amount approved by them as being the amount of the expenses which, in their opinion, are properly ascribable to the execution of the improvement works and, where the application relates to the provision or improvement of more than one dwelling, of the proportion of that amount approved by them as being attributable to each dwelling proposed to be provided or improved.

**PART II**  
—cont.

The said amount is hereafter in this Part of this Act referred to, in relation to improvement works, as the "approved expense" of executing the works, and the proportion of that amount approved under this subsection as being attributable to a dwelling is so referred to, in relation to that dwelling, as the "approved proportion" of the approved expense.

**Amounts, and  
payment, of  
improvement  
grants.**

**21.—(1)** The amount which may be paid by way of an improvement grant in respect of expenses incurred for the purposes of the execution of any improvement works shall be such fraction of the approved expense of executing those works, not exceeding one-half thereof, as may be determined by the local authority when they approve the application for the grant:

Provided that, in the case of an improvement grant to be made in pursuance of an application which could not have been entertained by the local authority but for the proviso to subsection (4) of the last foregoing section, the amount thereof may be such fraction of the approved expense of executing the works, in excess of one-half thereof, as may, with the consent of the Minister, be determined as aforesaid.

(2) An improvement grant in respect of expenses incurred for the purposes of the execution of improvement works may be paid either after completion of the works or partly in instalments from time to time as the works progress and as to the balance after the completion of the works:

Provided that where the grant is to be paid partly in instalments, the aggregate of the instalments paid shall not at any time before the completion of the works exceed one-half of the aggregate cost of the works executed up to that time.

(3) The payment of an improvement grant or of an instalment or the balance thereof shall be conditional upon the works or, as the case may be, the part of the works which the applicant considers will entitle him to payment of the instalment or balance, being executed to the satisfaction of the local authority.

**Duty of local  
authority to  
fix rents.**

**22.** It shall be the duty of a local authority, at the time at which they approve an application under this Part of this Act for an improvement grant in respect of expenses incurred for the purposes of the execution of any improvement works, to fix, for the purposes of this Part of this Act, with respect to—

- (a) every dwelling to be provided by means of the works; and
- (b) every dwelling to be improved by means of the works, being a dwelling which the authority are satisfied has not been let as a dwelling at any time during the period of five years immediately preceding the date of the application;

the maximum rent that may be paid in respect of the dwelling.

PART II  
—cont.Conditions to  
be observed  
with respect  
to dwellings.

**23.—(1)** In the case of a dwelling in respect of the provision or improvement of which assistance has been given under section twenty of this Act, the following conditions shall, subject to the provisions of this Part of this Act, be observed with respect to the dwelling for a period of twenty years beginning with the day on which it first becomes fit for occupation after the completion of the improvement works, and shall, so long as they are required to be so observed, be deemed to be part of the terms of any lease, agreement for a lease or tenancy of the dwelling, and shall be enforceable accordingly:—

- (a) the dwelling shall not be used for purposes other than those of a private dwelling-house except with the consent in writing of the local authority and then only for such further purposes and to such extent as may be mentioned in that consent;
- (b) the dwelling shall, at all times at which it is not occupied by the applicant for the improvement grant or a member of his family or a person to whom the interest of the applicant in the dwelling has been devised by him, be let or be kept available for letting at a rent not exceeding the maximum rent that, by virtue of the next following paragraph, may be paid by an occupier of the dwelling;
- (c) the rent payable by the occupier of the dwelling shall not exceed—
  - (i) in a case where a maximum rent with respect to the dwelling has been fixed under the last foregoing section, the amount thereof; or
  - (ii) in any other case, an amount equal to the aggregate of the rent at which the dwelling was last let before the improvement works were begun and a sum calculated at a rate per annum not exceeding six per cent. of the fraction of the approved expense of executing the improvement works or the approved proportion of that expense (according as to whether the works were for the improvement of a single dwelling or of two or more dwellings) that fell to be borne by the applicant for the improvement grant;
 and no fine, premium or other like sum shall be taken in addition to the rent;
- (d) all reasonable steps shall be taken to secure the maintenance of the dwelling so as to be in all respects fit for human habitation;
- (e) the owner of the dwelling shall, on being required so to do by the local authority, certify that the conditions specified in the foregoing paragraphs are being

**PART II**  
—cont.

observed with respect to the dwelling, and any tenant of the dwelling shall, on being so required in writing by the owner, furnish to him such information as he may reasonably require for the purpose of enabling him to comply with this condition ;

- (f) in the event of a tenant assigning, or otherwise parting with the possession of, the dwelling, it shall not be lawful for any person in consideration thereof to make any payment other than rent or for the tenant to receive, directly or indirectly, any such payment.

(2) In the event of a breach of any of the conditions specified in the foregoing subsection at a time when they are required to be observed with respect to a dwelling, the following provisions shall have effect :—

- (a) where the improvement works by means of which the dwelling was provided or improved were works only for the provision or improvement of that dwelling, the appropriate proportion of any sums paid by the local authority by way of improvement grant in respect of expenses incurred for the purposes of the execution of those works, together, in the case of each such sum, with compound interest on that proportion thereof as from the date of payment of the sum, calculated at the prescribed rate and with yearly rests, shall, on being demanded by the local authority, forthwith become payable to them by the owner for the time being of the dwelling ;
- (b) in any other case, the appropriate proportion of a part of any such sums as aforesaid bearing to the whole thereof the same proportion that the approved proportion of the approved expense of executing the improvement works bears to the whole of the approved expense of executing those works, together, in the case of each part of a sum, with compound interest on the appropriate proportion thereof as from the date of payment of the sum, calculated at the prescribed rate and with yearly rests, shall become payable as aforesaid :

Provided that—

- (i) if the local authority are satisfied that the breach is capable of being remedied, they may, with the consent of the Minister, and subject to such conditions (if any) as he may approve, direct that the operation of the foregoing provisions of this subsection shall, in relation to the breach, be suspended for such period as appears to them to be necessary for enabling the



breach to be remedied and, if the breach is remedied within that period, may direct that the said provisions shall not have effect in relation to the breach; and

- (ii) if the local authority are satisfied that the breach, although not capable of being remedied, was not due to the act, default or connivance of the owner of the dwelling, they may, with the like consent and subject to such conditions as aforesaid, direct that the said provisions shall not have effect in relation to the breach.

In this subsection the expression “the appropriate proportion”, in relation to a sum or part of a sum, means a part thereof proportionate to the extent to which the period during which conditions are required by subsection (1) of this section to be observed with respect to the dwelling remains unexpired at the date of the occurrence of the breach of conditions.

(3) Upon satisfaction of a liability of an owner of a dwelling to make a payment under the last foregoing subsection to a local authority, observance with respect to the dwelling of the conditions specified in subsection (1) of this section shall cease to be requisite.

(4) Notwithstanding anything to the contrary in any enactment or rule of law relating to the jurisdiction of county courts, the county court for the district wherein any such dwelling as is mentioned in subsection (1) of this section is wholly or partly situate may, on the application of the local authority,—

(a) whether or not any other relief is claimed, grant an injunction restraining a breach or apprehended breach, in relation to the dwelling, of any of the conditions specified in that subsection other than the condition specified in paragraph (e) thereof;

(b) order the payment to the authority of any sum which, by virtue of subsection (2) of this section, is payable to them by reason of a breach of any of the conditions required by the said subsection (1) to be observed with respect to the dwelling.

(5) Conditions required by this section to be observed with respect to a dwelling shall be registered in the register of local land charges by the proper officer of the local authority in such manner as may be specified by rules made for the purposes of this section under subsection (6) of section fifteen of the Land Charges Act, 1925.

24.—(1) The owner of a dwelling in respect of the provision or improvement of which assistance has been given under section twenty of this Act or a mortgagee of the interest of the owner in the dwelling, being a mortgagee entitled to exercise his power

Repayment of  
improvement  
grants.

**PART II**  
—*cont.*

of sale, may, if the local authority so agree, at any time during the period during which the conditions specified in subsection (1) of the last foregoing section are required by that subsection to be observed with respect to the dwelling, pay to the local authority the like amount as would become payable to them under subsection (2) of that section in the event of a breach at that time of any of those conditions, and, on the making of the payment, observance with respect to the dwelling of those conditions shall cease to be requisite.

(2) A sum paid under the foregoing subsection by a mortgagee shall be treated as part of the sum secured by the mortgage and may be discharged accordingly.

(3) The purposes authorised for the application of capital money by section seventy-three of the Settled Land Act, 1925, by that section as applied by section twenty-eight of the Law of Property Act, 1925, in relation to trusts for sale, and by section twenty-six of the Universities and College Estates Act, 1925, shall include the payment under subsection (1) of this section to a local authority in respect of a dwelling of the amount mentioned in that subsection.

**Exchequer  
contributions  
towards  
improvement  
grants.**

**25.**—(1) The Minister may, out of moneys provided by Parliament, make a contribution towards the expense incurred by a local authority in making an improvement grant.

(2) A contribution under the foregoing subsection shall be a sum equal to three-quarters of the annual loan charges referable to the amount of the grant, payable annually for the period of twenty financial years beginning with the year in which were completed the improvement works in respect of expenses incurred for the purposes of the execution of which the grant was made.

(3) For the purposes of this section, the annual loan charges referable to the amount of an improvement grant shall (whatever may be the manner in which the local authority have provided or intend to provide the money requisite for making the grant) be the annual sum that, in the opinion of the Minister, would fall to be provided by the local authority for the payment of interest on, and the repayment of, an amount, equal to the amount of the grant, of borrowed money the period for the repayment of which is twenty years.

(4) Where the Minister has made a contribution under this section towards the expense incurred by a local authority in giving assistance in respect of the provision or improvement of a dwelling, the authority shall pay to the Minister three-quarters of any sum recovered by them by virtue of subsection (2) of section twenty-three of this Act in consequence of a breach of

conditions required to be observed with respect to the dwelling or paid to them under the last foregoing section in respect of the dwelling, and any sum received by the Minister under this subsection shall be paid into the Exchequer.

PART II  
—cont.

**26.**—(1) Subsection (1) of section twenty-three of this Act shall have effect in relation to such a dwelling as is therein mentioned, being the residence house of a see or ecclesiastical benefice, with the substitution, in paragraph (b), for the words “ at all times at which it is not occupied by the applicant for the improvement grant or a member of his family or a person to whom the interest of the applicant in the dwelling has been devised by him ”, of the words “ at all times at which, during the tenure of the see or benefice by the bishop or incumbent, it is not occupied by him ”.

Special provisions as to parsonages, almshouses, &c.

(2) Paragraph (c) of subsection (3) of section twenty of this Act shall not apply in relation to—

- (a) an application for an improvement grant in respect of the residence house of an ecclesiastical benefice made, during a period when the benefice is void, by a sequestrator of the profits thereof ; or
- (b) an application for such a grant in respect of a building held upon trust for use as an almshouse or as the residence of a minister of any religious denomination made by the trustees exercising the powers of management of the trust estate ;

and the condition specified in paragraph (b) of subsection (1) of section twenty-three of this Act shall not apply to such a dwelling as is mentioned in that subsection, being a dwelling held upon trust for use as an almshouse or as the residence of a minister of any religious denomination, so long as it is occupied or kept available for occupation as an almshouse or, as the case may be, by a minister of that denomination.

**27.**—(1) No assistance shall be given under section twenty of this Act in respect of the provision of dwellings by means of the conversion of dwellings with respect to which the conditions specified in subsection (1) of section twenty-three of this Act are for the time being required to be observed.

Provisions as to further improvement grants.

(2) Where by virtue of the giving on any occasion of assistance under section twenty of this Act in respect of the improvement of a dwelling the conditions specified in subsection (1) of section twenty-three of this Act fall to be required to be observed with respect to the dwelling before the observance thereof by virtue of the giving of assistance on a previous occasion has ceased to be requisite, the provisions of sections twenty-three and twenty-four

PART II  
—cont.

of this Act and of subsection (4) of section twenty-five thereof shall apply in relation to the dwelling as regards each occasion on which assistance is so given as if it were the only occasion on which it were so given:

Provided that in relation to any period during which the said conditions are simultaneously required to be observed by virtue of the giving of assistance on more than one occasion, the condition as to rent applicable by reason of the giving of assistance on the last occasion shall be deemed to be the condition as to rent applicable also by reason of the giving of assistance on any previous occasion.

Provisions as to dwellings improved under Housing (Rural Workers) Act, 1926.

**28.**—(1) No assistance shall be given under section twenty of this Act in respect of the provision of dwellings by means of the conversion of dwellings in relation to which conditions contained in the Housing (Rural Workers) Acts, 1926 to 1942, for the time being apply.

(2) Where assistance is given under the said section twenty in respect of the improvement of a dwelling in relation to which conditions contained in the Housing (Rural Workers) Acts, 1926 to 1942, apply at the time when assistance is so given, those Acts shall have effect in relation to the dwelling as if the conditions specified in subsection (1) of section twenty-three of this Act were contained in, and applicable by virtue of, subsection (1) of section three of the Housing (Rural Workers) Act, 1926, in lieu of the conditions specified therein and in sections five and six of the Housing (Rural Workers) Amendment Act, 1938, and anything which would, or would not, constitute for the purposes of this Part of this Act a breach of the conditions specified in subsection (1) of the said section twenty-three shall be treated as constituting, or, as the case may be, not constituting a breach of those conditions for the purposes of the Housing (Rural Workers) Acts, 1926 to 1942.

Power to increase in certain cases rent fixed under Part II.

**29.** If, in the case of a dwelling in respect of the provision or improvement of which assistance has been given under section twenty of this Act, being a dwelling to which works (other than works for the purposes of the execution of which assistance has been so given) have been executed at a time when the conditions specified in subsection (1) of section twenty-three of this Act are required to be observed with respect to the dwelling, an application in that behalf is made to the local authority, they may direct that, for the purposes of this Part of this Act, the maximum amount of the rent payable by the occupier of the dwelling shall be increased by such amount as may be specified in the direction, not exceeding an amount calculated at a rate per annum of eight per cent. of the cost of executing the works; and where

a direction is given under this section in relation to a dwelling on any occasion—

PART II  
—cont.

- (a) references in paragraphs (b) and (c) of that subsection to the amount which the rent payable by the occupier of the dwelling is not to exceed shall, as respects any period after the giving of the direction and before a subsequent direction is given under this section in relation to the dwelling or the direction is superseded by reason of the application of the said conditions by virtue of the giving of further assistance under the said section twenty (whichever event first occurs), be construed in relation to the dwelling, for the purposes of this Part of this Act and, where subsection (2) of the last foregoing section applies, for the purposes of the Housing (Rural Workers) Acts, 1926 to 1942, as references to that amount as increased in accordance with the direction given on that occasion and with any direction given under this section in relation to the dwelling on a previous occasion which has not been superseded as aforesaid ; and
- (b) it shall be the duty of the proper officer of the local authority to record particulars of the direction in the register of local land charges.

**30.** Where a dwelling in respect of the provision or improvement of which assistance has been given under section twenty of this Act is, at a time when the conditions specified in subsection (1) of section twenty-three of this Act are required to be observed with respect to the dwelling, let to a person in consequence of his employment by the lessor, the operation of section three of the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933 (which restricts the right of a landlord to possession of a dwelling) shall not be excluded by reason of the letting being otherwise than at a rent of two-thirds or more of the rateable value of the dwelling.

Provisions as to security of tenure of tenants.

*Arrangements by Local Authorities with Housing Associations and Development Corporations for Improvement of Housing Accommodation*

**31.**—(1) A local authority may, with the approval of the Minister, make arrangements with a housing association or development corporation for—

Arrangements by local authorities with housing associations and development corporations for improvement of housing accommodation.

- (a) the provision of dwellings by the association or corporation by means of the conversion of houses or other buildings ;
- (b) the improvement of dwellings by the association or corporation.

(2) Arrangements made under this section shall include such terms with regard to such matters, including the rents at which

PART II  
—cont.

the dwellings to be provided or improved in accordance with the arrangements are to be let, as may appear to the local authority to be expedient in view of the needs of their district in relation to housing and may be approved by the Minister.

(3) Where arrangements are made under this section by a local authority with a housing association or development corporation, the Minister shall, out of moneys provided by Parliament, make to the local authority a contribution of a sum, payable annually for the period of twenty financial years beginning with the year in which the carrying out of the arrangements is completed, equal to three-quarters of the annual loss determined by the local authority, with the approval of the Minister, to be likely to be incurred by the association or corporation in carrying out the arrangements, and the local authority shall pay to the association or corporation for that period annual grants each of an amount not less than the said sum :

Provided that—

- (a) if the Minister is satisfied that the association or corporation have made default in giving effect to the terms of the arrangements, he may reduce the amount of the contribution payable to the local authority under this subsection, or suspend or discontinue the payment thereof, as he thinks just ; and
- (b) if the Minister reduces, or suspends or discontinues the payment of, the contribution, the local authority may reduce to a proportionate or any less extent the annual grant payable by them to the association or corporation, or may suspend the payment thereof for a corresponding period, or may discontinue the payment thereof, as the case may be.

(4) Subsection (2) of section seventeen of this Act shall have effect in relation to a determination under the last foregoing subsection of the amount of the annual loss likely to be incurred by a housing association or development corporation in carrying out arrangements made under this section as it has effect in relation to a determination of the annual loss likely to be incurred by a local authority as a result of giving effect to approved improvement proposals with the substitution, for references to the local authority, of references to the association or corporation, for references to the proposals, of references to the arrangements and, for the reference to the Minister, of a reference to the local authority.

*Reduction of Amount of Exchequer Contributions*

Reduction of  
amount of  
exchequer  
contributions.

32.—(1) An order under section sixteen of the Act of 1946 (which provides for the periodical review of contributions made under that Act by the Minister), may provide—

- (a) as respects proposals approved by him under section fifteen or nineteen of this Act after such date as may

be specified in the order, for reducing the proportion of the annual loss likely to be incurred by a local authority or development corporation by reference to which the amount of a contribution by him under either of those sections is to be computed ;

- (b) as respects improvement grants made in pursuance of applications approved by local authorities after that date, for reducing the proportion of the annual loan charges referable to the amount of any such grant by reference to which the amount of a contribution by him under section twenty-five of this Act is to be computed ;
- (c) as respects arrangements made after that date under the last foregoing section, for reducing the proportion of the annual loss likely to be incurred by a housing association or development corporation by reference to which the amount of a contribution by him under subsection (3) of that section is to be computed :

Provided that none of the said proportions shall be reduced to less than two-thirds.

(2) Any such order providing for reducing the proportion of the annual loan charges referred to in paragraph (b) of the foregoing subsection shall provide for reducing to a corresponding extent, in relation to improvement grants made as mentioned in that paragraph, the proportion of any sum required by subsection (4) of section twenty-five of this Act to be paid to the Minister.

#### *Supplementary Provisions*

33.—(1) The local authority for the purposes of this Part of this Act as respects England and Wales other than the administrative county of London shall be the council of the borough, urban district or rural district. Local authorities for purposes of Part II.

(2) As respects the administrative county of London other than the City of London, both the London County Council and the council of a metropolitan borough shall be local authorities for the purposes of this Part of this Act, and as respects the City of London, the Common Council shall be the local authority for those purposes.

34.—(1) The council of a county may agree with the council of a non-county borough, urban district or rural district within the county for the exercise by the county council of the powers of the borough or district council under sections twenty to twenty-four of this Act. Agreements by county councils for exercise of powers of county district councils.

(2) An agreement made under this section may contain such provisions with regard to the expenses to be incurred by the county council, including the raising of loans to meet those expenses, and such other incidental or consequential provisions as the councils think proper ; and for the purposes of any such

**PART II**  
—*cont.*

agreement the county council shall be deemed for the purposes of the said sections and of section twenty-five of this Act to be the local authority with whom the agreement is made.

**Regulations.**

**35.—(1)** The Minister may by statutory instrument make, with the consent of the Treasury, regulations prescribing anything required or authorised by this Part of this Act to be prescribed.

(2) A statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Interpretation  
of Part II.**

**36.—(1)** In this Part of this Act the expression “owner”, in relation to a dwelling, means the person who is for the time being receiving the rackrent of the dwelling or who, if the dwelling were let at a rackrent, would receive the rackrent of the dwelling:

Provided that if in any case the person who, by virtue of the foregoing definition, would be the owner of a dwelling is a person himself liable to pay a rackrent in respect of the dwelling or of any property comprising the dwelling to a superior landlord, that superior landlord and not the person aforesaid shall be deemed to be the owner of the dwelling for the purposes of this Part of this Act.

For the purposes of this subsection, the expression “rackrent” has the same meaning as in the Public Health Act, 1875.

(2) References in this Part of this Act to the improvement of dwellings shall be construed as including references to the alteration or enlargement thereof and to the execution of works of repair thereto not being works of ordinary repair, and as including also references to the execution of works of ordinary repair thereto so far, but so far only, as the execution thereof is incidental to or connected with the execution of works of improvement, alteration or enlargement or of works of repair not being works of ordinary repair, and in this Part of this Act the expression “improved” shall be construed accordingly.

(3) In determining for the purposes of this Part of this Act whether, as regards a dwelling in respect of the provision or improvement of which assistance has been given under section twenty of this Act, a breach has occurred of the condition required by this Part of this Act to be observed with respect to the dwelling as to the keeping of the dwelling available for letting at a rent not exceeding the maximum rent that may be paid by an occupier of the dwelling or of the condition so required to be observed as to the rent payable by an occupier of the dwelling, any property which, in the absence of express provision, would pass upon a conveyance of the legal estate in fee simple in the dwelling, and any yard, garden, out-house and appurtenances usually enjoyed with the dwelling, shall be deemed to form part of the dwelling.



## PART III

EXCHEQUER CONTRIBUTIONS FOR NEW HOUSES AND HOSTELS  
AND GRANTS FOR BUILDING EXPERIMENTS*Alteration of Amounts of Contributions under the Housing  
(Financial and Miscellaneous) Provisions Act, 1946*

## 37.—(1) Where—

Amendment  
as to standard  
amount of  
exchequer  
contribution  
for flats on  
expensive sites.

- (a) a flat provided in a block of flats on a site the cost of which as developed (ascertained in accordance with Part I of the First Schedule to the Act of 1946) exceeds one thousand five hundred pounds per acre is approved for the purposes of that Act by the Minister after the commencement of this Act or has been approved for those purposes by him during the period beginning with the twenty-eighth day of February, nineteen hundred and forty-nine, and ending with the commencement of this Act ; and
- (b) the number of flats contained in the block and in any other block of flats on the site, in relation to the area of the site, exceeds a rate of forty to the acre or falls short of a rate of thirty to the acre ;

then, if the Minister thinks fit so to direct, the standard amount of the annual exchequer contribution for the flat for the purposes of the Act of 1946 and the normal amount of the annual rate fund contribution for the flat for those purposes, instead of being amounts determined in accordance with sections four and five of that Act, shall, subject to the provisions of this Part of this Act, respectively be the amounts which they would be determined under those sections to be if the cost of the site were an amount bearing to the cost thereof as developed (ascertained in accordance with Part I of the First Schedule to the Act of 1946) the same proportion that thirty-five bears to the rate to the acre of the number of flats mentioned in paragraph (b) of this subsection in relation to the area of the site or, if the last-mentioned amount is less than one thousand five hundred pounds, the amounts which they would be so determined to be if the cost of the site were more than one thousand five hundred pounds but not more than four thousand pounds.

(2) In this section the expression “ block of flats ” means a building which is a block of flats for the purposes of the Housing (Financial Provisions) Act, 1938.

38.—(1) If, in the case of a house other than a flat in a block of flats, being a house approved for the purposes of the Act of 1946 by the Minister on or after the twenty-eighth day of February, nineteen hundred and forty-nine, and provided on a site the cost of which as developed (ascertained in accordance with Part I of the First Schedule to the Act of 1946) exceeds

Amendment  
as to standard  
amount of  
exchequer  
contribution  
for houses on  
expensive sites.

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—cont.

three thousand pounds per acre, the Minister thinks fit so to direct,—

- (a) the standard amount of the annual exchequer contribution for the house for the purposes of the Act of 1946 shall, subject to the provisions of the next following section, be the standard amount of the annual exchequer contribution for the house as ascertained in accordance with the provisions of the Act of 1946 plus one pound and four shillings for each thousand pounds or part of a thousand pounds by which the cost of the site as developed (ascertained as aforesaid) exceeds three thousand pounds per acre, any amount of the excess over ten thousand pounds being disregarded; and
- (b) the normal amount of the annual rate fund contribution for the house for the purposes of the Act of 1946 shall, subject as aforesaid, be the normal amount of the annual rate fund contribution for the house as ascertained in accordance with the provisions of the Act of 1946 plus one-third of the sum by which the standard amount of the annual exchequer contribution is increased under this section:

Provided that, where the house is provided under a scheme of development which makes provision also for the erection of one or more blocks of flats on the same site as the house, paragraph (a) of this subsection shall have effect with the omission of so much thereof as directs disregard of any amount by which the cost of the site exceeds ten thousand pounds.

(2) No contribution shall be payable by the Minister under subsection (2) of section four of the Act of 1946 (which relates to houses provided on a site the cost of which, as developed, exceeds one thousand five hundred pounds per acre, being houses provided under a scheme of development which makes provision also for the erection of one or more blocks of flats on that site), for a house other than one approved for the purposes of that Act by the Minister before the twenty-eighth day of February, nineteen hundred and forty-nine.

(3) In this section the expression “block of flats” means a building which is a block of flats for the purposes of the Housing (Financial Provisions) Act, 1938.

Increased standard amount of exchequer contribution for houses constructed to preserve character of surroundings.

39.—(1) Where the Minister is satisfied, on an application made to him by a local authority with respect to a house which the local authority have provided or intend to provide, that the cost of providing the house has been or will be substantially enhanced by expenses attributable to measures taken with his consent by the authority in the construction of the house (whether by the use of stone or other

special material or otherwise howsoever) in order to preserve the character of the surroundings, then, if the house is or becomes one in respect of which an annual exchequer contribution is payable under the Act of 1946 and the Minister thinks fit to direct—

PART III  
—cont.

- (a) the standard amount of that contribution for the house for the purposes of the Act of 1946 shall be the standard amount of the annual exchequer contribution for the house as ascertained in accordance with that Act and the foregoing provisions of this Part of this Act plus such sum not exceeding five pounds as the Minister may determine ; and
- (b) the normal amount of the annual rate fund contribution for the house for the purposes of the Act of 1946 shall be the normal amount of the annual rate fund contribution for the house, as so ascertained, plus one half of the sum by which the standard amount of the annual exchequer contribution for the house is increased under this section.

(2) This section shall not apply to a house completed before the commencement of this Act.

#### *Exchequer Contributions for Hostels and Grants for Building Experiments*

40.—(1) In respect of a new building provided, or a building converted, by a local authority or development corporation for use as a hostel, being a building approved for the purposes of this subsection by the Minister, the Minister shall (subject to the provisions of subsection (3) of this section) make to the authority or corporation, out of moneys provided by Parliament, a contribution—

Exchequer  
contributions  
for hostels.

- (a) payable annually for such number of financial years, not exceeding sixty, as he may determine, being years beginning with the year in which the building is, or, as the case may be, the works of conversion are, completed ;
- (b) of such amount, not exceeding the sum produced by multiplying five pounds by the number of bedrooms contained in the building, as he may determine having regard to the standard of construction and amenity of the building.

(2) Subject to the provisions of this and the two next following subsections, the like contribution, if any, shall be payable out of moneys provided by Parliament in respect of a building which, under arrangements made under section ninety-four of the principal Act by a local authority with a housing association or development corporation, has been provided or converted by

**PART III**  
—*cont.*

that association or corporation for use as a hostel as would be payable if the building had been provided or converted by the local authority for such use, and shall be paid by the Minister to the authority, who shall pay to the association or corporation by way of annual grant an amount not less than the contribution:

Provided that—

- (a) if the Minister is satisfied that the association or corporation have made default in giving effect to the terms of the arrangements, he may reduce the amount of the contribution payable to the local authority under this subsection, or suspend or discontinue the payment thereof, as he thinks just; and
- (b) if the Minister reduces, or suspends or discontinues the payment of, the contribution, the local authority may reduce to a proportionate or any less extent the annual grant payable by them to the association or corporation, or may suspend the payment thereof for a corresponding period, or may discontinue the payment thereof, as the case may be.

(3) Where, in pursuance of an agreement or order made under the New Towns Act, 1946, a building provided or converted by a development corporation for use as a hostel, being a building in respect of which a contribution is for the time being payable under subsection (1) or (2) of this section, is transferred to a local authority, then—

- (a) no further sums shall, after the time of the transfer, be payable under the said subsection (1) or the said subsection (2), as the case may be; but
- (b) the Minister may, if he thinks fit, pay to the authority, out of moneys provided by Parliament, sums not exceeding any sums which would, after that time, have become payable by him under the said subsection (1) or the said subsection (2), as the case may be, in respect of the building if all conditions precedent to the payment of the sums had been fulfilled.

(4) Where a building which, under arrangements made by a local authority under section ninety-four of the principal Act, has been provided or converted by a housing association for use as a hostel becomes vested in the local authority, and at the time of the vesting the building is one in respect of which a contribution is payable under subsection (2) of this section, then—

- (a) no further sums shall, after the time of the vesting, be payable under that subsection; but
- (b) the Minister may, if he thinks fit, pay to the authority, out of moneys provided by Parliament, sums not exceeding any sums which would, after that time, have

become payable by him under that subsection in respect of the building if all conditions precedent to the payment of the sums had been fulfilled.

PART III  
—cont.

(5) A building approved for the purposes of subsection (1) of this section shall not be included amongst the buildings an account of the income and expenditure of a local authority in respect whereof the authority are required by section one hundred and twenty-eight of the principal Act to keep:

Provided that if at any time the Minister is satisfied that the building has ceased to be used as a hostel he may direct that it shall be so included.

(6) This section shall not apply to a new building completed or a building converted before the commencement of this Act or to any premises provided for the purposes of Part III of the National Assistance Act, 1948, by a local authority.

(7) In this section the expression "hostel" means a building wherein is provided, for persons generally or for any class or classes of persons, residential accommodation (otherwise than in separate and self-contained sets of premises) and board, and the expression "local authority" means an authority which is a local authority for the purposes of Part V of the principal Act.

**41.—(1) Where—**

(a) the Minister is satisfied on an application made to him by a local authority or development corporation with respect to a house which they have provided that the cost of providing the house has been substantially enhanced by reason of either or both of the following matters, namely,—

Exchequer  
grants  
for building  
experiments.

(i) that, with his consent, the house has been constructed in whole or in part by an experimental method;

(ii) that, with his consent, materials have, for the purposes of experiment, been used in the construction of the house or equipment or fittings have, for those purposes, been installed in the house in the course of the construction thereof; or

(b) with the consent of the Minister expense is incurred by a local authority or development corporation in incorporating or installing in a house, otherwise than in the course of the construction thereof, materials, equipment or fittings for the purposes of experiment;

then, subject to such conditions (if any) as the Treasury may determine, the Minister may make to the authority or corporation, out of moneys provided by Parliament, a grant of such amount and payable in such manner as he may determine.

**PART III**  
—cont.

(2) In this section the expression "local authority" means an authority which is a local authority for the purposes of Part V of the principal Act.

*Effect on certain Contributions of a House vesting  
in a Local Authority*

Effect on  
certain  
contributions  
of a house  
vesting in a  
local  
authority.

42.—(1) Where a house which has, with the assistance of a local authority given under section two of the Housing, &c., Act, 1923, or section twenty-nine of the Housing Act, 1930, been provided by some person other than a local authority becomes vested in the local authority after the commencement of this Act, then, if at the time of the vesting the house is a house in respect of which a contribution is payable by the Minister under section one of the said Act of 1923 or subsection (3) of the said section twenty-nine, as the case may be, the Minister may continue to make payments by way of that contribution as if the house had been provided by the local authority.

(2) Where a house which has, with the assistance of the Minister given under section three of the Housing, &c., Act, 1923, been provided by a society, body of trustees or company to which that section applies becomes vested in a local authority after the commencement of this Act, then, if at the time of the vesting the house is a house in respect of which a contribution is payable by the Minister under that section, the Minister may pay to the authority any contribution which would have fallen to be paid thereunder to the society, body of trustees or company if the house had not become vested in the local authority and if all conditions precedent to the making of that contribution had been fulfilled.

(3) Section nine of the Housing (Financial Provisions) Act, 1938, shall have effect only in the case of houses which became vested in a local authority before the commencement of this Act.

**PART IV**

**MISCELLANEOUS AMENDMENTS OF LAW**

Amendment  
and extension  
of s. 7 of the  
Building  
Materials and  
Housing Act,  
1945.

43.—(1) Subsection (1) of section seven of the Building Materials and Housing Act, 1945 (which, in the case of a house constructed under the authority of a building licence granted subject to a condition limiting the price for which the house may be sold or the rent at which it may be let, imposes a penalty on a person who, during the period of four years beginning with the passing of that Act, sells or offers to sell the house for a greater price than the price limited by the condition or lets or offers to let the house at a rent in excess of the rent so limited), shall have effect with the substitution, for

the reference to that period, of a reference to the period of eight years beginning with the passing of that Act.

PART IV  
—cont.

(2) The said subsection (1) shall apply in the case of a sale of, or an offer to sell, a house in course of construction under the authority of a building licence granted as mentioned in that subsection as it applies to a sale of, or an offer to sell, a house constructed under the authority of a building licence so granted, and the remaining provisions of the said section seven and subsections (3) and (4) of section nine of the said Act of 1945 shall have effect accordingly.

(3) The said subsection (1) shall apply in the case of a sale of, or an offer to sell, a building of any kind converted, or in course of conversion, into a house or houses under the authority of a building licence granted as mentioned in that subsection and in the case of a letting of, or an offer to let, a house provided by means of the conversion of a building of any kind under the authority of a building licence so granted, as it applies to a sale of, or an offer to sell, or, as the case may be, a letting of, or an offer to let, a house constructed under the authority of a building licence so granted, and the remaining provisions of the said section seven and subsections (3) and (4) of section nine of the said Act of 1945 shall, with any requisite modifications, have effect accordingly.

(4) For the purposes of the said section seven and of this section, where a building licence in respect of the carrying out of some, but not all, of the work requisite for constructing a house or for converting a building of any kind into a house or houses is granted as mentioned in the said subsection (1), then, notwithstanding that fact, the construction of the house or the conversion of the building shall be deemed to take place, or to have taken place, as the case may be, under the authority of the licence.

(5) If, in the case of a house to which the said section seven applies, being a house to which works have been executed after the construction or provision thereof, an application in that behalf is made to the local authority (as defined by section eight of the said Act of 1945) in the area of which the house is situated, the local authority may direct that, for the purposes of the said section seven, the price for which the house may be sold and the rent at which it may be let shall be increased by such amounts respectively as may be specified in the direction; and where a direction is given under this subsection in relation to a house on any occasion—

(a) references in the said section seven to the price for which the house may be sold and to the rent at which it may be let (other than the first of such references)

PART IV  
—cont.

shall, as respects any period after the giving of the direction and before a subsequent direction is given under this subsection in relation to the house, be construed in relation to the house as references to that price and to that rent as respectively increased in accordance with the direction given on that occasion and with any direction given under this subsection in relation to the house on a previous occasion ; and

(b) it shall be the duty of the proper officer of the local authority to record particulars of the direction in the register of local land charges.

(6) Proceedings in respect of an offence alleged to have been committed against the said section seven in respect of a house or building may be taken before any justices of the peace having jurisdiction in the area in which the house or building is situate.

(7) In its application to Northern Ireland this section shall have effect—

(a) with the substitution, in subsection (5) thereof, for references to the local authority in the area of which a house is situated, of references to the Ministry of Finance for Northern Ireland ;

(b) with the omission of paragraph (b) of that subsection ; and

(c) with the substitution, in the last foregoing subsection, for the words “ any justices of the peace having jurisdiction in the area ”, of the words “ a court of summary jurisdiction constituted in accordance with the provisions of the Summary Jurisdiction and Criminal Justice Act (Northern Ireland), 1935, sitting in and for the petty sessions district ” ;

and for the purposes of section six of the Government of Ireland Act, 1920 (which relates to the power of the Parliament of Northern Ireland to make laws), this section shall be deemed to be a provision of an Act passed before the day appointed for the purposes of that section.

Amendments  
of the Small  
Dwellings  
Acquisition  
Acts, 1899 to  
1923.

44.—(1) The limit fixed by subsection (1) of section one of the Small Dwellings Acquisition Act, 1899, on the market value of a house in respect of which an advance may be made under the Small Dwellings Acquisition Acts, 1899 to 1923, shall, in relation to an advance made after the commencement of this Act, be increased from one thousand five hundred pounds to five thousand pounds.

(2) Paragraph (e) of section twenty-two of the Housing, &c., Act, 1923 (which provides that where an advance is made under the Small Dwellings Acquisition Act, 1899, in respect of a house



in course of construction, the advance may be made by instalments as the building of the house progresses, so that the total advance does not at any time before the completion of the house exceed fifty per cent. of the value of the work done up to that time), shall have effect with the substitution, for the reference to fifty per cent., of a reference to eighty per cent.

PART IV  
—cont.

45. If, in the case of a dwelling in respect of which assistance has been given under the Housing (Rural Workers) Act, 1926, by way of grant, being a dwelling to which works (other than works in respect of which assistance has been given under that Act by way of grant, or under section twenty of this Act) have been executed at a time when conditions contained in the Housing (Rural Workers) Acts, 1926 to 1942, apply in relation to the dwelling, an application in that behalf is made to the local authority by whom the grant was made, they may direct that, for the purposes of those Acts, the maximum amount of the rent payable by the occupier in respect of the dwelling shall be increased by such amount as may be specified in the direction, not exceeding an amount calculated at a rate per annum of eight per cent. of the cost of executing the works; and where a direction is given under this section in relation to a dwelling on any occasion—

Power to increase in certain cases rent fixed under the Housing (Rural Workers) Acts 1926 to 1942.

- (a) the reference in that one of the following provisions which is applicable to the dwelling, namely, paragraph (b) of subsection (1) of section three of the Housing (Rural Workers) Act, 1926, and section six of the Housing (Rural Workers) Amendment Act, 1938, to the amount which the rent payable by the occupier in respect of the dwelling is not to exceed shall, as respects any period after the giving of the direction and before a subsequent direction is given under this section in relation to the dwelling, be construed in relation to the dwelling as a reference to that amount as increased in accordance with the direction given on that occasion and with any direction given under this section in relation to the dwelling on a previous occasion; and
- (b) it shall be the duty of the proper officer of the local authority to record particulars of the direction in the register of local land charges.

46.—(1) Section thirty-seven of the Water Act, 1945 (which empowers an owner of land who proposes to erect thereon buildings for which a supply of water for domestic purposes will be needed to require any statutory water undertakers within whose limits of supply that land is situated to construct any necessary service reservoirs and to lay any necessary mains and bring water to the land) shall be amended in accordance with the following provisions of this section.

Amendment of s. 37 of the Water Act, 1945.

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—*cont.*

(2) In subsection (1)—

- (a) for the words “to lay any necessary mains and to bring water thereto”, there shall be substituted the words “to construct any necessary service reservoirs, to lay the necessary mains to such point or points as will enable the buildings to be connected thereto at a reasonable cost and to bring water to that point or those points”;
- (b) for the words “providing and laying the necessary mains” there shall be substituted the words “constructing the necessary service reservoirs and providing and laying the necessary mains”; and
- (c) for the words “laying and providing the mains” there shall be substituted the words “constructing the service reservoirs and providing and laying the mains”.

(3) For subsection (3) there shall be substituted the following subsections:—

“(3) Any question arising under subsection (1) of this section as to the point or points to which mains must be taken in order to enable buildings to be connected thereto at a reasonable cost shall, in default of agreement, be determined by the Minister.

(4) If the undertakers, after receipt of a requisition under subsection (1) of this section and after tender to them of any undertaking or deposit which they may require in accordance with that subsection, do not before the expiration of three months (or, where a question has, before that time, been referred to the Minister under the last foregoing subsection, before the expiration of three months from the date when the Minister notifies the undertakers of his decision, if that period expires later) comply with the requisition, they shall, unless they show that the failure was due to unavoidable accident or other unavoidable cause, be guilty of an offence against this Act”.

**PART V**

**GENERAL**

**Power of local authorities to borrow.**

**47.**—(1) A local authority or a county council may borrow for the purposes of this Act, and sections one hundred and nineteen, one hundred and twenty-two, one hundred and twenty-three and one hundred and twenty-four of the principal Act (which respectively relate to the manner of borrowing by the London County Council and the Common Council of the City

of London, the issue of housing bonds, the making of loans by the Public Works Loan Commissioners and the lending by county councils of money to local authorities within their area) shall have effect as if references to the purposes of that Act included references to the purposes of this Act, as if references to section ninety-one of that Act included references to section four and to section five of this Act and as if, in the case of money borrowed by the London County Council or the Common Council of the City of London for the purposes of this Act, it were borrowed under that Act.

**PART V**  
—cont.

(2) The repeal by this Act of sections ninety and ninety-one of the principal Act shall not affect the power of a local authority or county council to borrow for the purpose of an advance made or undertaking given under either of those sections or the power of the Public Works Loan Commissioners to lend money to a local authority or county council for any such purpose.

48. The provisions of the principal Act specified in Part I of the Second Schedule to this Act shall have effect subject to the adaptations specified in that Part of that Schedule, and the provisions of the Act of 1946 specified in Part II of that Schedule shall have effect subject to the adaptations specified in that Part of that Schedule.

Adaptations of  
principal Act  
and Act of  
1946.

49.—(1) There shall be defrayed out of moneys provided by Parliament—

Expenses.

- (a) any increase in the sums payable under section one hundred and seventy-three of the principal Act or Part I of the Local Government Act, 1948, out of moneys so provided which is attributable to the passing of this Act ; and
- (b) any increase in the sums payable under section ninety-four of the principal Act or under the Act of 1946 out of moneys so provided which is attributable to the removal from the principal Act of references to the working-classes.

(2) Any expenses incurred under this Act by the Common Council of the City of London shall be defrayed out of the general rate authorised to be levied by the Council.

50.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say :—

Interpretation.

“ the Act of 1946 ” means the Housing (Financial and Miscellaneous Provisions) Act, 1946 ;

**PART V**  
—*cont.*

“development corporation” means a corporation established by an order under section two of the New Towns Act, 1946, of the Minister of Town and Country Planning;

“house” includes any part of a building, being a part which is occupied or intended to be occupied as a separate dwelling, and, in particular, includes a flat;

“housing association” has the same meaning as in the principal Act;

“the Minister” means the Minister of Health;

“the principal Act” means the Housing Act, 1936.

(2) References in this Act to any other enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended by any subsequent enactment, including this Act.

**Short title,  
citation, extent  
and repeal.**

**51.**—(1) This Act may be cited as the Housing Act, 1949, and the Housing Acts, 1936 to 1946, and this Act may be cited together as the Housing Acts, 1936 to 1949.

(2) This Act shall not extend to Scotland and, except as regards section forty-three thereof, this Act shall not extend to Northern Ireland.

(3) The Minister shall have power, exercisable by statutory instrument, to make an order directing that this Act shall, subject to such exceptions, adaptations and modifications as may be specified in the order, extend to the Isles of Scilly, but except as so extended this Act shall not extend to the said Isles.

The power conferred by this subsection to make an order shall be construed as including a power exercisable in the like manner to vary or revoke the order.

(4) The following Acts are hereby repealed to the following extent,—

(a) the principal Act, to the extent specified in Part I of the Third Schedule to this Act;

(b) the Acts mentioned in the first and second columns of Part II of that Schedule, to the extent specified in the third column of that Part of that Schedule.

## SCHEDULES

### FIRST SCHEDULE

Section 1.

#### AMENDMENTS OF THE HOUSING ACT, 1936, FOR PURPOSES OF REMOVAL OF REFERENCES TO THE WORKING CLASSES

<i>Provision amended and subject matter thereof</i>	<i>Amendment</i>
Section nine ... (Power of local authority to require repair of insanitary house).	In subsection (1), the words " which is occupied, or is of a type suitable for occupation, by persons of the working classes " shall be omitted.
Section eleven ... (Power of local authority to order demolition of insanitary house).	In subsection (1), the words " which is occupied, or is of a type suitable for occupation, by persons of the working classes " shall be omitted.
Section twelve ... (Power to make a closing order as to part of a building).	In subsection (1), for the words " which is occupied, or is of a type suitable for occupation, by persons of the working classes ", there shall be substituted the words " which is used, or is suitable for use, as a dwelling ".
Section twenty-five ... (Power to declare an area to be a clearance area).	In paragraph (i) of the proviso to subsection (1), and in subsection (2), the words " of the working classes " shall be omitted.
Section twenty - eight (Provisions with respect to property belonging to a local authority within, surrounded by or adjoining, a clearance area).	In the proviso, the word " working-men's " shall be omitted.
Section forty-five ... (Obligations of local authority with respect to re-housing).	In subsection (1), the words " of the working classes " shall be omitted.
Section fifty-one ... (Certificates as to the condition of houses).	In subsection (1), the words " which is occupied, or of a type suitable for occupation, by persons of the working classes and " shall be omitted.
Section seventy-one ... (Duty of local authorities to review housing conditions and to frame proposals).	The words " for the working classes ", in both places where they occur, shall be omitted.

1st SCH. —cont.	<i>Provision amended and subject matter thereof</i>	<i>Amendment</i>
	Section seventy-two ... (Mode of provision of housing accommoda- tion).	In subsection (1), the words “for the working classes”, in both places where they occur, shall be omitted, and in paragraph (c), the words “suitable for the purpose” shall be omitted, and in subsection (3), for the words “the enactments relating to the housing of the working classes”, there shall be substituted the words “the enactments relating to housing”.
	Section seventy-three ... (Power of local author- ity to acquire land for provision of housing accommodation).	In paragraph (a), the words “for the working classes” shall be omitted, for paragraph (b) there shall be substituted the following paragraph :— “(b) to acquire— (i) houses ; (ii) buildings other than houses, being buildings which may be made suitable as houses ; together with any lands occupied with the houses or buildings, or any estate or interest in houses or in such buildings as are mentioned in sub-paragraph (ii) of this paragraph;”, and in paragraph (c), in sub-paragraph (i), the words “for the working classes” shall be omitted, and in sub-paragraph (ii), the words “for, or for the convenience of, persons belonging to the working classes and other persons” shall be omitted.
	Section seventy-nine ... (Powers of dealing with land acquired or appropriated for pro- vision of housing ac- commodation).	In subsection (1), in paragraph (b), for the words “that person will erect and maintain thereon such number of houses suitable for the working classes as may be fixed by the authority in accordance with plans approved by them”, there shall be substituted the words “that person will erect thereon in accordance with plans approved by the local authority, and maintain, such number of houses of such types as may be specified by the authority”, and the words “for, or for the convenience of, persons belonging to the working classes and other persons” shall be omitted, and in paragraph (d), the words “either in regard to the maintenance of the houses as houses for the working classes or otherwise” shall be omitted, and for

<i>Provision amended and subject matter thereof</i>	<i>Amendment</i>
Section seventy-nine ... (Powers of dealing with land acquired or appropriated for provision of housing accommodation).— <i>cont.</i>	subsection (4) there shall be substituted the following subsection :— “ (4) Where a local authority acquire a building which may be made suitable as a house, or an estate or interest in such a building, they shall forthwith proceed to secure that the building is so made suitable either by themselves executing any necessary work or by leasing it or selling it to some person subject to conditions for securing that he will so make it suitable ”.
Section eighty-five ... (Conditions to be observed in management of local authority's houses).	For subsection (5) there shall be substituted the following subsection:— “ (5) The authority may grant to any tenant such rebates from rent, subject to such terms and conditions, as they may think fit ”.
Section eighty-seven ... (Power to establish Housing Management Commission).	In subsection (1), for the words “ working-class houses and other buildings or land provided in connection with such houses”, there shall be substituted the words “ houses and other buildings or land provided in connection therewith ”.
Section eighty-eight ... (Duty of county council in respect of housing conditions in rural districts).	In subsection (1), for the words “ the housing conditions of persons of the working classes ”, there shall be substituted the words “ housing conditions in the district ”.
Section ninety-two ... (Loans by Public Works Loan Commissioners to companies, &c.).	In subsection (1), the words “ for the working classes ”, in the first place where they occur, shall be omitted and for the words “ which may be made suitable as houses for the working classes ” there shall be substituted the words “ which the association desire to purchase with a view to the improvement thereof ”; in subsection (2), for the words “ or any other company, society, or association ” there shall be substituted the words “ or any company, society or association (not being a housing association) ”; in subsection (3), the words “ (being houses which have been constructed or made suitable for the working classes by the company, association, society, or person receiving the loan) ” shall be omitted; and in the proviso to subsection (5) and in subsection (8) the words “ for the working classes ” shall be omitted.

1ST SCH.  
—*cont.*

1ST SCH.  
—cont.

<i>Provision amended and subject matter thereof</i>	<i>Amendment</i>
Section ninety-three ... (Power of local authorities and county councils to promote and assist housing associations).	In subsection (2), the words "for the working classes" shall be omitted.
Section ninety-four ... (Power of local authorities to make arrangements with housing associations).	For subsection (1) there shall be substituted the following subsection :— <p style="margin-left: 40px;">“(1) A local authority may, with the approval of the Minister, make arrangements with a housing association for the purpose of enabling the association to provide housing accommodation or to alter, enlarge, repair or improve houses or buildings which, or an estate or interest in which, the local authority have acquired with a view to the provision or improvement of housing accommodation”</p> <p style="margin-left: 40px;">and in subsection (2), for the words “the housing of the working classes”, there shall be substituted the word “housing”.</p>
Section one hundred and twenty-eight. (Obligation to keep Housing Revenue Account).	In paragraph (d), the word “working-class” shall be omitted.
Section one hundred and twenty-nine. (Credits and debits in Housing Revenue Account).	In subsection (1), in paragraph (i), the words “for the working classes” shall be omitted.
Section one hundred and thirty-seven. (Re-housing obligations of undertakers).	The words “for persons of the working classes” shall be omitted.
Section one hundred and fifty-six. (Recovery of possession of controlled houses).	In subsection (1), in paragraph (a), and in subsection (2), for the words “any enactment relating to the housing of the working classes” there shall be substituted the words “any enactment relating to housing”.
Section one hundred and sixty-two. (Power of court to authorise execution of works on unfit premises or for improvement).	In subsection (1), the words “for the working classes” shall be omitted.



<i>Provision amended and subject matter thereof</i>	<i>Amendment</i>	<b>1ST SCH.</b> —cont.
Section one hundred and eighty-eight. (Interpretation).	In subsection (1), in the definition of "Housing association", the words "for the working classes" shall be omitted, and in subsection (4), the words "or of the general standard of housing accommodation for working classes in the district" shall be omitted.	
Eleventh Schedule ... (Re-housing by undertakers).	<p>In paragraph 1, the word "working-men's" and the words "belonging to the working class" shall be omitted, and for the words from "For the purposes of this schedule" to the words "by whom any houses are occupied," there shall be substituted the words "For the purpose of determining, for the purposes of this Schedule, the number of persons by whom any dwellings are occupied,".</p> <p>In paragraph 2, the words "of the working class", in each place where they occur, and the word "working-men's" shall be omitted.</p> <p>In paragraph 4, the words "for persons of the working class" shall be omitted, and for the words "provisions requiring a certain standard of house to be erected", there shall be substituted the words "provisions with respect to the standards of the houses that are to be erected".</p> <p>In paragraph 6, the word "working-men's" shall be omitted.</p> <p>In paragraph 8, the word "working-men's" shall be omitted.</p> <p>In paragraph 11, sub-paragraph (e) shall be omitted.</p>	

## SECOND SCHEDULE

Section 48.

### ADAPTATIONS OF THE HOUSING ACT, 1936, AND THE HOUSING (FINANCIAL AND MISCELLANEOUS PROVISIONS ACT), 1946

#### PART I

#### ADAPTATIONS OF THE HOUSING ACT, 1936

1. In the principal Act the expression "the Housing Acts" shall, unless the context otherwise requires, be construed as including this Act.
2. For the purposes of the principal Act the expression "Exchequer contribution" shall include any sum payable under section fifteen or forty-two of this Act by the Minister to a local authority.
3. Section eighty-six of the principal Act (which relates to the power of the Minister to impose conditions on the sale of houses by a local

2 C

2ND SCH.  
—cont.

authority) shall have effect as if the reference to the contributions referred to in the Eighth Schedule to that Act included a reference to contributions payable under section eighteen of this Act.

4. Subsection (2) of section eighty-nine of the principal Act (which relates to agreements by county councils for assisting rural district councils in providing housing accommodation) shall have effect as if the reference to section one hundred and five of that Act included a reference to sections fifteen to seventeen and forty of this Act.

5. Section one hundred and twenty-eight of the principal Act (which provides for the keeping of Housing Revenue Accounts) shall have effect as if dwellings provided or improved by a local authority in accordance with approved improvement proposals were included amongst the houses and dwellings an account of the income and expenditure of the authority in respect whereof the authority are required by that section to keep, and references in section one hundred and twenty-nine of that Act (which relates to credits and debits in Housing Revenue Accounts) to such houses, buildings, land or dwellings as are mentioned in the said section one hundred and twenty-eight shall be construed accordingly.

6. Subsection (1) of section one hundred and twenty-nine of the principal Act and subsection (2) of section one hundred and thirty thereof (which relates to the disposal of balances in the Housing Revenue account) shall have effect as if any reference to the contributions referred to in the Eighth Schedule to that Act included a reference to contributions payable under section eighteen of this Act.

7. Section one hundred and fifty-three of the principal Act (which provides, in the case of a county council other than the London County Council, for reference to the public health and housing committee of the council of matters relating to the exercise and performance by the council of their powers and duties under that Act and for the delegation of their powers to that committee) shall have effect as if the references to that Act included references to this Act.

8. Subsection (1) of section one hundred and sixty-nine of the principal Act (which relates to the transfer of the powers of rural district councils to county councils) shall have effect as if references to that Act included references to this Act, and subsection (3) of that section shall have effect as if the reference to Part V of that Act included a reference to this Act and as if the reference to section one hundred and five of that Act included a reference to sections fifteen to seventeen and forty of this Act.

9. Section one hundred and seventy-one of the principal Act and subsection (1) of section one hundred and seventy-two thereof (which contain provisions for remedying defaults by local authorities other than rural district councils in the exercise of their powers) shall have effect as if references to that Act included references to this Act, and subsection (2) of the said section one hundred and seventy-two shall have effect as if the reference to Part V of that Act included a reference to this Act and as if the reference to section one hundred and five of that Act included a reference to sections fifteen to seventeen and forty of this Act.

10. Section one hundred and eighty-four of the principal Act (which empowers the Common Council of the City of London to

appoint a committee for any of the purposes of that Act) shall have effect as if the reference to that Act included a reference to this Act.

2ND SCH.  
—cont.

11. Subsection (4) of section one hundred and eighty-eight of the principal Act (which specifies matters to which regard is to be had in determining for the purposes of that Act whether a house is fit for human habitation) shall have effect as if the reference to that Act included a reference to this Act.

## PART II

### ADAPTATIONS OF THE HOUSING (FINANCIAL AND MISCELLANEOUS PROVISIONS) ACT, 1946

12. Subsection (2) of section one of the Act of 1946 (which provides that, subject to the provisions of that Act, the amount of each annual exchequer contribution payable for a house shall be that one of the standard amounts thereafter mentioned which is appropriate to the house) shall have effect as if the standard amounts of the annual exchequer contribution applicable to houses by virtue of sections thirty-seven to thirty-nine of this Act were so mentioned.

13. Subsection (3) of section four of the Act of 1946 (which provides for the determination by the Minister of any question as to what constitutes a separate site for the purposes of that section) shall have effect as if the reference therein to that section included a reference to sections thirty-seven and thirty-eight of this Act.

14. Subsection (2) of section five of the Act of 1946 (which provides that, subject to the provisions of that Act, the amount of each annual rate fund contribution payable in respect of a house shall be that one of the normal amounts thereafter mentioned which is appropriate to the house in respect of which the contribution is payable) shall have effect as if the normal amounts of the annual rate fund contribution applicable to houses by virtue of sections thirty-seven to thirty-nine of this Act were so mentioned.

15. Section six of the Act of 1946 (which provides for an increased standard amount of the annual exchequer contribution and an increased normal amount of the annual rate fund contribution in the case of a house the cost of the provision of which has been or will be substantially enhanced by expenses attributable to the acquisition of rights of support) shall have effect as if references therein to the preceding provisions of that Act included references to section thirty-seven of this Act.

16. Subsection (1) of section eight of the Act of 1946 (which provides that, where annual exchequer contributions of the special standard amount, or of that amount as increased in accordance with any of the provisions of sections six and seven of that Act, are payable in respect of a house to the council of a county district, the council of the county in which the district is situated shall pay to the council of the district, for each of the sixty years following the completion of the house, an annual contribution of one pound ten shillings) shall have effect as if, for the reference to that amount as so increased, there were substituted a reference to that amount as increased either in accordance with any of the said provisions or in accordance with any of those provisions and with any of the provisions of sections thirty-seven to thirty-nine of this Act.

## Section 51.

## THIRD SCHEDULE

## ENACTMENTS REPEALED

## PART I

## REPEALS IN THE HOUSING ACT, 1936

(26 Geo. 5 &amp; 1 Edw. 8. c. 51)

In section nine, in subsection (1), the words "which is occupied, or is of a type suitable for occupation, by persons of the working classes".

In section eleven, in subsection (1), the words "which is occupied, or is of a type suitable for occupation, by persons of the working classes".

In section twenty-five, in subsection (1), in paragraph (i) of the proviso, the words "of the working classes", and in subsection (2), the words "of the working classes".

In section twenty-eight, in the proviso, the word "working-men's".

In section forty-five, in subsection (1), the words "of the working classes".

In section fifty-one, in subsection (1), the words "which is occupied, or of a type suitable for occupation, by persons of the working classes and".

In the heading of Part V, the words "FOR THE WORKING CLASSES".

In section seventy-one, the words "for the working classes" in both places where they occur.

In section seventy-two, in subsection (1), the words "for the working classes" in both places where they occur, and in paragraph (c) the words "suitable for the purpose".

In section seventy-three, in paragraph (a), the words "for the working classes," and in paragraph (c), in sub-paragraph (i), the words "for the working classes" and, in sub-paragraph (ii), the words "for or for the convenience of, persons belonging to the working classes and other persons".

In section seventy-nine, in subsection (1), in paragraph (b), the words "for, or for the convenience of, persons belonging to the working classes and other persons", and in paragraph (d) the words "either in regard to the maintenance of the houses as houses for the working classes or otherwise".

## Section ninety.

Section ninety-one, except as respects undertakings thereunder given before the commencement of this Act.

In section ninety-two, in subsection (1), the words "for the working classes", in the first place where they occur, in subsection (3), the words "(being houses which have been constructed or made suitable for the working classes by the company, association, society, or person receiving the loan)," in subsection (5), in the proviso, the words "for the working classes," and in subsection (8), the words "for the working classes".

In section ninety-three, in subsection (2), the words "for the working classes".

In section one hundred and three, in subsection (2), the words "and for the purposes of section ninety-one of this Act".

Section one hundred and ten, except as respects undertakings thereunder given before the commencement of this Act.

In section one hundred and seventeen, subsection (2).

In section one hundred and eighteen, in paragraph (c), the words "paragraph (c) of subsection (1) of section ninety-one".

In section one hundred and twenty, in subsection (1), the words "(other than the purposes of paragraph (c) of subsection (1) of section ninety-one of this Act)".

In section one hundred and twenty-eight, in paragraph (d), the word "working-class".

In section one hundred and twenty-nine, in subsection (1), in paragraph (i), the words "for the working classes".

Section one hundred and thirty-six.

In section one hundred and thirty-seven, the words "for persons of the working classes".

In section one hundred and sixty-two, in subsection (1), the words "for the working classes".

In section one hundred and eighty-eight, in subsection (1), in the definition of "Housing association", the words "for the working classes", and in subsection (4) the words "or of the general standard of housing accommodation for working classes in the district".

In the Eleventh Schedule, in the heading, the words "IN CASE OF DISPLACEMENT OF PERSONS OF THE WORKING CLASSES", in paragraph 1, the word "working-men's" and the words "belonging to the working class", in paragraph 2, the words "of the working class", in each place where they occur, and the word "working-men's", in paragraph 4, the words "for persons of the working class", in paragraphs 6 and 8 the word "working-men's" and, in paragraph 11, sub-paragraph (e).

## PART II

### GENERAL REPEALS

Session and Chapter	Short Title	Extent of Repeal
1 & 2 Geo. 6. c. 16.	The Housing (Financial Provisions) Act, 1938.	In section two, in subsection (3), the words from the beginning to the words "displaced persons; and". Section eight.
7 & 8 Geo. 6. c. 36.	The Housing (Temporary Accommodation) Act, 1944.	In section four, subsection (3).
9 & 10 Geo. 6. c. 20.	The Building Materials and Housing Act, 1945.	In section six, subsection (2).
11 & 12 Geo. 6. c. 22.	The Water Act, 1948...	In section fourteen, subsection (4).

Table of Statutes Referred to in this Act

Short Title	Session and Chapter
Lands Clauses Consolidation Act, 1845 ...	8 & 9 Vict. c. 18.
Public Health Act, 1875 ... ..	38 & 39 Vict. c. 55.
Small Dwellings Acquisition Act, 1899 ...	62 & 63 Vict. c. 44.
Housing of the Working Classes Act, 1890	53 & 54 Vict. c. 70.
Government of Ireland Act, 1920 ... ..	10 & 11 Geo. 5. c. 67.
Housing, &c. Act, 1923 ... ..	13 & 14 Geo. 5. c. 24.
Settled Land Act, 1925 ... ..	15 & 16 Geo. 5. c. 18.
Law of Property Act, 1925 ... ..	15 & 16 Geo. 5. c. 20.
Land Charges Act, 1925 ... ..	15 & 16 Geo. 5. c. 22.
Universities and College Estates Act, 1925 ...	15 & 16 Geo. 5. c. 24.
Housing (Rural Workers) Act, 1926 ...	16 & 17 Geo. 5. c. 56.
Housing Act, 1930 ... ..	20 & 21 Geo. 5. c. 39.
Rent and Mortgage Interest Restrictions (Amendment) Act, 1933 ... ..	23 & 24 Geo. 5. c. 32.
Housing Act, 1936 ... ..	26 Geo. 5 & 1 Edw. 8. c. 51.
Housing (Financial Provisions) Act, 1938 ...	1 & 2 Geo. 6. c. 16.
Housing (Rural Workers) Amendment Act, 1938 ... ..	1 & 2 Geo. 6. c. 35.
Hire Purchase Act, 1938 ... ..	1 & 2 Geo. 6. c. 53.
Building Societies Act, 1939 ... ..	2 & 3 Geo. 6. c. 55.
Water Act, 1945 ... ..	8 & 9 Geo. 6. c. 42.
Building Materials and Housing Act, 1945 ...	9 & 10 Geo. 6. c. 20.
Housing (Financial and Miscellaneous Provi- sions) Act, 1946 ... ..	9 & 10 Geo. 6. c. 48.
New Towns Act, 1946 ... ..	9 & 10 Geo. 6. c. 68.
Town and Country Planning Act, 1947 ...	10 & 11 Geo. 6. c. 51.
Local Government Act, 1948 ... ..	11 & 12 Geo. 6. c. 26.
National Assistance Act, 1948 ... ..	11 & 12 Geo. 6. c. 29.

## CHAPTER 61

### *Housing (Scotland) Act, 1949*

#### ARRANGEMENT OF SECTIONS

##### PART I

#### EXTENSION OF PROVISIONS AS TO HOUSING OF WORKING CLASSES TO HOUSING OF ALL MEMBERS OF THE COMMUNITY

##### Section.

1. Deletion of references to the working classes in certain provisions of the Housing (Scotland) Acts, 1925 to 1946.

##### PART II

#### FINANCIAL ASSISTANCE TOWARDS IMPROVEMENT OF HOUSING ACCOMMODATION

##### *Exchequer Contributions for Improvement of Housing Accommodation by Local Authorities*

2. Exchequer contributions towards losses incurred by local authorities in improving housing accommodation.
3. Nature, and amounts, of contributions.
4. Determination of annual loss.
5. Local authorities' contributions.
6. Consequential adaptations of Housing (Scotland) Acts, 1925 to 1946.
7. Duty of local authority to submit particulars of properties to be included in improvement proposals.

*Exchequer Contributions for Improvement of Housing  
Accommodation by Development Corporations*

## Section.

8. Exchequer contributions towards losses incurred by development corporations in improving housing accommodation.

*Grants by Local Authorities for Improvement of Housing  
Accommodation by Persons other than Local Authorities*

9. Grants to persons other than local authorities for improvement of housing accommodation.
10. Amounts, and payment, of improvement grants.
11. Duty of local authority to fix rents.
12. Conditions to be observed with respect to dwellings.
13. Repayment of improvement grants.
14. Exchequer contributions towards improvement grants.
15. Provisions as to further improvement grants.
16. Power to increase rent under Part II in certain cases.
17. Provision as to dwellings improved under Housing (Rural Workers) Act, 1926.
18. Provisions as to security of tenure of tenants.

*Arrangements by Local Authorities with Housing Associations  
and Development Corporations for Improvement of Housing  
Accommodation*

19. Arrangements by local authorities with housing associations and development corporations for improvement of housing accommodation.

*Reduction of amount of Exchequer contributions*

20. Reduction of amount of Exchequer contributions.

*Supplementary Provisions*

21. Regulations.
22. House provided or improved not to be deemed a new house.
23. Valuation of dwellings provided or improved under this Act.
24. Application of Rent Restrictions Acts to dwelling provided or improved under this Act.
25. Interpretation of Part II.

## PART III

EXCHEQUER CONTRIBUTIONS FOR NEW HOUSES AND HOSTELS  
AND FOR BUILDING EXPERIMENTS

26. Increased amount of Exchequer contribution for houses constructed to preserve character of surroundings.
27. Exchequer contributions for hostels.
28. Exchequer contributions for building experiments.

## PART IV

## MISCELLANEOUS AMENDMENTS OF LAW

29. Power of local authorities to make advances for purpose of increasing housing accommodation.
30. Power of local authorities to guarantee repayment of advances by building societies.
31. Power of local authorities to make allowances to certain persons displaced.
32. Power of local authorities to provide board and laundry facilities.

## Section.

33. Power of local authorities to sell furniture to persons housed by, or by arrangement with, them.
34. Acquisition of land for improvement of housing accommodation.
35. Amendment of s. 85 of Act of 1925.
36. Provisions as to re-development to cease to have effect.
37. Minor amendments.
38. Amendment and extension of s. 7 of Building Materials and Housing Act, 1945.
39. Amendment of s. 1 of the Small Dwellings Acquisition Act, 1899.
40. Power to increase rent fixed under Housing (Rural Workers) Acts in certain cases.
41. Amendment of s. 16 of Act of 1930.
42. Substitution of demolition for closing order in certain circumstances.
43. Preservation of certain houses unfit for human habitation.
44. Provision as to Housing Management Commissions to cease to have effect.

## PART V

## GENERAL

45. Power of local authorities to borrow.
46. Time and manner of payment of Exchequer Contributions.
47. Expenses.
48. Interpretation.
49. Short title, citation, extent and repeal.

## SCHEDULES.

First Schedule.—Amendments of the Housing (Scotland) Acts, 1925 to 1946, deleting references to the working classes.

Second Schedule.—Adaptations of the Housing (Scotland) Acts, 1925 to 1946, consequential on Part II of this Act.

Third Schedule.—Minor amendments.

Fourth Schedule.—Enactments repealed.

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An Act to amend the Housing (Scotland) Acts, 1925 to 1946; to promote the improvement of housing accommodation in Scotland by authorising the making of contributions out of the Exchequer and of grants by local authorities; to authorise the making out of the Exchequer of contributions in addition to the contributions payable under the Housing (Financial Provisions) (Scotland) Act, 1946, in certain cases, and of contributions in respect of the provision of hostels and of building experiments in Scotland; to extend and amend certain provisions of the Small Dwellings Acquisition Act, 1899, and the Building Materials and Housing Act, 1945, in their application to Scotland; and for purposes connected with the matters aforesaid.

[30th July 1949.]



**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

### PART I

#### EXTENSION OF PROVISIONS AS TO HOUSING OF WORKING CLASSES TO HOUSING OF ALL MEMBERS OF THE COMMUNITY

**1.** For the purpose of extending the provisions of the Housing (Scotland) Acts, 1925 to 1946, so as to enable account to be taken of the housing conditions and housing needs of all members of the community, the provisions of the said Acts specified in the first column of the First Schedule to this Act shall have effect subject to the amendments specified in relation to those provisions respectively in the second column of that Schedule, being amendments whereof the effect is to—

Deletion of references to the working classes in certain provisions of the Housing (Scotland) Acts, 1925 to 1946.

(a) remove the limitation confining—

(i) the duties of a local authority under section twenty-two of the Act of 1930 with respect to the consideration of the needs of their district with respect to the provision of further housing accommodation and the preparation and submission to the Secretary of State of proposals for the provision of new houses ; and

(ii) the power of a local authority under section forty-three of the Act of 1925 to provide housing accommodation ;

to the provision of housing accommodation, and houses, for the working classes ;

(b) extend to all dwellings the powers conferred on a local authority by Part I of the Act of 1925 and Part II of the Act of 1930 with respect to the repair, demolition and closing of insanitary dwellings occupied, or of a type suitable for occupation, by persons of the working classes ;

(c) extend to all persons the provisions of Part I of the Act of 1930 for securing the protection of persons of the working classes who will be displaced as a result of action taken under a resolution of a local authority declaring an area to be a clearance area ;

(d) remove the limitation confining to houses for the working classes the class of houses for the purpose of the construction, improvement or purchase of which money may be lent by the Public Works Loan Commissioners under section seventy-three of the Act of 1925 ;

(e) remove the limitation confining the obligations with respect to re-housing imposed by section seventy-nine

PART I  
—cont.

of and the Fifth Schedule to the Act of 1925 on persons who acquire land under an Act or order to the housing of persons of the working classes; and

- (f) make adaptations of the said Acts consequential on the making of the amendments whereof the effect is that specified in the foregoing paragraphs.

## PART II

FINANCIAL ASSISTANCE TOWARDS IMPROVEMENT OF HOUSING  
ACCOMMODATION*Exchequer Contributions for Improvement of Housing  
Accommodation by Local Authorities*

Exchequer contributions towards losses incurred by local authorities in improving housing accommodation.

2.—(1) With a view to encouraging the improvement of housing accommodation by local authorities, the Secretary of State may approve proposals (hereafter in this Part of this Act referred to as “improvement proposals”) submitted to him by a local authority for—

- (a) the provision of dwellings by the authority by means of the conversion of houses or other buildings; and  
(b) the improvement of dwellings by the authority;

and may, subject to and in accordance with the provisions of this Part of this Act, make, out of moneys provided by Parliament, contributions towards the annual loss likely to be incurred by a local authority as a result of giving effect to approved improvement proposals.

(2) Before approving any improvement proposals the Secretary of State shall satisfy himself as to the following requirements, that is to say,—

- (a) that, as respects dwellings to be provided in accordance with the proposals, the dwellings will provide satisfactory housing accommodation for a period of not less than thirty years from the completion of the works necessary for the conversion of the buildings in question, and, as respects dwellings to be improved in accordance with the proposals, that the dwellings as so improved will provide such accommodation for a period of not less than thirty years from the completion of the improvements; and  
(b) that all such dwellings as aforesaid will conform with such requirements with respect to their construction and physical condition, and the provision of services and amenities, as may be specified for the purposes of this section by the Secretary of State:

Provided that

- (i) if, in relation to all or any of the said dwellings the Secretary of State is of opinion that the period mentioned in paragraph (a) of this subsection is likely to be

less than thirty years he may, notwithstanding that fact, approve the proposals if he considers it expedient in all the circumstances to do so and if he is satisfied that the said period is likely to be more than ten years ; and

PART II  
--cont.

- (ii) if, in relation to all or any of the said dwellings, the Secretary of State is not satisfied that the dwellings or dwelling will conform with a particular requirement specified under paragraph (b) of this subsection, he may, notwithstanding that fact, approve the proposals if he is satisfied that, in all the circumstances of the case, conformity with that requirement would be not practicable at a reasonable expense.

3.—(1) A contribution under the last foregoing section towards the annual loss likely to be incurred by a local authority as a result of giving effect to approved improvement proposals shall be a sum equal to three-quarters of that loss, payable annually for the period of twenty financial years beginning with the year in which the carrying out of the proposals was completed.

Nature, and amounts, of contributions.

(2) The last foregoing subsection shall in relation to a local authority for any area in the Highlands and Islands as defined in the Housing (Agricultural Population) (Scotland) Act, 1938, have effect with the substitution for the words "three-quarters" of the words "seven-eighths".

4.—(1) For the purposes of this Part of this Act, the amount of the annual loss likely to be incurred by a local authority as a result of giving effect to approved improvement proposals shall be determined by the Secretary of State.

Determination of annual loss.

(2) For the purpose of a determination under the last foregoing subsection regard shall be had to expense proposed to be incurred by the local authority in acquiring interests in land for the purpose of giving effect to the proposals, the estimated cost of executing works of conversion or improvement in accordance with the proposals, the annual income which, if effect were not given to the proposals, might reasonably be expected to accrue to the authority from interests owned by them in buildings proposed to be converted or dwellings proposed to be improved, and the annual income which may reasonably be expected to accrue to the authority from the dwellings provided or improved as a result of giving effect to the proposals, and to any other matter which appears to the Secretary of State to be relevant.

(3) It shall be the duty of a local authority by whom improvement proposals are submitted to the Secretary of State to furnish

PART II  
—cont.

to him such estimates and such particulars with respect to the proposals as he may require for the purposes of this section.

Local  
authorities'  
contributions.

5. A local authority by whom dwellings have been provided or improved in accordance with approved improvement proposals shall make, for each financial year for which a contribution is payable under section two of this Act by the Secretary of State towards the annual loss likely to be incurred by the authority as a result of giving effect to those proposals, a contribution equal to the difference between the amount of that loss and the amount of the contribution payable as aforesaid by the Secretary of State.

Consequential  
adaptations of  
Housing  
(Scotland) Acts,  
1925 to 1946.

6. The provisions of the Housing (Scotland) Acts, 1925 to 1946, specified in the Second Schedule to this Act shall have effect subject to the adaptations therein specified.

Duty of local  
authority to  
submit  
particulars of  
properties to  
be included in  
improvement  
proposals.

7.—(1) It shall be the duty of every local authority within three months or such other period as the Secretary of State may specify after receipt by them of a notice by the Secretary of State requiring them so to do to prepare and submit to him such particulars as may be specified in the notice of houses and other buildings to be included in improvement proposals under section two of this Act.

(2) A notice given under the last foregoing subsection may relate to the whole or to one or more parts of the local authority's district.

(3) It shall be the duty of a local authority by whom particulars have been submitted in pursuance of a notice given under subsection (1) of this section to prepare and submit to the Secretary of State, within three months after being required by him so to do, improvement proposals relating to any or all of the houses or buildings specified in the said notice.

*Exchequer Contributions for Improvement of Housing  
Accommodation by Development Corporations*Exchequer  
contributions  
towards losses  
incurred by  
development  
corporations  
in improving  
housing  
accommoda-  
tion.

8. The Secretary of State may approve any proposals for the provision or improvement of dwellings submitted to him by a development corporation which he would have power to approve under the foregoing provisions of this Part of this Act if they were submitted to him by a local authority, and the like contribution shall be made by the Secretary of State to a development corporation out of moneys provided by Parliament towards the annual loss likely to be incurred by the corporation as a result of giving effect to proposals approved under this section as would have been made by him had the proposals been submitted by a local authority.

*Grants by Local Authorities for Improvement of Housing  
Accommodation by Persons other than Local Authorities*

PART II  
—cont.

9.—(1) Subject to the provisions of this Part of this Act, a local authority may give assistance in respect of—

Grants to persons other than local authorities for improvement of housing accommodation.

(a) the provision of dwellings by a person other than the authority by means of the conversion of houses or other buildings ;

(b) the improvement of dwellings by such a person ;

by way of making a grant (hereafter in this Part of this Act referred to as an “improvement grant”) in respect of expenses incurred for the purpose of the execution of the works of conversion or improvement (hereafter in this Part of this Act referred to as “improvement works”) if, before the improvement works are begun, an application in that behalf is made to the authority by that person (hereafter in this Part of this Act referred to as “the applicant”) and approved by them.

(2) An application under this section for an improvement grant must contain full particulars of the improvement works proposed to be carried out and of the land on which those works are proposed to be carried out, together with plans and specifications of the works and an estimate of the expenses to be incurred for the purposes of the execution thereof, and, where the application relates to the provision or improvement of more than one dwelling, the said estimate must specify the proportion of the estimated expenses that is attributable to each dwelling proposed to be provided or improved.

(3) Before approving an application under this section for an improvement grant the local authority shall satisfy themselves as to the following requirements, that is to say,—

(a) that, as respects dwellings to be provided by means of the improvement works, the dwellings will provide satisfactory housing accommodation for a period of not less than thirty years from the completion of the works, and, as respects dwellings to be improved by means of the improvement works, the dwellings as so improved will provide such accommodation for a period of not less than thirty years from the completion of the works ;

(b) that all such dwellings as aforesaid will conform with such requirements with respect to their construction and physical condition and the provision of services and amenities as may be specified for the purposes of this section by the Secretary of State ;

(c) that the applicant is, in respect of every parcel of land on which improvement works are proposed to be carried out (other than land proposed to be sold or leased to him under section thirty-four of this Act),

PART II  
—cont.

either the owner or the lessee under a lease whereof a period of not less than thirty years remains unexpired at the date of the application :

Provided that

- (i) if, in relation to all or any of the said dwellings, the local authority are of opinion that the period mentioned in paragraph (a) of this subsection is likely to be less than thirty years they may, notwithstanding that fact, approve the application if they consider it expedient in all the circumstances to do so and if they are satisfied that the said period is likely to be more than ten years : and
- (ii) if, in relation to all or any of the said dwellings, the local authority are not satisfied that the dwellings or dwelling will conform with a particular requirement specified under paragraph (b) of this subsection, they may, notwithstanding that fact, approve the application if they are satisfied that, in all the circumstances of the case, conformity with that requirement would be not practicable at a reasonable expense.

(4) No application under this section for an improvement grant shall be entertained unless—

- (a) in a case where the application relates only to the provision or improvement of a single dwelling, the amount of the expenses estimated to be incurred for the purposes of the execution of the improvement works ; or
- (b) in any other case, the proportion of those expenses attributable to each dwelling proposed to be provided or improved ;

is neither less than one hundred pounds or such other amount as may for the time being be prescribed nor more than six hundred pounds or such other amount as may for the time being be prescribed :

Provided that where, in a case falling within paragraph (a) of this subsection, the amount of the expenses estimated to be incurred exceeds six hundred pounds or, as the case may be, the maximum amount for the time being prescribed under this subsection or, in a case falling within paragraph (b) of this subsection, all or any of the proportions of those expenses attributable to the several dwellings exceeds that amount, the local authority may, with the consent of the Secretary of State, entertain the application if they are satisfied that, in all the circumstances of the case, there is good reason so to do.

(5) Where a local authority approve an application under this section they shall notify the applicant of the amount approved by them as being the amount of the expenses which, in their opinion, are properly ascribable to the execution of the improvement works and, where the application relates to the

provision or improvement of more than one dwelling, of the proportion of that amount approved by them as being attributable to each dwelling proposed to be provided or improved.

The said amount is hereafter in this Part of this Act referred to, in relation to improvement works, as the "approved expense" of executing those works, and the proportion of that amount approved under this subsection as being attributable to a dwelling, is so referred to, in relation to that dwelling, as the "approved proportion" of the approved expense.

(6) A local authority may in any case refuse to approve an application under this section on any grounds that seem to them sufficient, and shall refuse to approve any such application in respect of any dwelling to be provided or improved by means of improvement works if assistance has been given in respect of that dwelling under any of the following enactments, that is to say—

- (a) paragraph (b) of subsection (1) of section four of the Housing (Agricultural Population) (Scotland) Act, 1938 ;
- (b) section one of the Hill Farming Act, 1946 ;
- (c) section seventy-seven of the Agriculture (Scotland) Act, 1948.

(7) The Secretary of State may give directions to any local authority or to local authorities generally requiring that any application under this section or all such applications of any class specified in the directions shall not be approved except with the consent of the Secretary of State (which may be granted subject to conditions) and it shall be the duty of any local authority to whom such directions are issued to comply therewith.

10.—(1) The amount which may be paid by way of an improvement grant in respect of expenses incurred for the purpose of the execution of any improvement works shall be such fraction of the approved expense of executing those works, not exceeding one-half thereof, as may be determined by the local authority when they approve the application for the grant:

Provided that where—

- (i) the application for the improvement grant could not have been entertained but for the proviso to subsection (4) of the last foregoing section ; and
- (ii) the local authority are satisfied that the expense of executing the improvement works was materially enhanced by reason of measures taken to preserve the architectural or historic interest of the house or building to which the application relates,

the amount of the improvement grant may be such fraction of

PART II  
—cont.

the approved expense of executing the works, in excess of one-half thereof, as may, with the consent of the Secretary of State, be determined as aforesaid.

(2) An improvement grant in respect of expenses incurred for the purpose of the execution of improvement works may be paid either after completion of the works or partly in instalments from time to time as the works progress and as to the balance after the completion of the works:

Provided that where the grant is to be paid partly in instalments, the aggregate of the instalments paid shall not at any time before the completion of the works exceed one-half of the aggregate cost of the works executed up to that time.

(3) The payment of an improvement grant or of an instalment or the balance thereof shall be conditional upon the works or, as the case may be, the part of the works which the applicant considers will entitle him to payment of the instalment or balance being executed to the satisfaction of the local authority.

Duty of local  
authority to  
fix rents.

11. It shall be the duty of a local authority, at the time at which they approve an application under this Part of this Act for an improvement grant in respect of expenses incurred for the purpose of the execution of any improvement works, to fix, for the purposes of this Part of this Act, with respect to—

(a) every dwelling to be provided by means of the works;  
and

(b) every dwelling to be improved by means of the works, being a dwelling which the authority are satisfied has not been let as a dwelling at any time during the period of five years immediately preceding the date of the application,

the maximum rent that may be paid in respect of the dwelling.

Conditions to  
be observed  
with respect  
to dwellings.

12.—(1) In the case of a dwelling in respect of the provision or improvement of which assistance has been given under section nine of this Act, the following conditions shall, subject to the provisions of this Part of this Act, be observed with respect to the dwelling for a period of twenty years beginning with the day on which in the opinion of the local authority it first becomes fit for occupation after the completion of the improvement works, and shall, so long as they are required to be so observed, be deemed to be part of the terms of any lease or tenancy of the dwelling, and shall be enforceable accordingly:—

(a) the dwelling shall not be used for purposes other than those of a private dwelling-house;

(b) the dwelling shall not be occupied except by the owner thereof or a tenant;



(c) the rent payable by a tenant of the dwelling shall not exceed—

(i) in a case where a maximum rent with respect to the dwelling has been fixed under the last foregoing section, the amount thereof ; or

(ii) in any other case, an amount equal to the aggregate of the rent at which the dwelling was last let before the improvement works were begun and a sum calculated at a rate per annum not exceeding six per cent. of the fraction of the approved expense of executing those works or the approved proportion of that expense (according as the works were for the improvement of a single dwelling or of two or more dwellings) that fell to be borne by the applicant for the improvement grant ;

and no fine, premium or other like sum shall be taken in addition to the rent ;

(d) the owner of the dwelling shall, on being required so to do by the local authority, certify that the conditions specified in the foregoing paragraphs are being observed with respect to the dwelling, and any tenant of the dwelling shall, on being so required in writing by the owner, furnish to him such information as he may reasonably require for the purpose of enabling him to comply with this condition ;

(e) all reasonable steps shall be taken to secure the maintenance of the dwelling so as to be in all respects fit for human habitation ;

(f) in the event of a tenant assigning his interest in, or otherwise parting with the possession of, the dwelling, it shall not be lawful for any person in consideration thereof to make any payment other than rent or for the tenant to receive, directly or indirectly, any such payment.

(2) In the event of a breach of any of the conditions specified in the last foregoing subsection during the period during which they are required by that subsection to be observed with respect to a dwelling, or in the event of the voluntary alienation of a dwelling by the owner thereof during the said period, the following provisions shall have effect :—

(a) where the improvement works by means of which the dwelling was provided or improved were works only for the provision or improvement of that dwelling, the appropriate proportion of any sums paid by the local authority by way of improvement grant in respect of the expenses incurred for the purpose of executing those works, together, in the case of each such sum, with compound interest on that proportion thereof as

PART II  
— cont.

from the date of payment of the sum, calculated at the prescribed rate and with yearly rests, shall, on being demanded by the local authority, forthwith become payable to them by the owner for the time being of the dwelling ;

- (b) in any other case, the appropriate proportion of a part of any such sums as aforesaid bearing to the whole thereof the same proportion that the approved proportion of the approved expense of executing the improvement works bears to the whole of the approved expense of executing those works, together, in the case of each part of a sum, with compound interest on the appropriate proportion thereof as from the date of payment of the sum, calculated at the prescribed rate and with yearly rests, shall become payable as aforesaid :

Provided that—

- (i) if the local authority are satisfied that the breach is capable of being remedied, they may, with the consent of the Secretary of State, and subject to such conditions (if any) as he may approve, direct that the operation of the foregoing provisions of this subsection shall, in relation to the breach, be suspended for such period as appears to them to be necessary for enabling the breach to be remedied and, if the breach is remedied within that period, may direct that the said provisions shall not have effect in relation to the breach ; and
- (ii) if the local authority are satisfied that the breach, although not capable of being remedied, was not due to the act, default or connivance of the owner of the dwelling, they may, with the like consent and subject to such conditions as aforesaid, direct that the said provisions shall not have effect in relation to the breach.

In this subsection the expression “ the appropriate proportion ”, in relation to a sum or part of a sum, means a part thereof proportionate to the extent to which the period during which conditions are required by subsection (1) of this section to be observed with respect to the dwelling remains unexpired at the date of the occurrence of the breach of conditions or of the voluntary alienation of the dwelling, as the case may be.

(3) Upon satisfaction of a liability of an owner of a dwelling to make payment under the last foregoing subsection to a local authority, observance, with respect to the dwelling, of the conditions specified in subsection (1) of this section shall cease to be requisite.

(4) The sheriff within whose jurisdiction is situate any such dwelling as is mentioned in subsection (1) of this section may, on the application of the local authority, whether or not any other relief is claimed, grant an interdict restraining a breach or apprehended breach, in relation to the dwelling, of any of the conditions specified in that subsection other than the condition specified in paragraph (d) thereof.

(5) Where a local authority pay an improvement grant or the first instalment of an improvement grant in respect of a dwelling, they shall cause to be recorded in the appropriate Register of Sasines a notice in the prescribed form specifying (i) the conditions required by this section to be observed with respect to the dwelling and (ii) the provision of subsection (2) of this section whereby on a breach of any of the aforesaid conditions or on a voluntary alienation of the dwelling within the period during which the aforesaid conditions are required to be observed the owner for the time being becomes liable to repay to the local authority the amount set forth in that subsection, and the cost of such recording shall be repaid to the local authority by the owner for the time being of the dwelling.

(6) In the event of a breach of any of the aforesaid conditions with respect to a dwelling or of a voluntary alienation of the dwelling during the period aforesaid it shall be competent to the local authority to make a charging order in favour of themselves for the amount that becomes payable to them as aforesaid, and the provisions of section twenty-two of the Act of 1925 shall, with any necessary modifications, apply to any such charging order in like manner as they apply to a charging order made under section twenty-one of that Act.

(7) In any case where, in pursuance of subsection (3), observance of the conditions specified in subsection (1) of this section ceases to be requisite with respect to a dwelling, the local authority shall cause to be recorded in the appropriate Register of Sasines a notice in the prescribed form stating that the said conditions no longer apply to the dwelling, and the cost of such recording shall be repaid to the local authority by the owner for the time being of the dwelling.

(8) The provisions of this section (other than paragraph (c) of subsection (1)) shall apply to a dwelling used as a residence by a minister or full-time lay missionary of any religious denomination by virtue of his office as such minister or missionary in like manner as if he were a tenant of the dwelling.

13.—(1) The owner of a dwelling in respect of the provision or improvement of which assistance has been given under section nine of this Act or the holder of a heritable security over the dwelling being a heritable creditor entitled to exercise his power of sale may, at any time during the period during which the conditions specified in subsection (1) of the last foregoing section are

Repayment of  
improvement  
grants.

PART II  
—cont.

required by that subsection to be observed with respect to the dwelling, pay to the local authority the like amount as would become payable to them under subsection (2) of that section in the event of a breach at that time of any of those conditions and on the making of the payment observance, with respect to the dwelling, of those conditions shall cease to be requisite.

(2) A sum paid under the last foregoing subsection by a heritable creditor shall be treated as part of the sum secured by the heritable security.

(3) In any case where, in pursuance of subsection (1) of this section, observance of the conditions therein referred to ceases to be requisite with respect to a dwelling, subsection (7) of the last foregoing section shall apply in like manner as it applies in the case therein mentioned.

Exchequer  
contributions  
towards  
improvement  
grants.

**14.**—(1) The Secretary of State may, out of moneys provided by Parliament, make a contribution towards the expense incurred by a local authority in making an improvement grant.

(2) A contribution under the last foregoing subsection shall be a sum equal to three-quarters of the annual loan charges referable to the amount of the grant payable annually for the period of twenty financial years beginning with the year in which were completed the improvement works in respect of the expenses incurred for the purpose of the execution of which the grant was made.

(3) For the purposes of this section, the annual loan charges referable to the amount of an improvement grant shall (whatever may be the manner in which the local authority have provided or intend to provide the money requisite for making the grant) be the annual sum that, in the opinion of the Secretary of State, would fall to be provided by the local authority for the payment of interest on, and the repayment of, an amount, equal to the amount of the grant, of borrowed money the period for the repayment of which is twenty years.

(4) A local authority shall pay to the Secretary of State three-quarters of any sum recovered by them by virtue of subsection (2) of section twelve of this Act or paid to them under the last foregoing section, and any sum received by the Secretary of State under this section shall be paid into the Exchequer.

(5) Subsections (2) and (4) of this section shall, in the case of a local authority for any area in the Highlands and Islands as defined in the Housing (Agricultural Population) (Scotland) Act, 1938, have effect with the substitution for the words “three-quarters” of the words “seven-eighths”.

Provisions as  
to further  
improvement  
grants.

**15.**—(1) No assistance shall be given under section nine of this Act in respect of the provision of dwellings by means of the conversion of dwellings in relation to which the conditions

specified in subsection (1) of section twelve of this Act for the time being apply.

PART II  
—cont.

(2) Where by virtue of the giving on any occasion of assistance under section nine of this Act in respect of the improvement of a dwelling the conditions specified in subsection (1) of section twelve of this Act are required to be observed with respect to the dwelling before the observance thereof by virtue of the giving of assistance on a previous occasion has ceased to be requisite, the provisions of sections twelve and thirteen of this Act and of subsections (4) and (5) of section fourteen thereof shall apply in relation to the dwelling as regards each occasion on which assistance is so given as if it were the only occasion on which it were so given:

Provided that in relation to any period during which the said conditions are simultaneously required to be observed by virtue of the giving of assistance on more than one occasion, the condition as to rent applicable by reason of the giving of assistance on the last occasion shall be deemed to be the condition as to rent also by reason of the giving of assistance on any previous occasion.

16. If, in the case of a dwelling in respect of the provision or improvement of which assistance has been given under section nine of this Act, being a dwelling to which works (other than works for the purposes of the execution of which assistance has been so given) have been executed at a time when the conditions specified in subsection (1) of section twelve of this Act are required to be observed with respect to the dwelling, an application in that behalf is made to the local authority, they may direct that for the purposes of this Part of this Act the maximum amount of the rent payable by the occupier of the dwelling shall be increased by such amount as may be specified in the direction, not exceeding an amount calculated at a rate per annum of eight per cent. of the cost of executing the works; and where a direction is given under this section in relation to a dwelling on any occasion—

Power to  
increase rent  
under Part II  
in certain cases.

(a) references in paragraph (c) of that subsection to the amount which the rent payable by the tenant of the dwelling is not to exceed shall, as respects any period after the giving of the direction and before a subsequent direction is given under this section in relation to the dwelling or the direction is superseded by reason of the application of the said conditions by virtue of the giving of further assistance under the said section nine, whichever event first occurs, be construed in relation to the dwelling, for the purposes of this Part of this Act and, where subsection (2) of section seventeen of this Act applies, for the purposes of the Housing (Rural Workers) Acts, 1926 to 1942, as

PART II  
—cont.

references to that amount as increased in accordance with the direction given on that occasion and with any direction given under this section in relation to the dwelling on a previous occasion which has not been superseded as aforesaid; and

- (b) the local authority shall cause to be recorded in the appropriate Register of Sasines a notice in the prescribed form setting forth the effect of the direction, and the cost of such recording shall be repaid to the local authority by the owner for the time being of the dwelling.

Provision as to dwellings improved under Housing (Rural Workers) Act, 1926.

**17.**—(1) No assistance shall be given under section nine of this Act in respect of the provision of dwellings by means of the conversion of dwellings in relation to which the conditions specified in section three of the Housing (Rural Workers) Act, 1926, for the time being apply.

(2) Where assistance is given under the said section nine in respect of the improvement of a dwelling in relation to which the conditions aforesaid apply at the time when assistance is so given, the Housing (Rural Workers) Acts, 1926 to 1942, shall have effect in relation to the dwelling as if the conditions specified in subsection (1) of section twelve of this Act were contained in, and applicable by virtue of subsection (1) of section three of the Housing (Rural Workers) Act, 1926, in lieu of the conditions specified therein and in sections five and six of the Housing (Rural Workers) Amendment Act, 1938, and anything which would, or would not, constitute for the purposes of this Part of this Act a breach of the conditions specified in subsection (1) of the said section twelve shall be treated as constituting, or, as the case may be, not constituting a breach of those conditions for the purposes of the Housing (Rural Workers) Acts, 1926 to 1942.

Provisions as to security of tenure of tenants.

**18.** Where a dwelling in respect of the provision or improvement of which assistance has been given under section nine of this Act is, during the period during which conditions are required by subsection (1) of section twelve of this Act to be observed with respect to the dwelling, let to a person in consequence of his employment by the lessor, the operation of section three of the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933 (which restricts the right of a landlord to possession of a dwelling), shall not be excluded by reason of the letting being otherwise than at a rent of two-thirds or more of the rateable value of the dwelling.

*Arrangements by Local Authorities with Housing Associations and Development Corporations for Improvement of Housing Accommodation*

PART II  
—cont.

19.—(1) A local authority may, with the approval of the Secretary of State, make arrangements with a housing association or development corporation for—

Arrangements by local authorities with housing associations and development corporations for improvement of housing accommodation.

(a) the provision of dwellings by the association or corporation by means of the conversion of houses or other buildings ;

(b) the improvement of dwellings by the association or corporation.

(2) Arrangements made under this section shall include such terms with regard to such matters, including the rents at which the dwellings to be provided or improved in accordance with the arrangements are to be let, as may appear to the local authority to be expedient in view of the needs of their district in relation to housing and may be approved by the Secretary of State.

(3) Where arrangements are made under this section by a local authority with a housing association or development corporation, the Secretary of State shall, out of moneys provided by Parliament, make to the local authority a contribution of a sum payable annually for the period of twenty financial years beginning with the year in which the carrying out of the arrangements is completed, equal to three-quarters of the annual loss determined by the local authority, with the approval of the Secretary of State, to be likely to be incurred by the association or corporation in carrying out the arrangements, and the local authority shall pay to the association or corporation for that period annual grants each of an amount not less than the said sum :

Provided that—

(a) if the Secretary of State is satisfied that the association or corporation have made default in giving effect to the terms of the arrangements, he may reduce the amount of the contribution payable to the local authority under this subsection, or suspend or discontinue the payment thereof, as he thinks just ; and

(b) if the Secretary of State reduces, or suspends or discontinues the payment of, the contribution, the local authority may reduce to a proportionate or any less extent the annual grant payable by them to the association or corporation, or may suspend the payment thereof for a corresponding period, or may discontinue the payment thereof, as the case may be.

(4) Subsection (2) of section four of this Act shall have effect in relation to a determination under the last foregoing subsection of the amount of the annual loss likely to be incurred

PART II  
—cont.

by a housing association or development corporation in carrying out arrangements made under this section as it has effect in relation to a determination of the annual loss likely to be incurred by a local authority as a result of giving effect to approved improvement proposals with the substitution, for references to the local authority, of references to the association or corporation, for references to the proposals, of references to the arrangements and, for the reference to the Secretary of State, of a reference to the local authority.

(5) Subsection (3) of this section shall in relation to a local authority for any area in the Highlands and Islands as defined in the Housing (Agricultural Population) (Scotland) Act, 1938, have effect with the substitution for the words “ three-quarters ” of the words “ seven-eighths ”.

*Reduction of Amount of Exchequer Contributions*

Reduction of  
amount of  
Exchequer  
contributions.

20.—(1) An order under section fourteen of the Act of 1946 (which provides for the periodical review of contributions made under that Act by the Secretary of State) may provide—

- (a) as respects proposals approved by him under section two or section eight of this Act after such date as may be specified in the order, for reducing the proportion of the annual loss likely to be incurred by a local authority or development corporation by reference to which the amount of a contribution by him under either of those sections is to be computed ;
- (b) as respects improvement grants made in pursuance of applications approved by local authorities after that date, for reducing the proportion of the annual loan charges referable to the amount of any such grant by reference to which the amount of a contribution by him under section fourteen of this Act is to be computed ;
- (c) as respects arrangements made after that date under the last foregoing section for reducing the proportion of the annual loss likely to be incurred by a housing association or development corporation by reference to which the amount of a contribution by him under subsection (3) of that section is to be computed :

Provided that none of the said proportions shall be reduced to less than two-thirds.

(2) Any such order providing for reducing the proportion of the annual loan charges referred to in paragraph (b) of the last foregoing subsection shall provide for reducing, to a corresponding extent, in relation to improvement grants made as mentioned in that paragraph the proportion of any sum required by subsection (4) of section fourteen of this Act to be paid to the Secretary of State.



## Supplementary Provisions

PART II  
—cont.  
Regulations.

**21.**—(1) The Secretary of State may by statutory instrument make, with the consent of the Treasury, regulations prescribing anything required or authorised by this Part of this Act to be prescribed.

(2) A statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**22.** A dwelling which has been provided or improved—

(a) in giving effect to approved improvement proposals or arrangements with a housing association or development corporation; or

(b) by improvement works under this Act,

House provided or improved not to be deemed a new house.

shall not, by reason only of such provision or improvement be deemed to be a new dwelling-house within the meaning of any local Act notwithstanding anything contained in such Act.

**23.** A dwelling provided or improved—

(a) by means of improvement works in respect of which an improvement grant has been made, or

(b) in pursuance of arrangements made by a local authority with a housing association or development corporation

shall not, so long as the conditions set forth in subsection (1) of section twelve of this Act apply to the dwelling, or so long as contributions are payable in respect of the dwelling under subsection (3) of section nineteen of this Act, as the case may be, be entered in the valuation roll at a gross amount exceeding the maximum rent (exclusive of occupier's rates) payable under the said subsection (1) or the rent (exclusive of occupier's rates) approved under subsection (2) of the said section nineteen, as the case may be.

Valuation of dwellings provided or improved under this Act.

**24.** For removal of doubt it is hereby declared that nothing in this Part of this Act excludes the application of the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939, to a dwelling provided or improved—

(a) by means of improvement works in respect of which an improvement grant has been made, or

(b) in pursuance of arrangements made by a local authority with a housing association or development corporation:

Provided that in their application to any such dwelling the said Acts shall have effect subject to the following modifications:—

Application of Rent Restrictions Acts to dwelling provided or improved under this Act.

(i) the provisions thereof with regard to standard rent and permitted increases of rent shall not apply during the period during which the conditions set forth in subsection (1) of section twelve of this Act are required to be

PART II  
—cont.

observed with respect to the dwelling or, as the case may be, contributions are payable in respect of the dwelling under subsection (3) of section nineteen of this Act; and

- (ii) the rent under the first tenancy of the dwelling granted after the expiry of the aforesaid period shall be deemed to be the standard rent for the purposes of the said Acts.

Interpretation  
of Part II.

25.—(1) In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

“owner”, in relation to a dwelling, means the person who is for the time being entitled to receive the rent of the dwelling or who, if the dwelling were let, would be so entitled and includes such a lessee as is mentioned in paragraph (c) of subsection (3) of section nine of this Act;

“voluntary alienation” includes alienation by sale, gift, or other transaction or transactions whereby the right or interest of the owner is transferred to another person, and the granting of a lease for a period of thirty years or upwards, but does not include a transfer by operation of law.

(2) References in this Part of this Act to the improvement of dwellings shall be construed as including references to the alteration or enlargement thereof and to the execution of works of repair thereto, not being works of ordinary repair, and as including also references to the execution of works of ordinary repair thereto so far, but so far only, as the execution thereof is incidental to or connected with the execution of works of improvement, alteration or enlargement or of works of repair not being works of ordinary repair, and in this Part of this Act the expression “improved” shall be construed accordingly.

(3) A dwelling shall not be deemed for the purposes of this Part of this Act to be used for purposes other than those of a private dwelling-house by reason only that part thereof is used as a shop or office, or for business, trade or professional purposes.

(4) In determining for the purposes of this Part of this Act whether, as regards a dwelling provided or improved by means of improvement works in respect of the provision or improvement of which assistance has been given under section nine of this Act, a breach has occurred of the condition required by this Part of this Act to be observed as to the rent payable by an occupier of the dwelling, any property which, in the absence of express provision, would pass upon a conveyance in common form of the dwelling, and any yard, garden, outhouse and pertinents belonging to or usually enjoyed with the dwelling, shall be deemed to form part of the dwelling.

## PART III

EXCHEQUER CONTRIBUTIONS FOR NEW HOUSES AND HOSTELS  
AND FOR BUILDING EXPERIMENTS

26.—(1) Where the Secretary of State is satisfied, on an application made to him by a local authority with respect to a house which the authority have provided or intend to provide, that the cost of providing the house has been or will be substantially enhanced by expenses attributable to measures taken with his consent by the authority in the construction of the house (whether by the use of stone or other special material or otherwise howsoever) in order to preserve the character of the surroundings, then, if the house is or becomes one in respect of which an annual Exchequer contribution is payable under the Act of 1946—

Increased amount of Exchequer contribution for houses constructed to preserve character of surroundings.

- (a) the Secretary of State may, if he thinks fit, undertake to make, and make, in respect of the house, in addition to the appropriate contribution under section one or section three of the said Act payment, out of moneys provided by Parliament, to the local authority for a period of sixty years of an annual contribution of such amount not exceeding five pounds as he may determine; and
- (b) the local authority shall make, in addition to the contribution payable by them under section two or section four of the said Act, an annual contribution for the period of sixty years of an amount equal to one half of any additional contribution which the Secretary of State has undertaken to make under this section.

(2) Section three of the Housing (Scotland) Act, 1944 (which authorises the Secretary of State to make payments to the Scottish Special Housing Association in respect of certain houses provided by them), shall have effect as if the last foregoing subsection were included among the enactments mentioned in subsection (2) of the said section three.

(3) This section shall not apply to a house completed before the commencement of this Act.

27.—(1) In respect of a new building provided, or a building converted, by a local authority or development corporation for use as a hostel, being a building approved for the purposes of this subsection by the Secretary of State, the Secretary of State shall make to the authority or corporation, out of moneys provided by Parliament, a contribution—

Exchequer contributions for hostels.

- (a) payable annually for such number of financial years, not exceeding sixty, as he may determine, being years beginning with the year in which the building was, or, as the case may be, the works of conversion were, completed;

PART III  
—cont.

(b) of such amount, not exceeding the sum produced by multiplying seven pounds by the number of bedrooms contained in the building, as he may determine having regard to the standard of construction and amenity of the building.

(2) The like contribution, if any, shall be payable out of moneys provided by Parliament in respect of a building which, under arrangements made under section twenty-six of the Act of 1935 by a local authority with a housing association or development corporation, has been provided or converted by that association or corporation for use as a hostel as would be payable if the building had been provided or converted by the local authority for such use, and shall be paid by the Secretary of State to the authority, who shall pay to the association or corporation by way of annual grant an amount not less than the contribution :

Provided that—

(a) if the Secretary of State is satisfied that the association or corporation have made default in giving effect to the terms of the arrangements, he may reduce the amount of the contribution payable to the local authority under this subsection, or suspend or discontinue the payment thereof, as he thinks just ;

(b) if the Secretary of State reduces, or suspends or discontinues the payment of, the contribution, the local authority may reduce to a proportionate or any less extent the annual grant payable by them to the association or corporation, or may suspend the payment thereof for a corresponding period, or may discontinue the payment thereof, as the case may be.

(3) Where, in pursuance of an agreement or order made under the New Towns Act, 1946, a building provided or converted by a development corporation for use as a hostel, being a building in respect of which a contribution is for the time being payable under subsection (1) or (2) of this section, is transferred to a local authority, then—

(a) no further sums shall, after the time of the transfer, be payable under the said subsection (1) or the said subsection (2), as the case may be ; but

(b) the Secretary of State may, if he thinks fit, pay to the authority out of moneys provided by Parliament, sums not exceeding any sums which would, after that time, have become payable by him under the said subsection (1) or the said subsection (2), as the case may be, in respect of the building if all conditions precedent to the payment of the sums had been fulfilled.

(4) Where a building which, under arrangements made by a local authority under section twenty-six of the Act of 1935, has

been provided or converted by a housing association for use as a hostel becomes vested in the local authority, and at the time of the vesting the building is one in respect of which a contribution is payable under subsection (2) of this section, then—

- (a) no further sums shall, after the time of the vesting, be payable under that subsection ; but
- (b) the Secretary of State may, if he thinks fit, pay to the authority, out of moneys provided by Parliament, sums not exceeding any sums which would, after that time, have become payable by him under that subsection in respect of the building if all conditions precedent to the payment of the sums had been fulfilled.

(5) A building approved for the purposes of subsection (1) of this section shall not be included amongst the buildings an account of the income and expenditure of a local authority in respect whereof the authority are required by section thirty-nine of the Act of 1935 to keep :

Provided that if at any time the Secretary of State is satisfied that the building has ceased to be used as a hostel he may direct that it shall be so included.

(6) This section shall not apply to a new building completed or a building converted before the commencement of this Act or to any premises provided for the purpose of Part III of the National Assistance Act, 1948, by a local authority or to any housing accommodation for single persons in a hostel to which subsection (4) of section one of the Act of 1946 applies.

(7) In this section the expression “ hostel ” means a building wherein is provided, for persons generally or for any class or classes of persons, residential accommodation (otherwise than in separate and self-contained dwellings) and board.

## 28. Where—

- (a) the Secretary of State is satisfied on an application made to him by a local authority or the Scottish Special Housing Association or a development corporation with respect to a house which they have provided that the cost of providing the house has been substantially enhanced by reason of either or both of the following matters, namely,—

Exchequer  
contributions  
for  
building experi-  
ments.

- (i) that, with his consent, the house has been constructed in whole or in part by an experimental method ;

- (ii) that, with his consent, materials have, for the purposes of experiment, been used in the construction of the house or equipment or fittings have, for those purposes, been installed in the house in the course of the construction thereof ; or

PART III  
—cont.

- (b) with the consent of the Secretary of State expense is incurred by a local authority or the Scottish Special Housing Association or a development corporation in incorporating or installing in a house, otherwise than in the course of the construction thereof, materials, equipment or fittings for the purposes of experiment;

then, subject to such conditions (if any) as the Treasury may determine, the Secretary of State may make to the authority or Association or corporation out of moneys provided by Parliament, a contribution of such amount and payable in such manner as he may determine.

## PART IV

## MISCELLANEOUS AMENDMENTS OF LAW

Power of local authorities to make advances for purpose of increasing housing accommodation.

**29.**—(1) A local authority may, subject to such conditions as may be approved by the Secretary of State, advance money, subject to the provisions hereinafter contained, to any persons for the purpose of—

- (a) acquiring houses ;
- (b) constructing houses ;
- (c) converting into houses buildings which have been acquired by those persons or acquiring buildings and converting them into houses ; or
- (d) altering, enlarging, repairing or improving houses ;

whether the houses or buildings are within or outside the district of the authority.

(2) Before advancing money under this section for the purpose specified in paragraph (a) of the last foregoing subsection the local authority shall satisfy themselves that the house or houses to be acquired is or are, or will be made, in all respects fit for human habitation, and before so advancing money for any of the purposes specified in paragraphs (b) to (d) of that subsection the local authority shall satisfy themselves that the house or houses to be constructed, altered, enlarged, repaired or improved or into which the building or buildings is or are to be converted, as the case may be, will, when the construction, alteration, enlargement, improvement, repair or conversion has been completed, be in all respects so fit.

(3) The following provisions shall have effect with respect to an advance under this section :—

- (a) the advance, together with interest thereon, shall be secured by a bond and disposition in security of lands the subject of the carrying out of the purpose for which the advance is made or by an assignation in security of such a lease of those lands as is mentioned in paragraph (f) of this subsection ;

- (b) the amount of the principal of the advance shall not exceed, in the case of a house or houses to be acquired, ninety per cent. of the value of the subjects disposed or assigned in security, and, in any other case, ninety per cent. of the value which it is estimated the subjects disposed or assigned in security will bear when the construction, conversion, alteration, enlargement, improvement or repair has been carried out ;
- (c) the bond and disposition or assignation in security may provide for repayment being made either by instalments of principal or by an annuity of principal and interest combined so, however, that in the event of any of the conditions subject to which the advance is made not being complied with, the balance for the time being unpaid shall become repayable on demand by the local authority and that the said balance may, in any event, be repaid at any term of Whitsunday or Martinmas by the debtor after one month's written notice of intention to repay has been given to the local authority ;
- (d) where the advance is for any of the purposes specified in paragraphs (b) to (d) of subsection (1) of this section it may be made by instalments from time to time as the works of construction, conversion, alteration, enlargement, improvement or repair progress ;
- (e) the advance shall not be made except after a valuation duly made on behalf of the local authority ; and
- (f) no advance shall be made unless the estate in the lands proposed to be disposed or assigned in security is either ownership or a lease of which a period of not less than ten years in excess of the period fixed for the repayment of the advance remains unexpired on the date on which the assignation in security is granted.

(4) An advance under this section shall not be made in respect of any house if the estimated value thereof subject to feu duty, ground annual or other burden incident to tenure but free from other incumbrances exceeds five thousand pounds, but such an advance may be made in addition to assistance given by the local authority in respect of the same house under any other Act or any other provision of this Act. In the case of an advance for the construction of one or more structurally separate and self-contained flats the estimated value for the purposes of the foregoing limitation shall as respects any flat be the estimated value of the flat.

(5) Section seventy-four of the Act of 1925 shall cease to have effect and paragraphs (a) and (c) of subsection (1) of section seventy-five of that Act and section thirty-four of the Act of 1930 shall cease to have effect except as respects undertakings thereunder given before the commencement of this Act.

PART IV  
—cont.

Power of local  
authorities to  
guarantee  
repayment of  
advances by  
building  
societies.

**30.**—(1) A local authority may, in accordance with proposals in that behalf made by them and approved by the Secretary of State, guarantee the repayment to a society incorporated under the Building Societies Acts, 1874 to 1939, or the Industrial and Provident Societies Acts, 1893 to 1928, of any advances, with interest thereon, made by the society to any of its members for the purpose of enabling them to build or acquire houses, whether within or outside the district of the authority.

(2) Where, upon the submission to the Secretary of State by a local authority of proposals under this section, the Secretary of State is satisfied that the proposed guarantee extends only to the principal of, and interest on, the amount by which the sum to be advanced by the society in question exceeds the sum which would normally be advanced by it without the guarantee of the local authority, and that the liability under the guarantee of the local authority cannot be greater than two-thirds of that principal and interest, the Secretary of State, if he approves the proposals, may, with the consent of the Treasury, undertake to reimburse to the local authority out of moneys provided by Parliament not more than one-half of any loss sustained by them under the terms of the guarantee.

(3) Paragraph 3 of Part I of the Schedule to the Building Societies Act, 1939, (which paragraph specifies, as one of the classes of additional security which may be taken into account in determining the amount of advances by building societies to their members, a guarantee given by a local authority under paragraph (b) of subsection (1) of section seventy-five of the Housing (Scotland) Act, 1925), shall have effect as if after the words "the Housing (Scotland) Act, 1925" there were added the words "or section thirty of the Housing (Scotland) Act, 1949."

(4) Paragraph (b) of subsection (1) of section seventy-five of the Act of 1925 and section three of the Act of 1933 shall cease to have effect except as respects undertakings thereunder given before the commencement of this Act.

Power of local  
authorities to  
make  
allowances  
to certain  
persons  
displaced.

**31.**—(1) A local authority may pay to any person displaced from a house or building—

- (a) to which a clearance order or a demolition order or a closing order applies; or
- (b) which has been purchased by the local authority under Part III of the Act of 1925 or under the Act of 1930; or
- (c) which is to be demolished by the owner in accordance with an agreement made with the local authority under the Act of 1930,

such reasonable allowance as they think fit towards his expenses in removing, and to any person carrying on any trade or business in any such house or other building they may pay also



such reasonable allowance as they think fit towards the loss which, in their opinion, he will sustain by reason of the disturbance of his trade or business consequent on his having to quit the house or building, and in estimating that loss they shall have regard to the period for which the premises occupied by him might reasonably have been expected to be available for the purpose of his trade or business and the availability of other premises suitable for that purpose.

PART IV  
—cont.

(2) The power conferred on a local authority by the last foregoing subsection to make allowances towards the expenses incurred in removing by persons displaced in consequence of the execution by the authority of their powers shall include power to make allowances to persons so displaced temporarily in respect of expenses incurred by them in storage of furniture.

32.—(1) The power of a local authority under Part III of the Act of 1925 to provide housing accommodation shall include power to provide, in connection with the provision of such accommodation for any persons, such facilities for obtaining meals and such laundry facilities and services as accord with the needs of those persons.

Power of local  
authorities to  
provide  
board and  
laundry  
facilities.

(2) A local authority may make such reasonable charges for meals provided by them by virtue of this section and to persons availing themselves of laundry facilities or services so provided as the authority may determine.

(3) This section shall not authorise the grant of a certificate under the Licensing (Scotland) Acts, 1903 to 1934, for the sale of exciseable liquor in connection with the provision under this section of facilities for obtaining meals.

33.—(1) Without prejudice to their powers under subsection (2) of section forty-three of the Act of 1925 (which, amongst other things, empowers a local authority to fit out, furnish and supply a house erected, converted or acquired by them with all requisite furniture, fittings and conveniences), a local authority shall have power and be deemed always to have had power to sell, or supply under a hire-purchase agreement, furniture to the occupants of houses provided by the authority or by a housing association under arrangements made with the authority, and, for that purpose, to buy furniture.

Power of local  
authorities to  
sell furniture  
to persons  
housed by, or  
by arrangement  
with, them.

(2) In this section the expression "hire-purchase agreement" means a contract to which the Hire Purchase and Small Debt (Scotland) Act, 1932, applies or would apply if the limitation as to value contained in section one of that Act were omitted.

34.—(1) The purposes for which land may be acquired under Part III of the Act of 1925 by a local authority shall include—

(a) the carrying out thereon by them of works for the purpose of, or connected with, the alteration, enlargement, repair or improvement of an adjoining house ;

Acquisition of  
land for  
improvement  
of housing  
accommoda-  
tion.

PART IV  
—cont.

(b) the sale or lease of the land under the powers conferred by this section with a view to the carrying out on the land by a person other than the local authority of such works as aforesaid.

(2) Where a local authority have acquired any land for the purposes of paragraph (b) of the last foregoing subsection, they may, with the consent of the Secretary of State, sell or let the land to any person for the purpose and under the condition that that person will carry out thereon, in accordance with plans approved by the authority, the works with a view to the carrying out of which the land was acquired.

Amendment  
of s. 85 of  
Act of 1925.

35. The power of the sheriff under section eighty-five of the Act of 1925, to vary the conditions or restrictions of a feu charter or feu contract or the terms of a lease shall be exercisable in any case where planning permission has been granted under Part II of the Town and Country Planning (Scotland) Act, 1947, for the conversion of a single dwelling into two or more dwellings, in like manner as such power is exercisable on proof to the satisfaction of the sheriff that a house cannot readily be let as a single dwelling but could readily be let if converted into two or more dwellings.

Provisions  
as to  
re-development  
to cease to  
have effect.

36. Sections thirteen to eighteen and fifty of the Act of 1935 (which relate to re-development areas) shall cease to have effect except as regards re-development plans approved before the passing of this Act.

Minor  
amendments.

37. The amendments specified in the second column of the Third Schedule to this Act being amendments of a minor nature shall be made in the enactments specified in the first column of that Schedule.

Amendment  
and extension  
of s. 7 of the  
Building  
Materials and  
Housing Act,  
1945.

38.—(1) Subsection (1) of section seven of the Building Materials and Housing Act, 1945 (which, in the case of a house constructed under the authority of a building licence granted subject to a condition limiting the price for which the house may be sold or the rent at which it may be let, imposes a penalty on a person who, during the period of four years beginning with the passing of that Act, sells or offers to sell the house for a greater price than the price limited by the condition or lets or offers to let the house at a rent in excess of the rent so limited) shall have effect with the substitution, for the reference to that period, of a reference to the period of eight years beginning with the passing of that Act.

(2) The said subsection (1) shall apply in the case of a sale of, or an offer to sell, a house in course of construction under the authority of a building licence granted as mentioned in

that subsection as it applies to a sale of, or an offer to sell, a house constructed under the authority of a building licence so granted, and the remaining provisions of the said section seven and subsections (3) and (4) of section nine of that Act shall apply accordingly.

PART IV  
—cont.

(3) The said subsection (1) shall apply in the case of a sale of, or an offer to sell, a building of any kind converted, or in course of conversion, into a house or houses under the authority of a building licence granted as mentioned in that subsection, and in the case of a letting of, or an offer to let, a house provided by means of the conversion of a building of any kind under the authority of a building licence so granted as it applies to a sale of, or an offer to sell, or, as the case may be, a letting of, or an offer to let, a house constructed under the authority of a building licence so granted, and the remaining provisions of the said section seven and subsections (3) and (4) of section nine of that Act shall, with any requisite modifications, apply accordingly.

(4) For the purposes of the said section seven and of this section, where a building licence in respect of the carrying out of some, but not all, of the work requisite for constructing a house or for converting a building of any kind into a house or houses is granted as mentioned in the said subsection (1), then, notwithstanding that fact, the construction of the house or the conversion of the building shall be deemed to take place or to have taken place, as the case may be, under the authority of the licence.

(5) If, in the case of a house to which the said section seven applies, being a house on which works have been executed after the construction or provision thereof, an application in that behalf is made to the local authority for the purposes of section eight of the said Act of 1945 in the area of which the house is situated, the local authority may direct that for the purposes of the said section seven the price for which the house may be sold and the rent at which it may be let shall be increased by such amounts respectively as may be specified in the direction; and where a direction is given under this subsection in relation to a house on any occasion, references in the said section seven to the price for which the house may be sold and to the rent at which it may be let (other than the first of such references) shall, as respects any period after the giving of the direction and before a subsequent direction is given under this subsection in relation to the house, be construed in relation to the house as references to that price and to that rent as respectively increased in accordance with the direction given on that occasion and with any direction given under this subsection in relation to the house on a previous occasion.

PART IV  
—cont.

Amendment  
of s. 1 of the  
Small  
Dwellings  
Acquisition  
Act, 1899.

39. The limit fixed by subsection (1) of section one of the Small Dwellings Acquisition Act, 1899, on the market value of a house in respect of which an advance may be made under the Small Dwellings Acquisition (Scotland) Acts, 1899 to 1923, shall, in relation to an advance made after the commencement of this Act, be increased from fifteen hundred pounds to five thousand pounds.

Power to  
increase rent  
fixed under  
Housing  
(Rural  
Workers)  
Acts in  
certain cases.

40. If, in the case of a dwelling in respect of which assistance has been given under the Housing (Rural Workers) Act, 1926, by way of grant, being a dwelling to which works (other than works in respect of which assistance has been given under that Act by way of grant, or under section nine of this Act) have been executed at a time when conditions contained in the Housing (Rural Workers) Acts, 1926 to 1942, apply in relation to the dwelling, an application in that behalf is made to the local authority by whom the grant was made, they may direct that for the purposes of those Acts the maximum amount of the rent payable by the occupier in respect of the dwelling shall be increased by such amount as may be specified in the direction, not exceeding an amount calculated at a rate per annum of eight per cent. of the cost of executing the works ; and where a direction is given under this section in relation to a dwelling on any occasion, the reference in that one of the following provisions which is applicable to the dwelling, namely, paragraph (b) of subsection (1) of section three of the Housing (Rural Workers) Act, 1926, and section six of the Housing (Rural Workers) Amendment Act, 1938, to the amount which the rent payable by the occupier in respect of the dwelling is not to exceed shall, as respects any period after the giving of the direction and before a subsequent direction is given under this section in relation to the dwelling, be construed in relation to the dwelling as a reference to that amount as increased in accordance with the direction given on that occasion and with any direction given under this section in relation to the dwelling on a previous occasion.

Amendment  
of s. 16 of Act  
of 1930.

41. Where, in pursuance of subsection (2) of section sixteen of the Act of 1930, a local authority have accepted an undertaking that a dwelling house shall not be used for human habitation until the authority, on being satisfied that it has been rendered fit for that purpose, cancel the undertaking, and the house has not been so rendered fit to the satisfaction of the local authority within a period of three years from the date of the acceptance of the undertaking, or from the first day of January, nineteen hundred and forty-nine, whichever is the later, the undertaking shall, if the local authority so resolve, be deemed, for the purposes of subsection (3) of the said section, to have been broken, and the provisions of that subsection shall apply accordingly.

42. Where a building consists wholly of dwelling houses with respect to which closing orders have been made under Part II of the Act of 1930 and such orders have not been determined, the local authority, instead of applying to the Secretary of State for a compulsory purchase order, may, in the case of each of such dwelling houses, recall the closing order and shall have the like power to make a demolition order as they have under subsection (3) of section sixteen of the said Act in the absence or on the breach of such an undertaking as is therein mentioned, and the provisions of Part II of the said Act shall apply accordingly to any such demolition order.

PART IV  
—cont.  
Substitution  
of demolition  
order in  
certain  
circumstances.

43.—(1) Where apart from this section a local authority would be under a duty to make a demolition order under Part II of the Act of 1930 with respect to a house with respect to which a building preservation order under section twenty-seven of the Town and Country Planning (Scotland) Act, 1947, is in force, they shall instead make a closing order prohibiting the use of the house for human habitation, and shall serve a copy of the order upon every person upon whom they would be required by subsection (1) of section sixteen of the Act of 1930 to serve a notice issued by them under that subsection.

Preservation  
of certain  
houses unfit  
for human  
habitation.

(2) Where a building preservation order under the said section twenty-seven takes effect with respect to a house to which a demolition order made under Part II of the Act of 1930 by a local authority applies (whether or not that order has become operative), the local authority shall determine the demolition order and make a closing order prohibiting the use of the house for human habitation, and shall serve on every such person as aforesaid notice that the demolition order has been determined and a copy of the closing order.

(3) A local authority by whom a closing order is made under this section shall determine the order on being satisfied that the house to which it relates has been rendered fit for human habitation.

(4) The following provisions, namely,—

- (a) subsection (1) of section twenty-three and section twenty-five of the Act of 1925 (which contain provisions for the protection of superiors and of owners of houses);
- (b) subsection (2) of section nineteen of the Act of 1930 (which imposes a penalty for using premises in contravention of a closing order made under Part II of that Act);
- (c) section twenty of the Act of 1930 (which relates to appeals to the sheriff against notices, demands and orders under Part II of that Act); and

**PART IV**  
—*cont.*

(d) section thirty-one of this Act (which empowers local authorities to pay allowances to persons displaced from premises to which closing orders so made apply) ;

shall have effect in relation to a closing order made under this section, to a refusal to determine such an order, and to a house to which such an order applies as they have effect in relation to a closing order under Part II of the Act of 1930, to a refusal to determine such an order and to a house to which such an order applies as if references therein to a closing order included references to a closing order made under this section and references to Part II of the Act of 1930 included references to this section, and section twenty-nine of that Act (which empowers the sheriff to determine or vary a lease of premises in respect of which a demolition order has become operative) shall have effect in relation to a closing order made under this section which has become operative and to a house to which such an order applies as it has effect in relation to a demolition order which has become operative and to a house to which such an order applies, as if the references to a demolition order included a reference to a closing order made under this section.

Provision as to Housing Management Commissions to cease to have effect.

**44.** Section twenty-three of the Act of 1935 (which empowers local authorities to establish Housing Management Commissions) shall cease to have effect.

**PART V**  
**GENERAL**

Power of local authorities to borrow.

**45.**—(1) A local authority may borrow under section sixty-eight of the Act of 1925 for the purposes of this Act, and sections seventy-one and seventy-two of that Act (which respectively relate to the issue of local bonds and to the making of loans by the Public Works Loan Commissioners) shall have effect as if references to the purposes of this Act were included in the said sections.

(2) The repeal by this Act of sections seventy-four and seventy-five of the Act of 1925 and section thirty-four of the Act of 1930, shall not affect the power of a local authority to borrow under that Act for the purpose of an advance made or undertaking given under either of those sections or the power of the Public Works Loan Commissioners to lend money to a local authority for any such purpose.

Time and manner of payment of Exchequer contributions.

**46.** Subsection (2) of section sixteen of the Act of 1946 (which relates to the time and manner of payment of contributions to be made by the Secretary of State to local authorities under certain enactments) shall have effect as if this Act were included among the Acts therein mentioned.

**47.** There shall be defrayed out of moneys provided by Parliament—

PART V  
—cont.

- (a) any increase in the sums payable under section thirty-nine of the Act of 1930 or Part II of the Local Government Act, 1948, out of moneys so provided which is attributable to the passing of this Act; and
- (b) any increase in the sums payable under section twenty-six of the Act of 1935 or under the Act of 1946 out of moneys so provided which is attributable to the removal from the Housing (Scotland) Acts, 1925 to 1946, of references to the working classes.

Expenses.

**48.—**(1) This Act shall be construed as one with the Housing Interpretation (Scotland) Acts, 1925 to 1946.

(2) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

“the Act of 1946” means the Housing (Financial Provisions) (Scotland) Act, 1946;

“development corporation” means a corporation established by an order under section two of the New Towns Act, 1946, by the Secretary of State;

“house” includes any part of a building, being a part which is occupied or intended to be occupied as a separate dwelling, and, in particular, includes a flat;

“sell” and “sale” include feu.

(3) References in this Act to any enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended by any subsequent enactment including this Act.

**49.—**(1) This Act may be cited as the Housing (Scotland) Act, 1949, and the Housing (Scotland) Acts, 1925 to 1946, and this Act may be cited together as the Housing (Scotland) Acts, 1925 to 1949.

Short title,  
citation, extent  
and repeal.

(2) This Act shall extend to Scotland only.

(3) The enactments mentioned in the first and second columns of the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule except, in the case of the enactments mentioned in Part I of the said Schedule, as regards re-development plans approved before the passing of this Act.

## SCHEDULES

## Section 1.

## FIRST SCHEDULE

AMENDMENTS OF THE HOUSING (SCOTLAND) ACTS, 1925 TO 1946  
DELETING REFERENCES TO THE WORKING CLASSES*The Housing (Scotland) Act, 1925*  
15 & 16 Geo. 5. c. 15

Provision amended and subject matter thereof	Amendment
Section thirteen ... (Prohibition of back-to-back houses).	In subsection (1) the words " for the working classes " shall be omitted.
Section twenty-four ... (Extension of power of making byelaws respecting houses divided into separate dwellings).	In subsection (1) the words " in the case of houses intended for the working classes " shall be omitted.
Section forty-three ... (Provision of houses).	In subsection (1) the words " for the working classes ", in both places where they occur, shall be omitted and in paragraph (c) the words " suitable for the purpose " shall be omitted.
Section forty-four ... (Purposes for which land may be acquired by a local authority).	In subsection (1) in paragraphs (a) and (c) the words " for the working classes " shall be omitted; and for paragraph (b) there shall be substituted the following paragraph:— " (b) to acquire (i) houses; (ii) buildings other than houses, being buildings which may be made suitable as houses; together with any lands occupied with the houses or buildings, or any right or interest in houses or in such buildings as are mentioned in sub-paragraph (i) of this paragraph; "
Section forty-five ... (Powers of dealing with land acquired).	In subsection (1) in paragraph (b) for the words " that person will erect and maintain thereon such number of dwelling houses suitable for the working classes as may be fixed by the local authority in accordance with plans approved by them " there shall be substituted the words " that person will erect thereon in accordance with plans approved by the local authority, and maintain, such number of



Provision amended  
and subject matter  
thereof

Amendment

1st Sch.  
—cont.

*The Housing (Scotland) Act, 1925 (cont.)*

- Section forty-five (*cont.*)      houses of such types as may be specified by the authority ” ; and in paragraph (*d*) the words “ either in regard to the maintenance of the houses as dwelling-houses for the working classes or otherwise ” shall be omitted.
- Section fifty-seven ...      In subsection (1) the words “ for the working classes ” shall be omitted.  
(Power to promote and assist public utility societies).
- Section seventy-three ...      In subsection (1) the words “ for the working classes ” and the words “ which may be made suitable as dwelling-houses for the working classes ” shall be omitted; in subsection (2A) the words from “ being houses ” to “ receiving the advance ” shall be omitted; in subsection (4) the words “ for the working classes ” shall be omitted.  
(Loans to housing associations, etc.).
- Section seventy-nine ...      The words “ for persons of the working class ” shall be omitted.  
(Rehousing obligations).
- Section one hundred and six.      The words “ for the working classes ” shall be omitted.  
(Penalty for damage to houses).
- Section one hundred and ten.      The words “ for the working classes ” shall be omitted.  
(Power of heir of entail to sell or feu land for housing).
- Section one hundred and twelve.      For the words “ the housing of the working classes ” there shall be substituted the word “ housing ”.  
(Exclusion of application of Rent Restriction Acts).
- Fifth Schedule ...      In paragraph 1 the words “ working-men’s ” and the words “ belonging to the working class ” shall be omitted and for the words from “ For the purposes of this Schedule ” to the words “ by whom any houses are occupied ” there shall be substituted the words “ For the purpose of determining for the purposes of this Schedule the number of persons by whom any dwellings are occupied ”.  
(Rehousing in case of displacement).

1st SCH.  
—cont.Provision amended  
and subject matter  
thereof

Amendment

*The Housing (Scotland) Act, 1925 (cont.)*

- Fifth Schedule (cont.) In paragraph 2 the words “ of the working class ” in each place where they occur and the word “ working-men’s ” shall be omitted.
- In paragraph 4 the words “ for persons of the working class ” shall be omitted and for the words “ provisions requiring a certain standard of house to be erected ” there shall be substituted the words “ provisions with respect to the standards of the houses that are to be erected ”.
- In paragraph 6 the word “ working-men’s ” shall be omitted.
- In paragraph 9 the word “ working-men’s ” shall be omitted.
- In paragraph 12 sub-paragraph (e) shall be omitted.

*The Housing (Scotland) Act, 1930*

20 &amp; 21 Geo. 5. c. 40

- Section one ... .. In subsection (1) in paragraph (b) of the proviso, and in subsection (2) the words “ of the working classes ” shall be omitted.  
(Local authority may declare area to be a clearance area).
- Section nine ... .. The words “ of the working classes ” shall be omitted.  
(Obligations of local authority with respect to rehousing).
- Section fourteen ... In subsection (1) the words “ occupied or is of a type suitable for occupation by persons of the working classes ” shall be omitted.  
(Power of local authority to order works on insanitary house).
- Section sixteen ... .. In subsection (1) the words “ occupied or is of a type suitable for occupation by persons of the working classes ” shall be omitted.  
(Power of local authority to order demolition or closing of insanitary house).
- Section twenty-two ... In subsection (1) the words “ for the working classes ” in both places where they occur shall be omitted.  
(Duty of local authority to review housing conditions and to frame proposals).

Provision amended and subject matter thereof	Amendment —	1st SCH. —cont.
<i>The Housing (Scotland) Act, 1930 (cont.)</i>		
Section forty-nine (Interpretation).	... In subsection (2) the words "or of the general standard of housing accommodation for the working classes in the district" shall be omitted.	
<i>The Housing (Scotland) Act, 1935</i> 25 & 26 Geo. 5. c. 41		
Section one ... (Duty of local authority to inspect and report as to overcrowding).	... In subsection (1) the words "in so far as it is required for persons of the working classes" shall be omitted.	
Section twenty ... (Power of local authority to acquire houses and other buildings for housing purposes).	For subsection (5) there shall be substituted the following subsection:— " (5) Where a local authority acquire a building which may be made suitable as a house or a right or interest in such a building they shall forthwith proceed to secure that it is so made suitable either by themselves executing any necessary work or by selling, feuing or leasing it to some person subject to conditions for securing that he will so make it suitable".	
Section twenty-two ... (Scottish Housing Advisory Committee).	In subsection (1) in paragraph (d) the words "in relation to the general housing needs of the working classes" shall be omitted.	
Section twenty-five ... (Definition of "housing association").	The words "for the working classes" shall be omitted.	
Section twenty-six ... (Power of local authorities to make arrangements with housing associations).	In subsection (2) for the words "the housing of the working classes" there shall be substituted the word "housing".	
Section thirty-nine ... (Obligation to keep Housing Revenue Account).	In paragraph (d) the word "working-class" shall be omitted.	
Section forty ... (Credits and debits in Housing Revenue Account).	In subsection (1) in paragraph (i) the words "for the working classes" where those words first occur shall be omitted.	

1st Sch.  
—cont.Provision amended  
and subject matter  
thereof

Amendment

*The Housing (Scotland) Act, 1935 (cont.)*

- Section forty-seven ... For subsection (5) there shall be substituted  
(Conditions to be ... the following subsection :—  
observed in manage- ... “(5) The authority may grant to any  
ment of houses). ... tenant such rebates from rent subject to  
such terms and conditions as they may  
think fit.”
- Section eighty-five ... For the words “ the housing of the working  
(Fair wages). ... classes ” there shall be substituted the  
word “ housing ”.

*The Housing (Agricultural Population) (Scotland) Act, 1938*

1 &amp; 2 Geo. 6. c. 38

- Section sixteen ... The words “ of the working classes ” shall  
(Additional power of ... be omitted.  
Secretary of State  
where local author-  
ity are in default).
- Section twenty-one ... In subsection (1) in the definition of  
(Interpretation). ... “ agricultural population ” the words “ of  
the working classes ” in both places  
where those words occur shall be omitted.

*The Housing (Scotland) Act, 1944*

7 &amp; 8 Geo. 6. c. 39

- Section three ... In subsection (1) the words “ for the work-  
(Grants to Scottish ... ing classes ” and the word “ such ” where  
Special Housing ... it first occurs shall be omitted.  
Association).

*The Housing (Financial Provisions) (Scotland) Act, 1946*

9 &amp; 10 Geo. 6. c. 54

- Section one ... In subsection (1) the words “ for the work-  
(Exchequer contribu- ... ing classes ” shall be omitted.  
tions in respect of  
housing accommo-  
dation provided by  
local authorities).
- Section seventeen ... In subsection (2) the words “ for the  
(Amendment of law ... working classes ” shall be omitted.  
as to housing  
accounts)

## SECOND SCHEDULE

Section 6.

ADAPTATIONS OF THE HOUSING (SCOTLAND) ACTS, 1925 TO 1946,  
CONSEQUENTIAL ON PART II OF THIS ACT

1. Section thirty-nine of the Act of 1935 shall have effect as if dwellings provided or improved by a local authority in accordance with approved improvement proposals and land acquired or appropriated by a local authority for the purpose of carrying out such proposals were included amongst the houses and dwellings and land an account of the income and expenditure of the authority in respect whereof the authority are required by that section to keep, and references in section forty of that Act (which relates to credits and debits in Housing Revenue Accounts) to such houses, buildings, land or dwellings as are mentioned in the said section thirty-nine shall be construed accordingly.

2. The section which is directed by subsection (1) of section seventy-six of the Act of 1935 to be substituted for section thirty-seven of the Act of 1930 (and which relates to the failure of a local authority to exercise powers) shall have effect as if the reference to the Housing (Scotland) Acts, 1925 to 1935, included a reference to this Act.

3. Section forty-six of the Act of 1935 (which empowers the Secretary of State to withhold Exchequer contributions in the event of default by a local authority to discharge duties or exercise powers) shall have effect as if the Act of 1946 and this Act and Exchequer contributions thereunder were included among the Acts and Exchequer contributions mentioned in the said section.

4. The Third Schedule to the Act of 1935 shall have effect as if—

(a) at the end of Part I there were added the following words—

“ 12. Sections two and twenty-six of the Housing (Scotland) Act, 1949 ” ; and

(b) in Part III, after paragraph 8C there were inserted the following paragraph—

“ 8D. The contributions payable by the local authority under sections five and twenty-six of the Housing (Scotland) Act, 1949.”

## THIRD SCHEDULE

Section 37.

## MINOR AMENDMENTS

Section amended	Nature of Amendment
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*The Housing (Scotland) Act, 1925*15 & 16 *Geo. 5. c. 15*

Section forty-three	... In subsection (3) the words from “lodging-houses” to “case of a cottage” shall be omitted.
Section forty-five	... Subsection (3) shall be omitted.
Section forty-six	... The section shall be omitted.
Section fifty-two	... The section shall be omitted.

3RD SCH.  
—cont.

Section amended	Nature of Amendment
<i>The Housing (Scotland) Act, 1925 (cont.)</i>	
Section fifty-three	... The section shall be omitted.
Section fifty-four	... In subsection (1), after the word "dwelling-houses" there shall be inserted the words "and dwellings"; and after the words "repealed by this Act" there shall be inserted the words "and of any dwellings in respect of which contributions are payable under section thirty-five of the Housing (Scotland) Act, 1935." In subsection (2), after the word "dwelling-houses" there shall be inserted the words "and dwellings".
Section fifty-five	... In subsection (1), after the word "dwelling-houses" there shall be inserted the words "and dwellings"; and subsection (2) shall be omitted.
Section fifty-six	... After the word "dwelling-house" there shall be inserted the words "or a dwelling".
Section fifty-seven	... In subsection (1), for the word "dwelling-house" there shall be substituted the words "housing accommodation".
Section fifty-eight	... The section shall be omitted.
Section fifty-nine	... The section shall be omitted.
Section sixty	... The section shall be omitted.
Section sixty-three	... The section shall be omitted.
Section sixty-four	... The section shall be omitted.
Section sixty-five	... The section shall be omitted.
Section seventy-three	... Subsections (6) and (8) shall be omitted and the remainder of the section shall cease to have effect except as regards loans to housing associations or to such persons as are mentioned in paragraph (b) of subsection (2) of the section.
Section seventy-eight	... The section shall be omitted.
Section eighty	... In subsection (4) the words "or housing trust" shall be omitted.
Section eighty-one	... The section shall be omitted.
Section eighty-four	... The proviso shall be omitted.
Section one hundred and ten.	The words "or housing trust" shall be omitted.
Section one hundred and sixteen.	The section shall be omitted.
Section one hundred and nineteen.	In the definition of "Burgh" for the words "Public Health (Scotland) Act, 1897" there shall be substituted the words "Local Government (Scotland) Act, 1947".
Fifth Schedule	... In paragraph 8, the words from "and subsections" to the end of the paragraph shall be omitted.

Section amended	Nature of Amendment	3RD SCH. —cont.
<i>The Housing (Scotland) Act, 1930</i>		
20 & 21 Geo. 5. c. 40		
Section four ...	... Subsection (2) shall be omitted.	
Section twenty-two ...	... Subsection (2) shall be omitted.	
Section thirty-six ...	... In subsection (2), in paragraph (c) for the words "Local Government (Scotland) Act, 1929" there shall be substituted the words "Local Government (Scotland) Act, 1947".	
Section forty-eight ...	... The section shall be omitted.	
Second Schedule ...	... In paragraph 2, in sub-paragraph (iv) the words "and addressed" shall be omitted and for the words "section one hundred and one of the Housing (Scotland) Act, 1925" there shall be substituted the words "subsection (3) of section five of the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947".	
<i>The Housing (Scotland) Act, 1935</i>		
25 & 26 Geo. 5. c. 41		
Section twenty-five ...	... For the word "houses" there shall be substituted the words "housing accommodation".	
Section twenty-six ...	... In subsection (1), paragraph (d) shall be omitted and in subsection (3) for the words "a house" "the house" and "houses" there shall be substituted the words "housing accommodation".	
Section seventy ...	... In subsection (1), for sub-paragraph (b) of paragraph (i) there shall be substituted the following sub-paragraph— “(b) the number of storeys in a block of flats and the arrangement of such blocks in relation to one another and the provision where necessary of passenger lifts.”	
Section eighty ...	... In subsection (3), for the words "either of the two foregoing subsections" there shall be substituted the words "the last foregoing subsection".	
Section eighty-four ...	... The section shall be omitted.	

3RD SCH.  
—cont.

Section amended

Nature of Amendment

*The Housing (Scotland) Act, 1935 (cont.)*

Section eighty-six ... In subsection (1), in the definition of "Large Burgh", for the words "Local Government (Scotland) Act, 1929" there shall be substituted the words "Local Government (Scotland) Act, 1947".

*The Housing (Agricultural Population) (Scotland) Act, 1938*

1 &amp; 2 Geo. 6. c. 38

Section twenty ... For the words "seventy-five of the Act of 1925" there shall be substituted the words "section twenty-nine of the Housing (Scotland) Act, 1949".

*The Housing (Financial Provisions) (Scotland) Act, 1946*

9 &amp; 10 Geo. 6. c. 54

Section one ... In subsection (2), in paragraph (a) of the proviso, the words "in tenements" in both places where those words occur, shall be omitted; in paragraph (b) of the proviso, for the word "tenement" in each place where it occurs there shall be substituted the words "block of flats", and for the word "houses" there shall be substituted the word "flats", and the following words shall be added at the end of subsection (4):—

"In this section the expression 'hostel' means a building providing residential accommodation for single persons consisting of separate and self-contained dwellings for each of such persons, together with other accommodation available for all of such persons whether or not services (including board and laundry or other facilities or services) are provided."

Section twenty ... After subsection (3), there shall be inserted the following subsection—

"(4) In this Act—  
the expression "dwelling-house" includes "flat", the expression "flat" means a separate and self-contained set of premises constructed for use for the purposes of a dwelling and forming part of a building from some other part of which it is divided



## Section amended

## Nature of Amendment

3RD SCH.  
—cont.*The Housing (Financial Provisions) (Scotland) Act, 1946 (cont.)*

Section twenty—cont.

horizontally, and the expression "block of flats" means a building which contains two or more flats and which consists of three or more storeys exclusive of any storey which is constructed for use for purposes other than those of a dwelling:

Provided that a building shall, notwithstanding that it does not in all parts exceed two storeys in height, be deemed to be a building of three storeys, if the Secretary of State is satisfied that for architectural or other reasons it is desirable to confine the height of part of the building to two storeys".

## FOURTH SCHEDULE

Section 49.

## PART I

ENACTMENTS REPEALED EXCEPT AS REGARDS RE-DEVELOPMENT  
PLANS APPROVED BEFORE THE PASSING OF THIS ACT

Session and Chapter	Short Title	Extent of Repeal
25 & 26 Geo. 5. c. 41.	The Housing (Scotland) Act, 1935.	Sections thirteen to eighteen; section fifty and fifty-one; in section eighty, in subsection (1) the words "or of the provisions of Part I of this Act relating to re-development areas", subsection (2); and in subsection (4) the words "or subsection (2)"; in section eighty-one, the words "or under the provisions of Part I of this Act relating to re-development areas"; in section eighty-two, in subsection (1), the words "or under section fifteen of this Act", and the words "or the provisions of Part I of this Act relating to re-development areas", and in subsection (4) the words "or this Act"; the Second Schedule; in the Fifth Schedule, in the amendment of section thirty-two of the Act of 1925 the words "or a re-development plan", and the words from "and at the

4TH SCH.  
—cont.

Session and Chapter	Short Title	Extent of Repeal
25 & 26 Geo. 5. c. 41—cont.	The Housing (Scotland) Act, 1935—cont.	end” to “or re-development plan” where those words occur for the second time, and the amendment of section one hundred and twelve of the Act of 1925.
9 & 10 Geo. 6. c. 54.	The Housing (Financial Provisions) (Scotland) Act, 1946.	In section one, in paragraph (a) of the proviso to subsection (2), sub-paragraph (i) and the words “in the re-development area”.

## PART II

## ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 5. c. 15.	The Housing (Scotland) Act, 1925.	<p>In section thirteen, in subsection (1) the words “for the working classes”.</p> <p>In section twenty-four, in subsection (1) the words “in the case of houses intended for the working classes”.</p> <p>In the heading of Part III, the words “FOR THE WORKING CLASSES”.</p> <p>In section forty-three, in subsection (1) the words “for the working classes” in both places where they occur; in paragraph (c) the words “suitable for the purpose”; and in subsection (3) the words from “lodging houses” to “case of a cottage”.</p> <p>In section forty-four, in subsection (1) in paragraphs (a) and (c) the words “for the working classes”.</p> <p>In section forty-five, in subsection (1), in paragraph (d) the words “either in regard to the maintenance of the house as a dwelling-house for the working classes or otherwise”; and subsection (3).</p> <p>Section forty-six. Section fifty-two. Section fifty-three. Section fifty-five, subsection (2).</p>

4TH SCH.  
—cont.

Session and Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 5. c. 15—cont.	The Housing (Scotland) Act, 1925—cont.	<p>In section fifty-seven, in subsection (1) the words "for the working classes".</p> <p>Section fifty-nine.</p> <p>Section sixty.</p> <p>Section sixty-four.</p> <p>Section sixty-five.</p> <p>In section seventy-three, in subsection (1), the words "for the working classes", and the words "which may be made suitable as dwelling-houses for the working classes"; in subsection (2A) the words from "being houses" to "receiving the advance"; in subsection (4) the words "for the working classes"; subsections (6) to (8); and the remainder of the section except as regards loans to housing associations, or to such persons as are mentioned in paragraph (b) of subsection (2) of the section.</p> <p>Sections seventy-four and seventy-five, except as regards undertakings given before the commencement of this Act.</p> <p>Section seventy-eight.</p> <p>In section seventy-nine, the words "for persons of the working class".</p> <p>In section eighty, in subsection (4) the words "or housing trust".</p> <p>Section eighty-one.</p> <p>In section eighty-four, the proviso.</p> <p>In section one hundred and six, the words "for the working classes".</p> <p>In section one hundred and ten, the words "or housing trust" and "for the working classes".</p> <p>Section one hundred and sixteen.</p> <p>In section one hundred and nineteen, the definition of "Housing trust".</p> <p>In the Fifth Schedule, in the heading, the words "IN CASE OF DISPLACEMENT OF PERSONS OF THE WORKING CLASSES"; in paragraph 2 the words "of the working class" in each place where they occur and the word "working-men's"; in paragraph 4 the words "for persons</p>

4TH SCH.  
—cont.

Session and Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 5. c. 15—cont.	The Housing (Scotland) Act, 1925—cont.	of the working class"; in paragraph 6 the word "workingmen's"; in paragraph 8 the words from "and subsection" to the end of the paragraph; and in paragraph 12, sub-paragraph (e).
20 & 21 Geo. 5. c. 40.	The Housing (Scotland) Act, 1930.	In section one, in subsection (1), in paragraph (b) of the proviso and in subsection (2) the words "of the working classes". In section four, subsection (2). In section nine, the words "of the working classes". In section fourteen, in subsection (1) the words "occupied or is of a type suitable for occupation by persons of the working classes". In section sixteen, in subsection (1) the words "occupied or is of a type suitable for occupation by persons of the working classes". In section twenty-two, in subsection (1) the words "for the working classes" in both places where they occur; and subsection (2). Section thirty. Section thirty-four. Section forty-eight. In section forty-nine, in subsection (2) the words "or of the general standard of housing accommodation for the working classes in the district".
23 & 24 Geo. 5. c. 16.	The Housing (Financial Provisions) (Scotland) Act, 1933.	Section three, except as respects undertakings given before the commencement of this Act.
25 & 26 Geo. 5. c. 41.	The Housing (Scotland) Act, 1935.	In section one, in subsection (1) the words "in so far as it is required for persons of the working classes". In section twenty-two, in subsection (1), paragraph (b) and in paragraph (d) the words "in relation to the general housing needs of the working classes". Sections twenty-three and twenty-four. In section twenty-five, the words "for the working classes".

4TH SCH.  
—cont.

Session and Chapter	Short Title	Extent of Repeal
25 & 26 Geo. 5. c. 41—cont.	The Housing (Scotland) Act, 1935—cont.	In section thirty-nine, in paragraph (d) the word "working-class". In section forty, in subsection (1), in paragraph (i) the words "for the working classes", in the first place where those words occur. Section sixty-seven. Section eighty-four.
1 & 2 Geo. 6. c. 38.	The Housing (Agricultural Population) (Scotland) Act, 1938.	In section three, subsection (3). In section sixteen, the words "of the working classes". In section twenty-one, in subsection (1), in the definition of "agricultural population" the words "of the working classes" in both places where those words occur.
2 & 3 Geo. 6. c. 3.	The Housing (Financial Provisions) (Scotland) Act, 1938.	In section nine, paragraph (b) and the proviso.
7 & 8 Geo. 6. c. 39.	The Housing (Scotland) Act, 1944.	In section three, in subsection (1) the words "for the working classes" and the word "such" where it first occurs.
9 & 10 Geo. 6. c. 20.	The Building Materials and Housing Act, 1945.	In section six, subsection (2). In section ten, subsection (6).
9 & 10 Geo. 6. c. 54.	The Housing (Financial Provisions) (Scotland) Act, 1946.	In section one, in subsection (1) the words "for the working classes", and in subsection (2) in paragraph (a) of the proviso the words "in tenements" in both places where those words occur. In section seventeen, in subsection (2) the words "for the working classes".

TABLE OF STATUTES REFERRED TO IN THIS ACT

Short Title	Session and Chapter
Small Dwellings Acquisition Act, 1899 ... ..	62 & 63 Vict. c. 44.
Housing (Scotland) Act, 1925 ... ..	15 & 16 Geo. 5. c. 15.
Housing (Rural Workers) Act, 1926 ... ..	16 & 17 Geo. 5. c. 56.
Hire Purchase and Small Debt (Scotland) Act, 1932.	22 & 23 Geo. 5. c. 38.
Rent and Mortgage Interest Restrictions (Amendment) Act, 1933.	23 & 24 Geo. 5. c. 32.
Housing (Rural Workers) Amendment Act, 1938	1 & 2 Geo. 6. c. 35.
Housing (Agricultural Population) (Scotland) Act, 1938.	1 & 2 Geo. 6. c. 38.
Building Societies Act, 1939 ... ..	2 & 3 Geo. 6. c. 55.
Housing (Scotland) Act, 1944 ... ..	7 & 8 Geo. 6. c. 39.
Building Materials and Housing Act, 1945 ... ..	9 & 10 Geo. 6. c. 20.
Housing (Financial Provisions) (Scotland) Act, 1946.	9 & 10 Geo. 6. c. 54.
New Towns Act, 1946 ... ..	9 & 10 Geo. 6. c. 68.
Hill Farming Act, 1946 ... ..	9 & 10 Geo. 6. c. 73.
Town and Country Planning (Scotland) Act, 1947	10 & 11 Geo. 6. c. 53.
National Assistance Act, 1948 ... ..	11 & 12 Geo. 6. c. 29.
Agriculture (Scotland) Act, 1948 ... ..	11 & 12 Geo. 6. c. 45.

## CHAPTER 62

### *Patents and Designs Act, 1949*

#### ARRANGEMENT OF SECTIONS

##### PART I

##### PATENTS

##### *Application for patent, grant of patent, etc.*

##### Section.

1. Application for patent by assignee.
2. Amendments relating to specifications.
3. Date and term of patent.
4. Priority date of claims of complete specification.
5. Publication of matter described in provisional specification or priority document.
6. Additional powers of comptroller in relation to applications.
7. Additional grounds of opposition to grant of patent.
8. Amendment of patent granted to deceased applicant.
9. Extension of term of patent.
10. Patents of addition.
11. Substitution of applicants, etc.
12. Restoration of lapsed applications for patents.

##### *Licences of right and revocation*

13. Voluntary indorsement of patents.
14. Revocation of patent by court.

*Abuse and insufficient use of patent rights*

## Section.

15. Repeal of principal Act, ss. 27 and 38A (3).
16. Compulsory licences.
17. Provisions as to licences under s. 16.
18. Exercise of powers on applications under s. 16.
19. Indorsement of patent on application of Government department.
20. Inventions relating to food or medicine, etc.
21. Revocation of patent.
22. Procedure and evidence on application under ss. 16 to 21.
23. Appeal and references to arbitrator.
24. Supplementary provisions as to orders under ss. 16 to 21.

*Use of patented inventions for services of the Crown*

25. Repeal of principal Act, s. 29.
26. Effect of patent as against Crown.
27. Use of patented inventions for services of the Crown.
28. Rights of third parties in respect of use for services of the Crown.
29. Reference of disputes as to use for services of the Crown.
30. Special provisions as to Crown user during emergency.

*Provision for secrecy of certain inventions*

31. Provisions for ensuring secrecy in respect of inventions relevant for defence purposes.
32. Amendment of Atomic Energy Act, 1946, section 12.

*Legal Proceedings*

33. Appointment of scientific advisers.
34. Order for account in action for infringement.
35. Proceedings by licensee for infringement.
36. Threats of legal proceedings, and additional power to make declaration as to non-infringement.
37. Reference to comptroller of disputes as to infringement.

*Co-ownership of patents, etc.*

38. Co-ownership of patents.
39. Disputes as to inventions made by employees.
40. Claims for chemical substances.

PART II

DESIGNS

41. System of registration of designs.
42. Revised definition of "design" and "article".
43. Effects of copyright and legal proceedings.
44. Provisions for ensuring secrecy in respect of designs relevant for defence purposes.

PART III

GENERAL

45. Registration of assignments, etc.
46. Preparation of documents by patent agents.
47. Appeals from decisions of the comptroller.
48. Appeals from decisions of the comptroller in Scottish cases.

## Section.

- 49. Increase of number of judges of High Court.
- 50. Interpretation and construction.
- 51. Amendments, repeals and transitional provisions.
- 52. Application to Northern Ireland.
- 53. Short title and commencement.

## SCHEDULES:

- First Schedule.—Minor and consequential amendments of principal Act.
- Second Schedule.—Provisions of principal Act repealed.
- Third Schedule.—Transitional Provisions.

**An Act to amend the enactments relating to Patents and Designs and to provide for the appointment of an additional puisne judge of the High Court.**  
[30th July 1949]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART I

## PATENTS

*Application for patent, grant of patent, etc.*

Application  
for patent  
assignee.

1.—(1) An application for a patent for an invention may be made under the principal Act by any person being the assignee of the person claiming to be the true and first inventor in respect of the right to make such an application, and may be made by that person either alone or jointly with any other person.

(2) Where an application for a patent (not being a convention application) is made under the principal Act by virtue of an assignment of the right to make such an application, there shall be furnished with the application or within such period as may be prescribed after the filing of the application a declaration, signed by the person claiming to be the true and first inventor or his personal representative, stating that he assents to the making of the application.

Amendments  
relating to  
specifications.

2.—(1) Every complete specification filed in pursuance of an application for a patent shall disclose the best method of performing the invention which is known to the applicant and for which he is entitled to claim protection.

(2) The claim or claims of a complete specification must be clear and succinct and must be fairly based on the matter disclosed in the specification.



(3) Rules made by the Board of Trade under the principal Act may require that in such cases as may be prescribed by the rules, a declaration as to the inventorship of the invention, in such form as may be so prescribed, shall be furnished with the complete specification or within such period as may be so prescribed after the filing of that specification.

(4) Subject to the foregoing provisions of this section and of subsection (2) of section fourteen of the principal Act, a complete specification filed after a provisional specification, or filed with a convention application, may include claims in respect of developments of or additions to the invention which was described in the provisional specification or, as the case may be, the invention in respect of which the application for protection was made in a convention country, being developments or additions in respect of which the applicant would be entitled under the provisions of the principal Act as amended by this Act to make a separate application for a patent.

(5) Where a complete specification claims a new substance, the claim shall be construed as not extending to that substance when found in nature.

3.—(1) Every patent granted after the commencement of this Act, including a patent granted in pursuance of a convention application, shall be dated with the date of filing of the complete specification : Date and term of patent.

Provided that no proceedings shall be taken in respect of an infringement committed before the date of the publication of the complete specification.

(2) Except as otherwise expressly provided by the principal Act, the term of every patent granted after the commencement of this Act shall be sixteen years from the date of the patent.

(3) The date of every patent granted as aforesaid shall be entered in the register of patents.

4.—(1) Every claim of a complete specification shall have effect from the date prescribed by this section in relation to that claim (in this Act referred to as the priority date) ; and a patent shall not be invalidated by reason only of the publication or use of the invention, so far as claimed in any claim of the complete specification, on or after the priority date of that claim, or by the grant of another patent upon a specification claiming the same invention in a claim of the same or later priority date. Priority date of claims of complete specification.

(2) Where the complete specification is filed in pursuance of a single application accompanied by a provisional specification

**PART I**  
**—cont.**

or a specification which is treated by virtue of a direction under subsection (3) of section three of the principal Act as a provisional specification, and the claim is fairly based on the matter disclosed in that specification, the priority date of that claim shall be the date of filing of the application.

(3) Where the complete specification is filed or proceeded with in pursuance of two or more applications accompanied by such specifications as are mentioned in the last foregoing subsection, and the claim is fairly based on the matter disclosed in one of those specifications, the priority date of that claim shall be the date of filing of the application accompanied by that specification.

(4) Where the complete specification is filed in pursuance of a convention application, and the claim is fairly based on the matter disclosed in the application for protection in a convention country or, where the convention application is founded upon more than one such application for protection, in one of those applications, the priority date of that claim shall be the date of the relevant application for protection.

(5) For the purposes of this Act and the principal Act, matter shall be deemed to have been disclosed in an application for protection in a convention country if it was claimed or disclosed (otherwise than by way of disclaimer or acknowledgment of prior art) in that application or in documents submitted by the applicant for protection in support of and at the same time as that application; but no account shall be taken of any disclosure effected by any such document unless a copy of the document is filed at the Patent Office with the convention application or within such period as may be prescribed after the filing of that application.

(6) Where, under the foregoing provisions of this section, any claim of a complete specification would, but for this provision, have two or more priority dates, the priority date of that claim shall be the earlier or earliest of those dates.

(7) In any case to which subsections (2) to (6) of this section do not apply, the priority date of a claim shall be the date of filing of the complete specification.

Publication of  
matter  
described in  
provisional  
specification  
or priority  
document.

5. Notwithstanding anything in the principal Act or this Act, the comptroller shall not refuse to grant a patent, and a patent shall not be revoked or invalidated—

(a) where the complete specification is filed or proceeded with in pursuance of an application which was accompanied by a provisional specification or by a specification treated by virtue of a direction under subsection (3)

of section three of the principal Act as amended by this Act as a provisional specification, by reason only that any matter described in the provisional specification or in the specification treated as aforesaid as a provisional specification was used or published at any time after the date of filing of that specification ;

- (b) where the complete specification is filed in pursuance of a convention application, by reason only that any matter disclosed in any application for protection in a convention country upon which the convention application is founded was used or published at any time after the date of that application for protection.

6.—(1) If in consequence of the investigations required by sections seven and eight or of proceedings under sections eleven and twenty-six of the principal Act it appears to the comptroller that an invention in respect of which application for a patent has been made cannot be performed without substantial risk of infringement of a claim of any other patent, he may direct that a reference to that other patent shall be inserted in the applicant's complete specification by way of notice to the public unless within such time as may be prescribed either—

Additional powers of comptroller in relation to applications.

- (a) the applicant shows to the satisfaction of the comptroller that there are reasonable grounds for contesting the validity of the said claim of the other patent ;  
or  
(b) the complete specification is amended to the satisfaction of the comptroller.

(2) Where, after a reference to another patent has been inserted in a complete specification in pursuance of a direction under the foregoing subsection—

- (a) that other patent is revoked or otherwise ceases to be in force ; or  
(b) the specification of that other patent is amended by the deletion of the relevant claim ; or  
(c) it is found, in proceedings before the court or the comptroller, that the relevant claim of that other patent is invalid or is not infringed by any working of the applicant's invention,

the comptroller may, on the application of the applicant, delete the reference to that other patent.

(3) The powers of the comptroller under the foregoing provisions of this section may be exercised either before or after the complete specification has been accepted or a patent granted to the applicant, and the references in those provisions to the applicant shall accordingly be construed as including references to the patentee.

PART I  
—cont.

(4) If at any time after the acceptance of the complete specification filed in pursuance of an application for a patent and before the grant of a patent thereon it comes to the notice of the comptroller, otherwise than in consequence of proceedings in opposition to the grant under section eleven of the principal Act, that the invention, so far as claimed in any claim of the complete specification, has, before the priority date of the claim, been published in the United Kingdom otherwise than as mentioned in subsection (1) of section forty-one of the principal Act, the comptroller may refuse to grant the patent unless within such time as may be prescribed the complete specification is amended to his satisfaction.

(5) No amendment of a complete specification shall be made in pursuance of the last foregoing subsection, and no such amendment shall be made in pursuance of subsection (1) of this section after the acceptance of the specification—

- (a) otherwise than by way of disclaimer, correction or explanation ; or
- (b) (except for the purpose of correcting an obvious mistake) so that the specification as amended would claim or describe matter not in substance disclosed in the specification before the amendment or that any claim of the specification as amended would not fall wholly within the scope of a claim of the specification before the amendment.

(6) An appeal shall lie from any decision or direction of the comptroller under this section.

Additional grounds of opposition to grant of patent.

7. An application for a patent may be opposed under section eleven of the principal Act upon any of the following grounds, in addition to the grounds mentioned in that section, that is to say—

- (a) that the invention, so far as claimed in any claim of the complete specification, was used in the United Kingdom before the priority date of that claim ;
- (b) that the invention, so far as claimed in any claim of the complete specification, is obvious and clearly does not involve any inventive step having regard to matter published in the United Kingdom, before the priority date of the claim, in any specification or other document (not being a specification or document of any class described in subsection (1) of section forty-one of the principal Act) or having regard to what was used in the United Kingdom before that date ;
- (c) that the subject of any claim of the complete specification is not an invention within the meaning of the principal Act ;

(d) in the case of a convention application, that the application was not made within twelve months from the date of the first application for protection for the invention made in a convention country by the applicant or a person from whom he derives title:

PART I  
—cont.

Provided that for the purposes of paragraph (a) or paragraph (b) of this section no account shall be taken of any secret use.

8. Where, at any time after a patent has been sealed in pursuance of an application under the principal Act, the comptroller is satisfied that the person to whom the patent was granted had died, or (in the case of a body corporate) had ceased to exist, before the patent was sealed, he may amend the patent by substituting for the name of that person the name of the person to whom the patent ought to have been granted; and the patent shall have effect, and shall be deemed always to have had effect, accordingly.

Amendment  
of patent  
granted to  
deceased  
applicant.

9.—(1) An order for the extension of the term of a patent may be made under subsection (5) of section eighteen of the principal Act (which provides for extension on the ground of inadequate remuneration) notwithstanding that one or more orders have been made in relation to the same patent under subsection (6) of that section (which provides for extension on the ground of war loss); but not more than one order shall be made under the said subsection (5) in relation to the same patent.

Extension of  
term of patent.

(2) An order for the extension of the term of a patent may be made under the said subsection (6) on the application of a person holding a licence from the patentee giving to the licensee, or to the licensee and persons authorised by him, to the exclusion of all other persons, permission to make, use, exercise and vend the invention if the court or comptroller is satisfied that the licensee as such has suffered any such loss or damage as is mentioned in that subsection.

10.—(1) Subject to the provisions of this section, a patent in respect of an improvement or modification of an invention (in this Act referred to as "the main invention") may be granted as a patent of addition under subsection (2) of section nineteen of the principal Act notwithstanding that the application for that patent was made at the same time as or before the application for the patent for the main invention.

Patents of  
addition.

(2) A patent shall not be granted as a patent of addition under subsection (2) or subsection (3) of the said section nineteen unless the date of filing of the complete specification was the same as or later than the date of filing of the complete specification in respect of the main invention.

PART I  
—cont.

(3) A patent of addition shall not be sealed before the sealing of the patent for the main invention ; and if the period within which, but for this provision, a request for the sealing of a patent of addition could be made expires before the period within which a request for the sealing of the patent for the main invention may be made, the request for the sealing of the patent of addition may be made at any time within the last-mentioned period.

(4) The grant of a patent of addition shall not be refused, and a patent granted as a patent of addition shall not be revoked or invalidated, on the ground only that the invention claimed in the complete specification does not involve any inventive step having regard to any publication or use of—

(a) the main invention described in the complete specification relating thereto ; or

(b) any improvement in or modification of the main invention described in the complete specification of a patent of addition to the patent for the main invention or of an application for such a patent of addition.

(5) An appeal shall lie from any decision of the comptroller under the said section nineteen.

Substitution of  
applicants, etc.

**11.**—(1) If the comptroller is satisfied, on a claim made in the prescribed manner at any time before a patent has been granted, that by virtue of any assignment or agreement made by the applicant or one of the applicants for the patent, or by operation of law, the claimant would, if the patent were then granted, be entitled thereto or to the interest of the applicant therein, or to an undivided share of the patent or of that interest, the comptroller may, subject to the provisions of this section, direct that the application shall proceed in the name of the claimant or in the names of the claimant and the applicant or the other joint applicant or applicants, according as the case may require.

(2) No such direction as aforesaid shall be given by virtue of any assignment or agreement made by one of two or more joint applicants for a patent except with the consent of the other joint applicant or applicants.

(3) No such direction as aforesaid shall be given by virtue of any assignment or agreement for the assignment of the benefit of an invention unless either—

(a) the invention is identified therein by reference to the number of the application for the patent ; or

(b) there is produced to the comptroller an acknowledgment by the person by whom the assignment or agreement was made that the assignment or agreement relates to the invention in respect of which that application is made ; or

(c) the rights of the claimant in respect of the invention have been finally established by a decision of any court or by a determination of the comptroller or the Appeal Tribunal under the following provisions of this Act.

(4) Where one of two or more joint applicants for a patent dies at any time before the patent has been granted, the comptroller may, upon a request in that behalf made by the survivor or survivors, and with the consent of the personal representative of the deceased, direct that the application shall proceed in the name of the survivor or survivors alone.

(5) An appeal shall lie from any decision of the comptroller under this section.

12.—(1) Where a patent has not been sealed by reason only for that purpose by or under the principal Act, then if the comptroller is satisfied, upon application made within six months after the expiration of that time by the applicant for the patent, that the failure to make the request was unintentional, he may order the patent to be sealed notwithstanding that the prescribed request was not made as aforesaid. Restoration  
of lapsed  
applications  
for patents.

(2) An application under this section shall contain a statement (to be verified in such manner as may be prescribed) fully setting out the circumstances which led to the failure to make the prescribed request; and the comptroller may require from the applicant such further evidence as he may think necessary.

(3) If after hearing the applicant (if the applicant so requires or the comptroller thinks fit) the comptroller is satisfied that a prima facie case has been made out for an order under this section, he shall advertise the application in the Journal; and within the prescribed period any person may give notice to the comptroller of opposition thereto on the ground that the failure to make the prescribed request was not unintentional.

(4) If notice of opposition is given within the period aforesaid, the comptroller shall notify the applicant and shall give to him and to the opponent an opportunity to be heard before he decides the case.

(5) If no notice of opposition is given within the period aforesaid, or if in the case of opposition the decision of the comptroller is in favour of the applicant, the comptroller shall, upon payment of the fee prescribed in respect of the making of the request for sealing and of such additional fee as may be prescribed, make the order in accordance with the application.

(6) An order under this section for the sealing of a patent shall contain such provision as may be prescribed for the protection of persons who may have begun to avail themselves of

PART I  
—cont.

the invention between the date when the time allowed by or under the principal Act for making the prescribed request expired and the date of the application under this section.

(7) An appeal shall lie from any decision of the comptroller under this section.

*Licences of right and revocation*Voluntary  
indorsement  
of patents.

13.—(1) The comptroller shall not be required to advertise a request under section twenty-four of the principal Act for the indorsement of a patent with the words “licences of right” but shall notify the request to any person entered on the register as entitled to an interest in the patent and shall give that person an opportunity of being heard before acting upon the request.

(2) Where the indorsement of a patent is cancelled in pursuance of an application under subsection (3) of the said section twenty-four, the rights and liabilities of the patentee shall thereafter be the same as if the indorsement had not been made; and the patentee shall be liable to pay, within such period as may be prescribed, a sum equal to the balance of all renewal fees which would have been payable if the patent had not been indorsed, and if that sum is not paid within that period the patent shall cease to have effect at the expiration of that period.

(3) An application made under the said section twenty-four by the patentee or any other person for the cancellation of the indorsement of a patent of addition shall be treated as an application for the cancellation of the indorsement of the patent for the main invention also, and an application so made for the cancellation of the indorsement of a patent in respect of which a patent of addition is in force shall be treated as an application for the cancellation of the indorsement of the patent of addition also.

(4) Where a patent has been indorsed under the said section twenty-four the comptroller may, on the application of the holder of any licence granted under the patent before the indorsement, order the licence to be exchanged for a licence to be granted by virtue of the indorsement upon such terms as may, in default of agreement, be settled by the comptroller on the application of the patentee or the holder of the licence which is to be exchanged.

(5) An appeal shall lie from any decision of the comptroller under the last foregoing subsection.

Revocation of  
patent by  
court.

14.—(1) The following section shall be substituted for section twenty-five of the principal Act:—

“25.—(1) Subject to the provisions of this Act, a patent may, on the petition of any person interested, be revoked



by the court on any of the following grounds, that is to say—

PART I  
—cont.

- (a) that the invention, so far as claimed in any claim of the complete specification, was claimed in a valid claim of earlier priority date contained in the complete specification of another patent granted in the United Kingdom ;
- (b) that the patent was granted on the application of a person not entitled under the provisions of this Act to apply therefor ;
- (c) that the patent was obtained in contravention of the rights of the petitioner or any person under or through whom he claims ;
- (d) that the subject of any claim of the complete specification is not an invention within the meaning of this Act ;
- (e) that the invention, so far as claimed in any claim of the complete specification, is not new having regard to what was known or used, before the priority date of the claim, in the United Kingdom ;
- (f) that the invention, so far as claimed in any claim of the complete specification, is obvious and does not involve any inventive step having regard to what was known or used, before the priority date of the claim, in the United Kingdom ;
- (g) that the invention, so far as claimed in any claim of the complete specification, is not useful ;
- (h) that the complete specification does not sufficiently and fairly describe the invention and the method by which it is to be performed, or does not disclose the best method of performing it which was known to the applicant for the patent and for which he was entitled to claim protection ;
- (i) that the scope of any claim of the complete specification is not sufficiently and clearly ascertained, or that any claim of the complete specification is not fairly based on the matter disclosed in the specification ;
- (j) that the patent was obtained on a false suggestion or representation ;
- (k) that the primary or intended use or exercise of the invention is contrary to law ;
- (l) that the invention, so far as claimed in any claim of the complete specification, was secretly used in the United Kingdom, otherwise than as mentioned in subsection (2) of this section, before the priority date of that claim.

PART I  
—CONT.

(2) For the purposes of paragraph (l) of subsection (1) of this section no account shall be taken of any use of the invention—

- (a) for the purpose of reasonable trial or experiment only; or
- (b) by a Government department or any person authorised by a Government department, in consequence of the applicant for the patent, or any person from whom he derives title, having communicated or disclosed the invention directly or indirectly to a Government department or person authorised as aforesaid; or
- (c) by any other person in consequence of the applicant for the patent, or any person from whom he derives title, having communicated or disclosed the invention and without the consent or acquiescence of the applicant or of any person from whom he derives title;

and for the purposes of paragraph (e) or paragraph (f) of the said subsection (1) no account shall be taken of any secret use.

(3) Without prejudice to the provisions of subsection (1) of this section, a patent may be revoked by the court on the petition of a Government department, if the court is satisfied that the patentee has without reasonable cause failed to comply with a request of the department to make, use or exercise the patented invention for the services of the Crown upon reasonable terms.

(4) Every ground on which a patent may be revoked shall be available as a ground of defence in any proceedings for the infringement of the patent.”

(2) The following subsection shall be substituted for subsection (3) of section ninety-four of the principal Act:—

“(3) Proceedings for revocation of a patent shall be in the form of an action of reduction, and service of all writs and summonses in that action shall be made according to the form and practice existing at the commencement of this Act.”

*Abuse and insufficient use of patent rights*

Repeal of  
principal Act,  
ss. 27 and  
38A (3).

15. The following nine sections of this Act shall have effect in substitution for the provisions of section twenty-seven and subsection (3) of section thirty-eight A of the principal Act, and accordingly those provisions shall cease to have effect.

Compulsory  
licences.

16.—(1) At any time after the expiration of three years from the date of the sealing of a patent, any person interested may apply to the comptroller upon any one or more of the grounds

specified in the next following subsection for a licence under the patent or for the indorsement of the patent with the words "licences of right".

PART I  
—cont.

(2) The grounds upon which application may be made for an order under this section are as follows, that is to say—

- (a) that the patented invention, being capable of being commercially worked in the United Kingdom, is not being commercially worked therein or is not being so worked to the fullest extent that is reasonably practicable ;
- (b) that a demand for the patented article in the United Kingdom is not being met on reasonable terms, or is being met to a substantial extent by importation ;
- (c) that the commercial working of the invention in the United Kingdom is being prevented or hindered by the importation of the patented article ;
- (d) that by reason of the refusal of the patentee to grant a licence or licences on reasonable terms—
  - (i) a market for the export of the patented article manufactured in the United Kingdom is not being supplied ; or
  - (ii) the working or efficient working in the United Kingdom of any other patented invention which makes a substantial contribution to the art is prevented or hindered ; or
  - (iii) the establishment or development of commercial or industrial activities in the United Kingdom is unfairly prejudiced ;
- (e) that, by reason of conditions imposed by the patentee upon the grant of licences under the patent, or upon the purchase, hire or use of the patented article or process, the manufacture, use or sale of materials not protected by the patent or the establishment or development of commercial or industrial activities in the United Kingdom is unfairly prejudiced.

(3) Subject as hereinafter provided, the comptroller may, if satisfied that any of the grounds aforesaid are established, make an order in accordance with the application ; and where the order is for the grant of a licence, it may require the licence to be granted upon such terms as the comptroller thinks fit :

Provided that—

- (a) where the application is made on the ground that the patented invention is not being commercially worked in the United Kingdom or is not being worked to the fullest extent that is reasonably practicable, and it appears to the comptroller that the time which has

PART I  
—cont.

elapsed since the sealing of the patent has for any reason been insufficient to enable it to be so worked, he may by order adjourn the application for such period as will in his opinion give sufficient time for the invention to be so worked ;

- (b) an order shall not be made under this section for the indorsement of a patent on the ground that a market for the export of the patented article is not being supplied and any licence granted under this section on that ground shall contain such provisions as appear to the comptroller to be expedient for restricting the countries in which the patented article may be sold or used by the licensee ;
- (c) no order shall be made under this section in respect of a patent on the ground that the working or efficient working in the United Kingdom of another patented invention is prevented or hindered unless the comptroller is satisfied that the patentee in respect of that other invention is able and willing to grant to the patentee and his licensees a licence in respect of that other invention on reasonable terms.

(4) An application under this section may be made by any person notwithstanding that he is already the holder of a licence under the patent ; and no person shall be estopped from alleging any of the matters specified in subsection (2) of this section by reason of any admission made by him, whether in such a licence or otherwise, or by reason of his having accepted such a licence.

(5) In this section the expression “ patented article ” includes any article made by a patented process.

Provisions  
as to licences  
under s. 16.

17.—(1) Where the comptroller is satisfied, on application made under the last foregoing section, that the manufacture, use or sale of materials not protected by the patent is unfairly prejudiced by reason of conditions imposed by the patentee upon the grant of licences under the patent, or upon the purchase, hire or use of the patented article or process, he may, subject to the provisions of that section, order the grant of licences under the patent to such customers of the applicant as he thinks fit as well as to the applicant.

(2) Where an application under the last foregoing section is made by a person being the holder of a licence under the patent, the comptroller may, if he makes an order for the grant of a licence to the applicant, order the existing licence to be cancelled, or may, if he thinks fit, instead of making an order for the grant of a licence to the applicant, order the existing licence to be amended.

(3) Where on an application under the last foregoing section the comptroller orders the grant of a licence, he may direct that the licence shall operate—

- (a) to deprive the patentee of any right which he may have as patentee to make, use, exercise or vend the invention or to grant licences under the patent ;
- (b) to revoke all existing licences in respect of the invention.

(4) Paragraph (d) of subsection (1) of section twenty-four of the principal Act shall apply to any licence granted in pursuance of an order under the last foregoing section as it applies to a licence granted by virtue of the said section twenty-four.

18.—(1) The powers of the comptroller upon an application under section sixteen of this Act shall be exercised with a view to securing the following general purposes, that is to say:—

Exercise of powers on applications under s. 16.

- (a) that inventions which can be worked on a commercial scale in the United Kingdom and which should in the public interest be so worked shall be worked therein without undue delay and to the fullest extent that is reasonably practicable ;
- (b) that the inventor or other person beneficially entitled to a patent shall receive reasonable remuneration having regard to the nature of the invention ;
- (c) that the interests of any person for the time being working or developing an invention in the United Kingdom under the protection of a patent shall not be unfairly prejudiced.

(2) Subject to the foregoing subsection, the comptroller shall, in determining whether to make an order in pursuance of any such application, take account of the following matters, that is to say—

- (a) the nature of the invention, the time which has elapsed since the sealing of the patent and the measures already taken by the patentee or any licensee to make full use of the invention ;
- (b) the ability of any person to whom a licence would be granted under the order to work the invention to the public advantage ; and
- (c) the risks to be undertaken by that person in providing capital and working the invention if the application is granted ;

but shall not be required to take account of matters subsequent to the making of the application.

PART I  
—cont.

Indorsement of  
patent on  
application of  
Government  
department.

19.—(1) At any time after the expiration of three years from the date of the sealing of a patent, any Government department may apply to the comptroller upon any one or more of the grounds specified in section sixteen of this Act for the indorsement of the patent with the words “licences of right” or for the grant to any person specified in the application of a licence under the patent; and the comptroller may, if satisfied that any of those grounds are established, make an order in accordance with the application.

(2) Subsections (3) and (5) of section sixteen of this Act and sections seventeen and eighteen of this Act shall, so far as applicable, apply in relation to an application and an order under the last foregoing subsection as they apply in relation to an application and an order under the said section sixteen.

(3) Where according to a report of the Monopolies and Restrictive Practices Commission as laid before Parliament under section nine of the Monopolies and Restrictive Practices (Inquiry and Control) Act, 1948, conditions to which that Act applies prevail in respect of the supply of goods of any description which consist of or include patented articles, or in respect of exports of such goods, or in respect of the application to goods of any description of any process which consists of or includes a patented process, and not earlier than three months from the date on which the report was laid before the Commons House of Parliament a resolution has been passed by that House declaring that those conditions or any things which, according to the report as laid before Parliament, are done by the parties concerned, as a result of or for the purpose of preserving those conditions, operate or may be expected to operate against the public interest, a competent authority within the meaning of the said Act of 1948 may apply to the comptroller for an order under the next following subsection in respect of the patent.

(4) If upon an application under the last foregoing subsection it appears to the comptroller that the matters which, according to the resolution mentioned in that subsection, operate or may be expected to operate against the public interest include—

- (a) any conditions in a licence or licences granted by the patentee under the patent restricting the use of the invention by the licensee or the right of the patentee to grant other licences under the patent; or
- (b) a refusal by the patentee to grant licences under the patent on reasonable terms,

he may by order cancel or modify any such condition as aforesaid or may, if he thinks fit, instead of making such an order or in addition to making such an order, order the patent to be indorsed with the words “licences of right”.

- 20.**—(1) Without prejudice to the foregoing provisions of this Act, where a patent is in force in respect of—
- PART I  
—cont.
- (a) a substance capable of being used as food or medicine or in the production of food or medicine; or Inventions relating to food or medicine, etc.
- (b) a process for producing such a substance as aforesaid; or
- (c) any invention capable of being used as or as part of a surgical or curative device,

the comptroller shall, on application made to him by any person interested, order the grant to the applicant of a licence under the patent on such terms as he thinks fit unless it appears to him that there are good reasons for refusing the application.

(2) In settling the terms of licences under this section the comptroller shall endeavour to secure that food, medicines, and surgical and curative devices shall be available to the public at the lowest prices consistent with the patentees' deriving a reasonable advantage from their patent rights.

(3) A licence granted under this section shall entitle the licensee to make, use, exercise and vend the invention as a food or medicine or for the purposes of the production of food or medicine or as or as part of a surgical or curative device, but for no other purposes.

**21.**—(1) Where an order for the grant of a licence under a patent has been made in pursuance of an application under section sixteen of this Act, any person interested may, at any time after the expiration of two years from the date of that order, apply to the comptroller for the revocation of the patent upon any of the grounds specified in subsection (2) of the said section sixteen; and if upon any such application the comptroller is satisfied—

- (a) that any of the said grounds are established; and
- (b) that the purposes for which an order may be made in pursuance of an application under the said section sixteen could not be achieved by the making of any such order as is authorised to be made in pursuance of such an application,

he may order the patent to be revoked.

(2) An order for the revocation of a patent under this section may be made so as to take effect either unconditionally or in the event of failure to comply, within such reasonable period as may be specified in the order, with such conditions as may be imposed by the order with a view to achieving the purposes aforesaid; and the comptroller may, on reasonable cause shown in any case, by subsequent order extend any period so specified.

PART I  
—cont.

Procedure and  
evidence on  
application  
under  
ss. 16 to 21.

**22.**—(1) Every application under sections sixteen to twenty-one of this Act shall specify the nature of the order sought by the applicant and shall contain a statement (to be verified in such manner as may be prescribed) setting out the nature of the applicant's interest (if any) and the facts upon which the application is based.

(2) Where the comptroller is satisfied, upon consideration of any such application, that a prima facie case has been made out for the making of an order, he shall direct the applicant to serve copies of the application upon the patentee and any other persons appearing from the register of patents to be interested in the patent in respect of which the application is made, and shall advertise the application in the Journal.

(3) The patentee or any other person desiring to oppose the application may, within such time as may be prescribed or within such further time as the comptroller may on application made either before or after the expiration of the prescribed time allow, give to the comptroller notice of opposition.

(4) Any such notice of opposition shall contain a statement (to be verified in such manner as may be prescribed) setting out the grounds on which the application is opposed.

(5) Where any such notice of opposition is duly given, the comptroller shall notify the applicant, and shall, subject to the provisions of the next following section with respect to arbitration, give to the applicant and the opponent an opportunity to be heard before deciding the case.

(6) In any proceedings on an application made in relation to a patent under sections sixteen to twenty-one of this Act, any statement with respect to the making, using, exercising or vending of the patented invention, or with respect to the grant or refusal of licences under the patent, contained in a Report of the Monopolies and Restrictive Practices Commission as laid before Parliament under section nine of the Monopolies and Restrictive Practices (Inquiry and Control) Act, 1948, shall be prima facie evidence of the matters stated.

Appeal and  
references to  
arbitrator.

**23.**—(1) An appeal shall lie from any order made by the comptroller in pursuance of an application under sections sixteen to twenty-one of this Act.

(2) Where any such application is opposed in accordance with the last foregoing section, and either—

(a) the parties consent ; or

(b) the proceedings require a prolonged examination of documents or any scientific or local investigation which cannot in the opinion of the comptroller conveniently be made before him,

the comptroller may at any time order the whole proceedings, or any question or issue of fact arising therein, to be referred



to an arbitrator agreed on by the parties, or in default of agreement appointed by the comptroller.

PART I  
—cont.

(3) Where the whole proceedings are referred as aforesaid, section nine of the Arbitration Act, 1934 (which relates to the statement of cases by arbitrators) shall not apply to the arbitration; but unless the parties otherwise agree before the award of the arbitrator is made, an appeal shall lie from the award to the Appeal Tribunal.

(4) Where a question or issue of fact is referred as aforesaid, the arbitrator shall report his findings to the comptroller.

(5) On any appeal under this section the Attorney General or such other counsel as he may appoint shall be entitled to appear and be heard.

24.—(1) An order may be made on an application under sections sixteen to nineteen of this Act for the indorsement of a patent with the words "licences of right" notwithstanding any contract which would have precluded the indorsement of the patent on the application of the patentee under section twenty-four of the principal Act; and any such order shall for all purposes have the same effect as an indorsement made in pursuance of an application under the said section twenty-four.

Supplementary provisions as to orders under ss. 16 to 21.

(2) No order shall be made in pursuance of any application under sections sixteen to twenty-one of this Act which would be at variance with any treaty, convention, arrangement or engagement applying to the United Kingdom and any convention country.

#### *Use of patented inventions for services of the Crown*

25. The following five sections of this Act shall have effect in substitution for section twenty-nine of the principal Act, and accordingly that section shall cease to have effect.

Repeal of principal Act, s. 29.

26.—(1) Subject to the provisions of this Act and of subsection (3) of section three of the Crown Proceedings Act, 1947, a patent shall have the same effect against the Crown as it has against a subject.

Effect of patent as against Crown.

(2) Nothing in this Act shall affect the right of the Crown or of any person deriving title directly or indirectly from the Crown to sell or use any articles forfeited under the laws relating to customs or excise.

27.—(1) Notwithstanding anything in the principal Act, any Government department, and any person authorised in writing by a Government department, may make, use and exercise any patented invention for the services of the Crown in accordance with the following provisions of this section.

Use of patented inventions for services of the Crown.

**PART I**  
**—cont.**

(2) If and so far as the invention has before the priority date of the relevant claim of the complete specification been duly recorded by or tried by or on behalf of a Government department otherwise than in consequence of the communication thereof directly or indirectly by the patentee, or any person from whom he derives title, any use of the invention by virtue of this section may be made free of any royalty or other payment to the patentee.

(3) If and so far as the invention has not been so recorded or tried as aforesaid, any use of the invention made by virtue of this section at any time after the acceptance of the complete specification in respect of the patent, or in consequence of any such communication as aforesaid, shall be made upon such terms as may be agreed upon, either before or after the use, between the Government department and the patentee with the approval of the Treasury, or as may in default of agreement be determined by the court on a reference under section twenty-nine of this Act.

(4) The authority of a Government department in respect of an invention may be given under this section either before or after the patent is granted and either before or after the acts in respect of which the authority is given are done, and may be given to any person whether or not he is authorised directly or indirectly by the patentee to make, use, exercise or vend the invention.

(5) Where any use of an invention is made by or with the authority of a Government department under this section, then, unless it appears to the department that it would be contrary to the public interest so to do, the department shall notify the patentee as soon as practicable after the use is begun, and furnish him with such information as to the extent of the use as he may from time to time require.

(6) For the purposes of this and the next following section, any use of an invention for the supply to the government of any country outside the United Kingdom, in pursuance of any agreement or arrangement between His Majesty's Government in the United Kingdom and the government of that country, of articles required for the defence of that country shall be deemed to be a use of the invention for the services of the Crown; and the power of a Government department or a person authorised by a Government department under this section to make, use and exercise an invention shall include power—

(a) to sell such articles to the government of any country in pursuance of any such agreement or arrangement as aforesaid; and

(b) to sell to any person any articles made in the exercise of the powers conferred by this section which are no longer required for the purpose for which they were made.

PART I  
—cont.

(7) The purchaser of any articles sold in the exercise of powers conferred by this section, and any person claiming through him, shall have power to deal with them in the same manner as if the patent were held on behalf of His Majesty.

28.—(1) In relation to any use of a patented invention, or an invention in respect of which an application for a patent is pending, made for the services of the Crown—

Rights of third parties in respect of use for services of the Crown.

(a) by a Government department or a person authorised by a Government department under the last foregoing section ; or

(b) by the patentee or applicant for the patent to the order of a Government department,

the provisions of any licence, assignment or agreement made, whether before or after the commencement of this Act, between the patentee or applicant for the patent or any person who derives title from him or from whom he derives title and any person other than a Government department shall be of no effect so far as those provisions restrict or regulate the use of the invention, or any model, document or information relating thereto, or provide for the making of payments in respect of any such use, or calculated by reference thereto ; and the reproduction or publication of any model or document in connection with the said use shall not be deemed to be an infringement of any copyright subsisting in the model or document.

(2) Where an exclusive licence granted otherwise than for royalties or other benefits determined by reference to the use of the invention is in force under the patent, then—

(a) in relation to any use of the invention which, but for the provisions of this and the last foregoing section, would constitute an infringement of the rights of the licensee, subsection (3) of the last foregoing section shall have effect as if for the reference to the patentee there were substituted a reference to the licensee ; and

(b) in relation to any use of the invention by the licensee by virtue of an authority given under the last foregoing section, that section shall have effect as if the said subsection (3) were omitted.

(3) Subject to the provisions of the last foregoing subsection, where the patent, or the right to apply for or obtain the patent, has been assigned to the patentee in consideration of royalties

PART I  
—cont.

or other benefits determined by reference to the use of the invention, then—

- (a) in relation to any use of the invention by virtue of section twenty-seven of this Act, subsection (3) of that section shall have effect as if the reference to the patentee included a reference to the assignor, and any sum payable by virtue of that subsection shall be divided between the patentee and the assignor in such proportion as may be agreed upon between them or as may in default of agreement be determined by the court on a reference under the next following section ; and
- (b) in relation to any use of the invention made for the services of the Crown by the patentee to the order of a Government department, subsection (3) of section twenty-seven of this Act shall have effect as if that use were made by virtue of an authority given under that section.

(4) Where, under subsection (3) of section twenty-seven of this Act, payments are required to be made by a Government department to a patentee in respect of any use of an invention, any person being the holder of an exclusive licence under the patent (not being such a licence as is mentioned in subsection (2) of this section) authorising him to make that use of the invention shall be entitled to recover from the patentee such part (if any) of those payments as may be agreed upon between that person and the patentee, or as may in default of agreement be determined by the court under the next following section to be just having regard to any expenditure incurred by that person—

- (a) in developing the said invention ; or
- (b) in making payments to the patentee, other than royalties or other payments determined by reference to the use of the invention, in consideration of the licence ;

and if, at any time before the amount of any such payment has been agreed upon between the Government department and the patentee, that person gives notice in writing of his interest to the department, any agreement as to the amount of that payment shall be of no effect unless it is made with his consent.

Reference of  
disputes as to  
use for  
Services of the  
Crown.

29.—(1) Any dispute as to the exercise by a Government department or a person authorised by a Government department of the powers conferred by section twenty-seven of this Act, or as to terms for the use of an invention for the services of the Crown thereunder, or as to the right of any person to receive any part of a payment made in pursuance of subsection (3) of that section, may be referred to the court by either party to the dispute in such manner as may be prescribed by rules of court.

(2) In any proceedings under this section to which a Government department are a party, the department may—

- (a) if the patentee is a party to the proceedings, apply for revocation of the patent upon any ground upon which a patent may be revoked under section twenty-five of the principal Act as amended by this Act ;
- (b) in any case, put in issue the validity of the patent without applying for its revocation.

(3) If in such proceedings as aforesaid any question arises whether an invention has been recorded or tried as mentioned in section twenty-seven of this Act, and the disclosure of any document recording the invention, or of any evidence of the trial thereof, would in the opinion of the department be prejudicial to the public interest, the disclosure may be made confidentially to counsel for the other party or to an independent expert mutually agreed upon.

(4) In determining under this section any dispute between a Government department and any person as to terms for the use of an invention for the services of the Crown, the court shall have regard to any benefit or compensation which that person or any person from whom he derives title may have received, or may be entitled to receive, directly or indirectly from any Government department in respect of the invention in question.

(5) In any proceedings under this section the court may at any time order the whole proceedings or any question or issue of fact arising therein to be referred to a special or official referee or an arbitrator on such terms as the court may direct ; and references to the court in the foregoing provisions of this section shall be construed accordingly.

30.—(1) During any period of emergency within the meaning of this section, the powers exercisable in relation to an invention by a Government department, or a person authorised by a Government department under section twenty-seven of this Act shall include power to make, use, exercise and vend the invention for any purpose which appears to the department necessary or expedient—

Special provisions as to Crown user during emergency.

- (a) for the efficient prosecution of any war in which His Majesty may be engaged ;
- (b) for the maintenance of supplies and services essential to the life of the community ;
- (c) for securing a sufficiency of supplies and services essential to the well-being of the community ;
- (d) for promoting the productivity of industry, commerce and agriculture ;

PART I  
—cont.

- (e) for fostering and directing exports and reducing imports, or imports of any classes, from all or any countries and for redressing the balance of trade ;
- (f) generally for ensuring that the whole resources of the community are available for use, and are used, in a manner best calculated to serve the interests of the community ; or
- (g) for assisting the relief of suffering and the restoration and distribution of essential supplies and services in any part of His Majesty's dominions or any foreign countries that are in grave distress as the result of war ;

and any reference in that section or in section twenty-eight or section twenty-nine of this Act to the services of the Crown shall be construed as including a reference to the purposes aforesaid.

(2) In this section the expression "period of emergency" means the period ending with the tenth day of December, nineteen hundred and fifty, or such later date as may be prescribed by Order in Council, and any other period beginning on such date as may be declared by Order in Council to be the commencement, and ending on such date as may be so declared to be the termination, of a period of emergency for the purposes of this section.

(3) A draft of any Order in Council under this section shall be laid before Parliament ; and the draft shall not be submitted to His Majesty except in pursuance of an Address presented by each House of Parliament praying that the Order be made.

*Provision for secrecy of certain inventions*

Provisions for ensuring secrecy in respect of inventions relevant for defence purposes.

31.—(1) Where, either before or after the commencement of this Act, an application for a patent has been made in respect of an invention, and it appears to the comptroller that the invention is one of a class notified to him by a competent authority as relevant for defence purposes, he may give directions for prohibiting or restricting the publication of information with respect to the invention, or the communication of such information to any person or class of persons specified in the directions ; and while such directions are in force the application may, subject to the directions, proceed up to the acceptance of the complete specification, but the acceptance shall not be advertised nor the specification published, and no patent shall be granted in pursuance of the application.

(2) Where the comptroller gives any such directions as aforesaid, he shall give notice of the application and of the directions

to a competent authority, and thereupon the following provisions shall have effect, that is to say:—

PART I  
—cont.

- (a) the competent authority shall, upon receipt of such notice, consider whether the publication of the invention would be prejudicial to the defence of the realm and unless a notice under paragraph (c) of this subsection has previously been given by that authority to the comptroller, shall reconsider that question before the expiration of nine months from the date of filing of the application for the patent and at least once in every subsequent year;
- (b) for the purpose aforesaid, the competent authority may, at any time after the complete specification has been accepted or, with the consent of the applicant, at any time before the complete specification has been accepted, inspect the application and any documents furnished to the comptroller in connection therewith;
- (c) if upon consideration of the invention at any time it appears to the competent authority that the publication of the invention would not, or would no longer, be prejudicial to the defence of the realm, that authority shall give notice to the comptroller to that effect;
- (d) on the receipt of any such notice the comptroller shall revoke the directions and may, subject to such conditions, if any, as he thinks fit, extend the time for doing anything required or authorised to be done by or under the principal Act in connection with the application, whether or not that time has previously expired.

(3) Where a complete specification filed in pursuance of an application for a patent for an invention in respect of which directions have been given under this section or under section twelve of the Atomic Energy Act, 1946, is accepted during the continuance in force of the directions, then—

- (a) if any use of the invention is made during the continuance in force of the directions by or on behalf of or to the order of a Government department, the provisions of sections twenty-seven to thirty of this Act shall apply in relation to that use as if the patent had been granted for the invention; and
- (b) if it appears to a competent authority that the applicant for the patent has suffered hardship by reason of the continuance in force of the directions, that authority may, with the consent of the Treasury, make to him such payment by way of compensation (if any) as appears to them to be reasonable having regard to the novelty and utility of the invention and the purpose for which it is designed, and to any other relevant circumstances.

PART I  
—cont.

(4) Where a patent is granted in pursuance of an application in respect of which directions have been given under this section or under section twelve of the Atomic Energy Act, 1946, no renewal fees shall be payable in respect of any period during which those directions were in force.

(5) No person resident in the United Kingdom shall, except under the authority of a written permit granted by or on behalf of the comptroller, make or cause to be made any application outside the United Kingdom for the grant of a patent for an invention unless—

- (a) an application for a patent for the same invention has been made in the United Kingdom not less than six weeks before the application outside the United Kingdom; and
- (b) either no directions have been given under subsection (1) of this section or under section twelve of the Atomic Energy Act, 1946, in relation to the application in the United Kingdom, or all such directions have been revoked:

Provided that this subsection shall not apply in relation to an invention for which an application for protection has first been filed in a country outside the United Kingdom by a person resident outside the United Kingdom.

(6) If any person fails to comply with any direction given under this section or makes or causes to be made an application for the grant of a patent in contravention of this section, he shall be guilty of an offence and liable—

- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds, or to both such imprisonment and such fine, or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds, or to both such imprisonment and such fine.

(7) Where an offence under this section is committed by a body corporate, every person who at the time of the commission of the offence is a director, general manager, secretary or other similar officer of the body corporate, or is purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.



(8) In this section the expression "competent authority" means a Secretary of State, the Admiralty or the Minister of Supply.

PART I  
—*cont.*

32.—(1) Subsection (5) of section twelve of the Atomic Energy Act, 1946 (which restricts the making of applications outside the United Kingdom for patents for inventions relating to atomic energy) shall cease to have effect.

Amendment  
of Atomic  
Energy Act,  
1946,  
section 12.

(2) For subsection (8) of the said section twelve there shall be substituted the following subsection:—

"(8) The power of the Minister of Supply and persons authorised by the Minister of Supply under section twenty-seven of the Patents and Designs Act, 1949, shall include power to make, use, exercise or vend an invention for such purposes relating to the production or use of atomic energy or research into matters connected therewith as the Minister thinks necessary or expedient, and any reference in that section or in sections twenty-eight and twenty-nine of that Act to the services of the Crown shall be construed as including a reference to those purposes."

#### *Legal Proceedings*

33.—(1) Rules of court shall make provision for the appointment of scientific advisers to assist the court in proceedings for infringement of patents and in proceedings relating to patents under the principal Act or this Act, and for regulating the functions of such advisers.

Appointment  
of scientific  
advisers.

(2) The remuneration of any adviser appointed in pursuance of rules made in accordance with this section shall be defrayed out of moneys provided by Parliament.

34.—(1) In an action for infringement of a patent, the plaintiff shall be entitled, at his option, to an account of profits in lieu of damages.

Order for  
account in  
action for  
infringement.

(2) In the application of this Act to Scotland the foregoing subsection shall have effect as if for the words "an account of profits" there were substituted the words "an accounting and payment of profits".

35.—(1) Subject to the provisions of this section, the holder of an exclusive licence under a patent shall have the like right as the patentee to take proceedings in respect of any infringement of the patent committed after the date of the licence, and in awarding damages or granting any other relief in any such proceedings, the court shall take into consideration any loss suffered or likely to be suffered by the exclusive licensee as such,

Proceedings  
by licensee for  
infringement.

PART I  
—cont.

or, as the case may be, the profits earned by means of the infringement so far as it constitutes an infringement of the rights of the exclusive licensee as such.

(2) In any proceedings taken by the holder of an exclusive licence by virtue of this section, the patentee shall, unless he is joined as plaintiff in the proceedings, be added as defendant :

Provided that a patentee so added as defendant shall not be liable for any costs unless he enters an appearance and takes part in the proceedings.

Threats of  
legal  
proceedings,  
and additional  
power to make  
declaration as  
to non-  
infringement.

36.—(1) For the avoidance of doubt it is hereby declared that a mere notification of the existence of a patent does not constitute a threat of proceedings within the meaning of section thirty-six of the principal Act.

(2) A declaration that the use by any person of any process, or the making or use or sale by any person of any article, does not or would not constitute an infringement of a claim of a patent may be made by the court in proceedings between that person and the patentee or the holder of an exclusive licence under the patent, notwithstanding that no assertion to the contrary has been made by the patentee or licensee, if it is shown—

- (a) that the plaintiff has applied in writing to the patentee or licensee for a written acknowledgment to the effect of the declaration claimed, and has furnished him with full particulars in writing of the process or article in question ; and
- (b) that the patentee or licensee has refused or neglected to give such an acknowledgment.

(3) The costs of all parties in proceedings for a declaration brought by virtue of this section shall, unless for special reasons the court thinks fit to order otherwise, be paid by the plaintiff.

(4) The validity of a claim of the specification of a patent shall not be called in question in proceedings for a declaration brought by virtue of this section and accordingly the making or refusal of such a declaration in the case of a patent shall not be deemed to imply that the patent is valid.

(5) Proceedings for a declaration may be brought by virtue of this section at any time after the date of the publication of the complete specification in pursuance of an application for a patent, and references in this section to the patentee shall be construed accordingly.

Reference to  
comptroller of  
disputes as to  
infringement.

37.—(1) Any dispute between a patentee or an exclusive licensee and any other person—

- (a) whether any claim of the specification of a patent is infringed by anything done by that other person ; or

(b) whether any such claim which is alleged to be so infringed is valid,

PART I  
—cont.

may, by agreement between the parties, be referred to the comptroller for determination in accordance with such procedure as may be prescribed by rules made by the Board of Trade under this Act:

Provided that if it appears to the comptroller that any dispute referred to him under this section involves questions which would more properly be determined by the court, he may decline to deal therewith.

(2) If on a reference under this section the comptroller finds that any claim of the specification of the patent is valid and is infringed, he may, subject to the provisions of the principal Act restricting the award of damages in particular cases, grant relief by way of damages; but the damages awarded in the proceedings shall not (unless otherwise agreed between the parties) exceed one thousand pounds.

(3) Section twenty-two and section thirty-two A of the principal Act shall apply to proceedings before the comptroller on a reference under this section as they apply to proceedings for infringement of a patent before the court.

(4) The Arbitration Acts, 1889 and 1934, shall not apply to proceedings before the comptroller on a reference under this section.

(5) The decision of the comptroller on a reference under this section shall not be binding upon any party thereto in any subsequent proceedings before the court for infringement of the patent or for revocation of the patent; but a patentee or licensee shall not be entitled, in any such subsequent proceedings for infringement, to any relief in respect of an alleged infringement which was in issue in proceedings under this section.

#### *Co-ownership of patents, etc.*

38.—(1) Where after the commencement of this Act a patent is granted to two or more persons, each of those persons shall, unless an agreement to the contrary is in force, be entitled to an equal undivided share in the patent. Co-ownership  
of patents.

(2) Subject to the provisions of this section and of section thirty-seven of the principal Act, where two or more persons are registered as grantee or proprietor of a patent, then, unless an agreement to the contrary is in force, each of those persons shall be entitled, by himself or his agents, to make, use, exercise and vend the patented invention for his own benefit without accounting to the other or others.

PART I  
—cont.

(3) Subject to the provisions of section thirty-seven of the principal Act, and to any agreement for the time being in force, a licence under a patent shall not be granted, and a share in a patent shall not be assigned, except with the consent of all persons, other than the licensor or assignor, who are registered as grantee or proprietor of the patent.

(4) Where an article is sold by one of two or more persons registered as grantee or proprietor of a patent, the purchaser and any person claiming through him shall be entitled to deal with it in the same manner as if the article had been sold by a sole patentee.

(5) Subject to the provisions of this section, the rules of law applicable to the ownership and devolution of personal property generally shall apply in relation to patents as they apply in relation to other choses in action; and nothing in subsection (1) or subsection (2) of this section shall affect the mutual rights or obligations of trustees or of the personal representatives of a deceased person, or their rights or obligations as such.

Disputes as  
to inventions  
made by  
employees.

39.—(1) Where a dispute arises between an employer and a person who is or was at the material time his employee as to the rights of the parties in respect of an invention made by the employee either alone or jointly with other employees or in respect of any patent granted or to be granted in respect thereof, the comptroller may, upon application made to him in the prescribed manner by either of the parties, and after giving to each of them an opportunity to be heard, determine the matter in dispute, and may make such orders for giving effect to his decision as he considers expedient:

Provided that if it appears to the comptroller upon any application under this section that the matter in dispute involves questions which would more properly be determined by the court, he may decline to deal therewith.

(2) In proceedings before the court between an employer and a person who is or was at the material time his employee, or upon an application made to the comptroller under subsection (1) of this section, the court or comptroller may, unless satisfied that one or other of the parties is entitled to the exclusion of the other, to the benefit of an invention made by the employee, by order provide for the apportionment between them of the benefit of the invention, and of any patent granted or to be granted in respect thereof, in such manner as the court or comptroller considers just.

(3) A decision of the comptroller under this section shall have the same effect as between the parties and persons claiming under them as a decision of the court.

(4) An appeal shall lie from any decision of the comptroller under this section.

PART I  
—cont.

40.—(1) Where a complete specification includes a claim for a substance the claim shall not be invalidated by reason only that it is not limited to the substance when produced by specified methods or processes of manufacture, notwithstanding that the substance is a substance prepared or produced by chemical processes or intended for food or medicine; but the comptroller may refuse an application for a patent if it appears to him that it claims as an invention a substance capable of being used as food or medicine which is a mixture of known ingredients possessing only the aggregate of the known properties of the ingredients or that it claims as an invention a process producing such a substance by mere admixture.

Claims for  
chemical  
substances.

(2) An appeal shall lie from any decision of the comptroller under this section.

## PART II DESIGNS

41.—(1) After the commencement of this Act designs registered under Part II of the principal Act shall cease to be registered in classes; but subject to the following provisions of this section a design may, upon application made by the person claiming to be the proprietor, be registered under the said Part II in respect of any article or set of articles specified in the application.

System of  
registration of  
designs.

(2) A design shall not be registered under Part II of the principal Act unless it is new or original, and in particular shall not be so registered in respect of any article if it is the same as a design which before the date of the application for registration has been registered or published in the United Kingdom in respect of the same or any other article or differs from such a design only in immaterial details or in features which are variants commonly used in the trade.

(3) Rules made by the Board of Trade under the principal Act may provide for excluding from registration under Part II of that Act designs for such articles, being articles which are primarily literary or artistic in character, as the Board think fit.

42. The following definitions shall be substituted for the definitions of “design” and “article” contained in section ninety-three of the principal Act, that is to say:—

Revised  
definition of  
“design” and  
“article”.

“design” means features of shape, configuration, pattern or ornament applied to an article by any industrial process or means, being features which in the finished

PART II  
—cont.

article appeal to and are judged solely by the eye, but does not include a method or principle of construction or features of shape or configuration which are dictated solely by the function which the article to be made in that shape or configuration has to perform; and

“article”, in relation to designs, means any article of manufacture and includes any part of an article if that part is made and sold separately.

Effects of  
copyright and  
legal  
proceedings.

43.—(1) The registration of a design under Part II of the principal Act shall give to the registered proprietor the copyright in the registered design, that is to say, the exclusive right in the United Kingdom and the Isle of Man to make or import for sale or for use for the purposes of any trade or business, or to sell, hire or offer for sale or hire, any article in respect of which the design is registered, being an article to which the registered design or a design not substantially different from the registered design has been applied, and to make anything for enabling any such article to be made as aforesaid, whether in the United Kingdom or the Isle of Man or elsewhere.

(2) In proceedings for the infringement of copyright in a registered design damages shall not be awarded against a defendant who proves that at the date of the infringement he was not aware, and had no reasonable ground for supposing, that the design was registered; and a person shall not be deemed to have been aware or to have had reasonable grounds for supposing as aforesaid by reason only of the marking of an article with the word “registered” or any abbreviation thereof, or any word or words expressing or implying that the design applied to the article has been registered, unless the number of the design accompanied the word or words or the abbreviation in question.

(3) Nothing in the last foregoing subsection shall affect the power of the court to grant an injunction in any proceedings for infringement of copyright in a registered design.

(4) Section sixty of the principal Act shall cease to have effect.

Provisions for  
ensuring  
secrecy in  
respect of  
designs  
relevant for  
defence  
purposes.

44. The provisions of section thirty-one of this Act shall apply in relation to designs and applications for the registration of designs as they apply in relation to inventions and applications for patents for inventions, subject to the following modifications, that is to say—

(a) in subsection (1), for the words from “and while such directions” to the end of the subsection there shall be substituted the words “and rules shall be made by

the Board of Trade under the principal Act for securing that the representation or specimen of a design in the case of which directions are given under this section shall not be open to inspection at the Patent Office during the continuance in force of the directions”;

PART II  
—cont.

- (b) in subsection (2), in paragraph (b), for the words “the application and any documents furnished to the comptroller in connection therewith” there shall be substituted the words “the representation or specimen of the design filed in pursuance of the application”; and in paragraph (d), after the words “the application” there shall be inserted the words “or registration”;
- (c) subsections (3) and (4) shall not apply; and
- (d) subsection (5) shall apply only in relation to an application for the registration of a design of any class prescribed for the purposes of that subsection, and the reference in paragraph (b) of that subsection to section twelve of the Atomic Energy Act, 1946, shall be omitted.

### PART III

#### GENERAL

45. Without prejudice to the provisions of section seventy-one of the principal Act, an application for the registration of the title of any person becoming entitled by assignment, or by virtue of a mortgage, licence or other instrument, to a patent or registered design or to a share or other interest in a patent or registered design, may be made under subsection (1) or subsection (2) of the said section seventy-one, as the case may be, by the assignor, mortgagor, licensor or other party to the instrument; and the provisions of the said section seventy-one shall have effect accordingly.

Registration of assignments, etc.

46. For the removal of doubt it is hereby declared that a patent agent is not guilty of an offence under section forty-seven of the Solicitors Act, 1932, or section thirty-nine of the Solicitors (Scotland) Act, 1933 (which prohibit the preparation for reward of certain instruments by persons not legally qualified), by reason only of the preparation by him for use in proceedings under the principal Act or this Act before the comptroller or the Appeal Tribunal of any document other than a deed.

Preparation of documents by patent agents.

47.—(1) Subject to the provisions of this Act with respect to Scottish appeals, all appeals from the comptroller under the principal Act or this Act shall lie to the Appeal Tribunal.

Appeals from decisions of the comptroller.

PART III  
—cont.

- (2) An appeal shall lie to the Court of Appeal—
- (a) from any decision of the Tribunal under section twenty-six of the principal Act or section twenty-one of this Act where the effect of the decision is the revocation of a patent ;
  - (b) with the leave of the Tribunal, from any decision of the Tribunal under section eleven of the principal Act where the effect of the decision is the refusal of the grant of a patent on the ground specified in paragraph (a) or paragraph (b) of section seven of this Act ;
  - (c) from any decision of the Tribunal under section thirty-seven of the principal Act.

Appeals from  
decisions of  
the comp-  
troller in  
Scottish cases.

48.—(1) Where, in accordance with rules made by the Board of Trade under the principal Act, the comptroller has directed that any hearing for the purpose of proceedings under section thirty-seven of that Act or under section thirty-nine of this Act shall be held in Scotland, any appeal from the comptroller in those proceedings shall lie to the Scottish Appeal Tribunal constituted in accordance with the provisions of this section.

(2) An appeal shall lie to the Court of Session from any decision of the Scottish Appeal Tribunal under section thirty-seven of the principal Act.

(3) The Scottish Appeal Tribunal shall consist of a judge of the Court of Session nominated for the purpose by the Lord President of that Court.

(4) The Courts of Law Fees (Scotland) Act, 1895 (which confers power on the Court of Session to regulate fees), shall apply to the Scottish Appeal Tribunal as if the Tribunal were a court the fees payable in which would be regulated by the Lords of Council and Session under section two of that Act.

(5) The Scottish Appeal Tribunal may examine witnesses on oath and administer oath for that purpose.

(6) Upon any appeal under this section, the Scottish Appeal Tribunal may by order award to any party such expenses as the Tribunal may consider reasonable and direct how and by what party the expenses are to be paid ; and any such order may be recorded for execution in the books of council and session and shall be enforceable accordingly.

(7) Upon any appeal under this section, the Scottish Appeal Tribunal may exercise any power which could have been exercised by the comptroller in the proceeding from which the appeal is brought.

(8) Subject to the foregoing provisions of this section, rules may be made by Act of Sederunt for regulating all matters relating to proceedings before the Scottish Appeal Tribunal under this section.



(9) Rules made under this section shall provide for the appointment of scientific advisers to assist the Scottish Appeal Tribunal upon appeals under this Act and for regulating the functions of such advisers; and the remuneration of a scientific adviser appointed in accordance with such rules shall be defrayed out of moneys provided by Parliament.

(10) An appeal to the Scottish Appeal Tribunal under this section shall not be deemed to be a proceeding in the Court of Session.

49. The number of puisne judges of the High Court who may be appointed under the Supreme Court of Judicature (Consolidation) Act, 1925, shall be increased by one; and accordingly subsection (1) of section two of the said Act of 1925, and subsections (1) and (2) of section one of the Supreme Court of Judicature (Amendment) Act, 1944, shall have effect as if for the word "thirty-two", wherever that word occurs, there were substituted the word "thirty-three".

Increase of  
number of  
judges of  
High Court.

50.—(1) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say—

Interpretation  
and  
construction.

"article" in relation to patents includes any substance or material and any plant, machinery or apparatus, whether affixed to land or not;

"convention application" means an application for a patent made by virtue of section ninety-one of the principal Act;

"design" has the meaning assigned to it by section forty-two of this Act;

"exclusive licence" means a licence from a patentee which confers on the licensee, or on the licensee and persons authorised by him, to the exclusion of all other persons (including the patentee), any right in respect of the patented invention, and "exclusive licensee" shall be construed accordingly;

"Journal" means the journal published under section forty-six of the principal Act;

"principal Act" means the Patents and Designs Act, 1907, as amended by any subsequent enactment including (except where the context otherwise requires) this Act;

"set of articles" means a number of articles of the same general character ordinarily on sale or intended to be used together, to each of which the same design, or the same design with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof, is applied.

PART III  
—cont.

(2) Any question arising under Part II of this Act whether a number of articles constitute a set of articles shall be determined by the comptroller; and, notwithstanding anything in the principal Act, any determination of the comptroller under this subsection shall be final.

(3) Any reference in this Act to an article in respect of which a design is registered shall, in the case of a design registered in respect of a set of articles, be construed as a reference to any article of that set.

(4) This Act shall be construed as one with the principal Act.

Amendments,  
repeals and  
transitional  
provisions.

**51.**—(1) The provisions of the principal Act specified in the First Schedule to this Act shall have effect subject to the amendments set out in that Schedule, being minor amendments and amendments consequential upon the foregoing provisions of this Act.

(2) Subject to the following provisions of this section, the provisions of the principal Act specified in the Second Schedule to this Act are hereby repealed.

(3) Without prejudice to the provisions of the Interpretation Act, 1889, with respect to repeals, the transitional provisions set out in the Third Schedule to this Act shall have effect for the purposes of the transition to the provisions of this Act from the law in force before the commencement of this Act.

(4) Nothing in this section shall affect so much of section ninety-one of the principal Act as relates to trade marks.

Application  
to Northern  
Ireland.

**52.** In the application of this Act to Northern Ireland—

(a) references to enactments of the Parliament of the United Kingdom shall be construed as references to those enactments as they apply in Northern Ireland;

(b) references to a Government department shall be construed as including references to a department of the Government of Northern Ireland; and

(c) the expression “summary conviction” shall be construed as meaning conviction subject to, and in accordance with, the Petty Sessions (Ireland) Act, 1851 and any Act (including any Act of the Parliament of Northern Ireland) amending that Act.

Short title and  
commence-  
ment.

**53.**—(1) This Act may be cited as the Patents and Designs Act, 1949.

(2) This Act shall come into operation on the first day of January, nineteen hundred and fifty.

## SCHEDULES

## FIRST SCHEDULE

Section 51.

*Minor and consequential amendments of principal Act***Section 1**

In subsection (3) for the words from the beginning to "patent, and" there shall be substituted the words "Every application for a patent (other than a convention application) shall state that the applicant is in possession of the invention and shall name the person claiming to be the true and first inventor, and where the person so claiming is not the applicant or one of the applicants, shall contain a declaration that the applicant believes him to be the true and first inventor; and every such application."

Subsection (4) shall be omitted.

**Section 2**

In subsection (1) the words "the nature of", and in subsection (2) the words "and ascertain the nature of" shall be omitted.

For subsection (3) there shall be substituted the following subsection:—

"(3) Subject to any rules made by the Board of Trade under this Act, drawings may, and shall if the comptroller so requires, be supplied for the purposes of any specification, whether complete or provisional; and any drawings so supplied shall, unless the comptroller otherwise directs, be deemed to form part of the specification, and references in this Act to a specification shall be construed accordingly."

In subsection (4) for the words "a distinct statement of the invention claimed" there shall be substituted the words "a claim or claims defining the scope of the invention claimed."

Subsection (5) shall be omitted.

**Section 3**

For subsections (1) and (2) there shall be substituted the following subsections:—

"(1) When the complete specification has been filed in respect of an application for a patent, the application and specification or specifications shall be referred by the comptroller to an examiner.

(2) If the examiner reports that the application or any specification filed in pursuance thereof does not comply with the requirements of this Act or of any rules made by the Board of Trade thereunder, or that there is lawful ground of objection to the grant of a patent in pursuance of the application, the comptroller may either refuse to proceed with the application or require the application or any such specification as aforesaid to be amended before he proceeds therewith."

1ST SCH.  
—cont.

In subsection (3) after the word “application”, where that word occurs for the first time, there shall be inserted the words “(not being a convention application)” and for the words “treat the specification” there shall be substituted the words “at any time before the acceptance of the specification, direct that it shall be treated for the purposes of this Act.”

In subsection (4) for the words from “direct that the application” to the end of the subsection there shall be substituted the words “post-date the application to such date as may be specified in the request :

Provided that—

- (a) no application shall be post-dated under this subsection to a date later than six months from the date on which it was actually made or would, but for this subsection, be deemed to have been made ; and
- (b) a convention application shall not be post-dated under this subsection to a date later than the last day on which, under section ninety-one of this Act, the application could have been made.”

In subsection (5) after the word “under” there shall be inserted the words “subsection (2) or subsection (7) of” and the words from “who shall” to the end of the subsection shall be omitted.

In subsection (6) for the word “specification” there shall be substituted the words “complete specification”.

At the end of the section there shall be added the following subsections—

“(7) Where an application or specification filed under this Act is amended before acceptance of the complete specification, the comptroller may direct that the application or specification shall be post-dated to the date on which it is amended or, if it has been returned to the applicant, to the date on which it is refiled.

(8) Rules made by the Board of Trade under this Act may make provision for securing that where, at any time after an application or specification has been filed under this Act and before acceptance of the complete specification a fresh application or specification is filed in respect of any part of the subject matter of the first-mentioned application or specification, the comptroller may direct that the fresh application or specification shall be ante-dated to a date not earlier than the date of filing of the first-mentioned application or specification.”

#### Section 4

In section four the words from the beginning to “provisional protection” shall be omitted.

#### Section 5

In subsection (2) for the words “thirteen months” there shall be substituted the words “fifteen months”.

In subsection (3) the words from “at the expiration” to the end of the subsection shall be omitted.

**Section 6**

Subsections (1), (2) and (4) shall be omitted ; and for subsection (3) there shall be substituted the following subsection :—

“(3) Where a complete specification has been filed in pursuance of an application for a patent accompanied by a provisional specification, or by a specification treated by virtue of a direction under subsection (3) of section three of this Act as a provisional specification, the comptroller may, if the applicant so requests at any time before the acceptance of the complete specification, cancel the provisional specification and post-date the application to the date of filing of the complete specification.”

1ST SCH.  
—cont.

**Section 7**

For section seven there shall be substituted the following section :—

“7.—(1) Subject to the provisions of section three of this Act, the examiner to whom an application for a patent is referred under this Act shall make investigation for the purpose of ascertaining whether the invention, so far as claimed in any claim of the complete specification, has been published before the date of filing of the applicant's complete specification in any specification filed in pursuance of an application for a patent made in the United Kingdom and dated within fifty years next before that date.

Search for  
anticipation by  
previous  
publications in  
United  
Kingdom.

(2) The examiner shall, in addition, make such investigation as the comptroller may direct for the purpose of ascertaining whether the invention, so far as claimed in any claim of the complete specification, has been published in the United Kingdom before the date of filing of the applicant's complete specification in any document not being—

- (a) a specification filed in pursuance of an application for a patent made in the United Kingdom ; or
- (b) a specification describing an invention for the purposes of an application for protection in any country outside the United Kingdom made more than fifty years before the said date ; or
- (c) any abridgement of or extract from any such specification published under the authority of the comptroller or of the government of any country outside the United Kingdom.

(3) If it appears to the comptroller that the invention, so far as claimed in any claim of the complete specification, has been published as aforesaid, he may refuse to accept the specification unless the applicant either—

- (a) shows to the satisfaction of the comptroller that the priority date of the claim of his complete specification is not later than the date on which the relevant document was published ; or
- (b) amends his complete specification to the satisfaction of the comptroller.

(4) An appeal shall lie from any decision of the comptroller under this section.”

## 1ST SCH.

—cont.

Search for  
anticipation by  
prior claim and  
supplementary  
provisions as  
to searches.

**Section 8**

For section eight there shall be substituted the following section:—

“8.—(1) In addition to the investigation required by the last foregoing section, the examiner shall make investigation for the purpose of ascertaining whether the invention, so far as claimed in any claim of the complete specification, is claimed in any claim of any other complete specification published on or after the date of filing of the applicant's complete specification, being a specification filed—

- (a) in pursuance of an application for a patent made in the United Kingdom and dated before that date; or
- (b) in pursuance of a convention application founded upon an application for protection made in a convention country before that date.

(2) If it appears to the comptroller that the said invention is claimed in a claim of any such other specification as aforesaid, he may, subject to the provisions of this section, direct that a reference to that other specification shall be inserted by way of notice to the public in the applicant's complete specification unless within such time as may be prescribed either—

- (a) the applicant shows to the satisfaction of the comptroller that the priority date of his claim is not later than the priority date of the claim of the said other specification; or
- (b) the complete specification is amended to the satisfaction of the comptroller.

(3) If in consequence of the investigation under section seven of this Act or otherwise it appears to the comptroller—

- (a) that the invention, so far as claimed in any claim of the applicant's complete specification, has been claimed in any such specification as is mentioned in subsection (1) of that section; and
- (b) that the other specification was published on or after the priority date of the applicant's claim,

then unless it has been shown to the satisfaction of the comptroller under that section that the priority date of the applicant's claim is not later than the priority date of the claim of that other specification, the provisions of subsection (2) of this section shall apply as they apply in relation to a specification published on or after the date of filing of the applicant's complete specification.

(4) The powers of the comptroller under this section to direct the insertion of a reference to another specification may be exercised either before or after a patent has been granted for the invention claimed in that other specification, but any direction given before the grant of such a patent shall be of no effect unless and until such a patent is granted.

(5) An appeal shall lie from any direction of the comptroller under this section.

(6) The powers of the comptroller under this section may be exercised either before or after the complete specification has been

accepted or a patent granted to the applicant, and references in this section to the applicant shall accordingly be construed as including references to the patentee:

1ST SCH.  
—cont.

Provided that after the acceptance of a complete specification no amendment thereof shall be made in pursuance of this section otherwise than by way of disclaimer, correction or explanation, or (except for the purpose of correcting an obvious mistake) so that the specification as amended would claim or describe matter not in substance disclosed in the specification before the amendment or that any claim of the specification as amended would not fall wholly within the scope of a claim of the specification before the amendment.

(7) Where a complete specification is amended, before it has been accepted, under the provisions of this Act, the amended specification shall be examined and investigated in like manner as the original specification.

(8) The examination and investigations required by the foregoing provisions of this Act shall not be deemed to warrant the validity of any patent, and no liability shall be incurred by the Board of Trade or any officer thereof by reason of or in connection with any such examination or investigation or any report or other proceedings consequent thereon."

#### Section 8A

For subsections (1) and (2) there shall be substituted the following subsections:—

"(1) An application for a patent shall be void unless it is in order within the period allowable under this section.

(2) For the purposes of this section an application shall be deemed to be in order when the applicant has complied with all requirements imposed on him by or under this Act, whether in connection with the complete specification or otherwise in relation to the application, and not before; and where the application or any specification or, in the case of a convention application, any document filed as part of the application has been returned to the applicant by the comptroller in the course of the proceedings, the applicant shall not be deemed to have complied with the said requirements unless and until he has refiled it."

In subsection (4) the words from the beginning to "said period" shall be omitted; for the words "eighteen months from the date of the application" and the words "twenty-one months from the date of the application" there shall be substituted respectively the words "twelve months from the date of filing of the complete specification" and the words "fifteen months from the date of filing of the complete specification."

In subsection (5) for the words "eighteen months from the date of the application" there shall be substituted the words "twelve months from the date of filing of the complete specification"; in paragraph (a) of the proviso for the words "nineteen, to twenty or to twenty-one months from the date of the application" there shall be substituted the words "such period, not exceeding fifteen months from the date of filing of the complete specification, as may be

1st Sch.  
—cont.

specified in the notice”; and in paragraph (b) of the proviso, the words “beginning on the date of the application and” shall be omitted.

### Section 9

For the words from “the acceptance”, where those words occur for the second time, to the end of the section there shall be substituted the words “in the Journal the fact that the specification has been accepted and the date on which the application and the specification or specifications filed in pursuance thereof will be open to public inspection; and any reference in this Act to the date of the publication of a complete specification shall be construed as a reference to the date advertised as aforesaid.”

### Section 10

For the word “acceptance”, in both places where that word occurs, there shall be substituted the word “publication”; and the words “or the expiration of the time for sealing” shall be omitted.

### Section 11

In subsection (1) after the word “person” there shall be inserted the word “interested”; and for the words from “two months from” to “allow” there shall be substituted the words “three months from the date of the publication of a complete specification”.

In paragraph (a) of the said subsection after the word “applicant” there shall be inserted the words “for the patent, or the person described in the application as the true and first inventor”, and for the word “legal” there shall be substituted the word “personal”.

In paragraph (b) of the said subsection for the words from the beginning to “a complete specification” there shall be substituted the words “that the invention, so far as claimed in any claim of the complete specification, has been published in the United Kingdom, before the priority date of the claim, in any specification”; for the words “such date”, where those words occur for the first time, there shall be substituted the words “the date of filing of the applicant’s complete specification”; and the words “has been made available to the public by publication” and the words “published in the United Kingdom before such date” shall be omitted.

For paragraph (bb) of the said subsection there shall be substituted the following paragraph:—

“(bb) that the invention, so far as claimed in any claim of the complete specification, is claimed in any claim of a complete specification published on or after the priority date of the applicant’s claim and filed in pursuance of an application for a patent in the United Kingdom, being a claim of which the priority date is earlier than that of the applicant’s claim; or”

In paragraph (c) of the said subsection the words “the nature of” and the words “and ascertained” shall be omitted.

Paragraphs (d) and (e) of the said subsection shall be omitted, and at the end of the subsection there shall be added the words “Provided that the grant of a patent shall not be refused on the ground specified



in paragraph (bb) of this subsection if no patent has been granted in pursuance of the application mentioned in that paragraph.”

1st Sch.  
—cont.

In subsection (3) the words from “who shall” to the end of the subsection shall be omitted.

#### Section 11A

In subsection (5) for the words “advertisement of the acceptance” there shall be substituted the word “publication”.

In subsection (10) the words from “who shall” to the end of the subsection shall be omitted.

#### Section 12

For subsections (1) to (4) there shall be substituted the following subsections:—

“(1) Subject to the provisions of this Act with respect to opposition, and to any other power of the comptroller to refuse the grant, a patent sealed with the seal of the Patent Office shall, if the prescribed request is made within the time allowed under this section, be granted to the applicant or applicants within that time or as soon as may be thereafter; and the date on which the patent is sealed shall be entered in the register of patents.

(2) If any dispute arises between joint applicants for a patent whether or in what manner the application should be proceeded with, the comptroller may, upon application made to him in the prescribed manner by any of the parties, and after giving to all parties concerned an opportunity to be heard, give such directions as he thinks fit for enabling the application to proceed in the name of one or more of the parties alone or for regulating the manner in which it shall be proceeded with, or for both those purposes, according as the case may require.

(3) An appeal shall lie from any decision of the comptroller under the last foregoing subsection.

(4) Subject to the provisions of the Patents and Designs Act, 1949, with respect to patents of addition, a request under this section for the sealing of a patent shall be made not later than the expiration of four months from the date of the publication of the complete specification:

Provided that—

- (a) where at the expiration of the said four months any proceeding in relation to the application for the patent is pending in any court or before the comptroller or the Appeal Tribunal, the request may be made within the prescribed period after the final determination of that proceeding;
- (b) where the applicant or one of the applicants has died before the expiration of the time within which under the provisions of this subsection the request could otherwise be made, the said request may be made at any time within twelve months after the date of the death or at such later time as the comptroller may allow”.

1ST SCH.  
—cont.

In subsection (5) for the words “ allowed by or under the provisions of the last preceding subsection for the sealing of a patent ” there shall be substituted the words “ within which under the last foregoing subsection a request for the sealing of a patent may be made ” ; and for the words “ period so allowed as aforesaid for the sealing of a patent ” there shall be substituted the words “ first-mentioned period ”.

In subsection (6) for the words “ sealing the patent ” there shall be substituted the words “ making a request for the sealing of a patent ”.

At the end of the section there shall be added the following subsection :—

“(7) For the purposes of this section a proceeding shall be deemed to be pending so long as the time for any appeal therein (apart from any future extension of that time) has not expired, and a proceeding shall be deemed to be finally determined when the time for any appeal therein (apart from any such extension) has expired without the appeal being brought.”

### Section 15

For section fifteen there shall be substituted the following section :—

“Fraudulent  
applications.

15.—(1) An invention claimed in a complete specification filed in pursuance of an application for a patent made by a person being the true and first inventor or deriving title from him shall not be deemed to have been anticipated—

- (a) by reason only of any other application for a patent in respect of the same invention, made in contravention of the rights of that person ; or
- (b) by reason only that after the date of filing of that other application the invention was used or published, without the consent of that person, by the applicant in respect of that other application or by any other person in consequence of any disclosure of the invention by that applicant ;

and accordingly the comptroller shall not refuse to accept the specification or to grant a patent in pursuance of the first-mentioned application, and the patent when granted shall not be revoked or invalidated by reason only of such matters as aforesaid.

(2) Where an application is made for a patent for an invention which has been claimed in a complete specification filed in pursuance of any other such application, then if—

- (a) the comptroller has refused to grant a patent in pursuance of that other application on the ground specified in paragraph (a) of subsection (1) of section eleven of this Act ; or
- (b) a patent granted in pursuance of that other application has been revoked by the court or the comptroller on the ground specified in paragraph (a) of subsection (1) of section eleven or paragraph (c) of subsection (1) of section twenty-five of this Act ; or
- (c) the complete specification filed in pursuance of the said other application has, in proceedings under section eleven or

section twenty-six of this Act, been amended by the exclusion of the claim relating to the said invention in consequence of a finding by the comptroller that the invention was obtained by the applicant or patentee from any other person,

1ST SCH.  
—cont.

the comptroller may direct that the first-mentioned application and any specification filed in pursuance thereof shall be deemed, for the purposes of the provisions of the Patents and Designs Act, 1949, relating to the priority date of claims of complete specifications, to have been filed on the date on which the corresponding document was or was deemed to have been filed in the proceedings upon the said other application."

#### Section 16

For section sixteen there shall be substituted the following section:—

"16. Where two or more applications accompanied by provisional specifications have been filed in respect of inventions which are cognate or of which one is a modification of another, a single complete specification may, subject to the provisions of this Act, be filed in pursuance of those applications, or if more than one complete specification has been filed, may with the leave of the comptroller be proceeded with in respect of those applications."

Single patent  
for cognate  
inventions.

#### Section 17

In subsection (2) for the words "the patentee pays the fee" there shall be substituted the words "that fee is paid", and the words "by the patentee" and "(which shall not exceed ten pounds)" shall be omitted.

#### Section 18

In subsection (1) for the words from "at least" to the end of the subsection there shall be substituted the words "not more than twelve nor less than six months before the expiration of the term of the patent or at such later time (not being later than the expiration of the said term) as the court may allow".

For subsection (2) there shall be substituted the following subsection:—

"(2) Any person desiring to oppose the making of an order under this section, or to claim the inclusion therein of any restrictions, conditions or provisions, may within such period as may be prescribed by rules of court give notice of opposition to the court."

In subsection (5) for the words from "or may order" to the end of the subsection there shall be substituted the words "subject to such conditions, restrictions and provisions, if any, as may be specified in the order; and any such order may be made notwithstanding that the term of the patent has previously expired".

In subsection (6) the words from "owing" to "such hostilities" shall be omitted; and at the end of the subsection there shall be inserted the words "and for the purposes of this subsection no account shall be taken of any loss or damage suffered by any person during any period during which he was such a subject as aforesaid, or by any company during any period during which its business was managed or controlled or carried on as aforesaid".

1st SCH.  
—cont.

In subsection (7) the words “the proviso to” shall be omitted; for the words “that proviso” there shall be substituted the words “that subsection”; and the words “or that a new patent for the invention may have been previously granted” and the words “whether by way of extension or grant of a new patent”, in both places where those words occur, shall be omitted.

In subsection (8) at the end of paragraph (a) there shall be inserted the words “and the period within which notice of opposition may be given shall be prescribed by general rules under this Act”; and in paragraph (c) the words from “and on such an appeal” to the end of the section shall be omitted.

### Section 19

In subsection (5) the words from the beginning to “addition, and” shall be omitted.

### Section 20

For section twenty there shall be substituted the following section:—

“Restoration of  
lapsed patents.

20.—(1) Where any patent has ceased to have effect by reason of a failure to pay any renewal fee within the prescribed period or within that period as extended under this Act, and the comptroller is satisfied, upon application made within three years from the date on which the patent ceased to have effect, that the failure was unintentional and that no undue delay has occurred in the making or prosecution of the application, he shall by order restore the patent and any patent of addition specified in the application which has ceased to have effect on the cesser of that patent.

(2) An application under this section may be made by the person who was the patentee or by his personal representative; and where the patent was held by two or more persons jointly, the application may, with the leave of the comptroller, be made by one or more of them without joining the others.

(3) An application under this section shall contain a statement (to be verified in such manner as may be prescribed) fully setting out the circumstances which led to the failure to pay the renewal fee; and the comptroller may require from the applicant such further evidence as he may think necessary.

(4) If after hearing the applicant (if the applicant so requires or the comptroller thinks fit) the comptroller is satisfied that a prima facie case has been made out for an order under this section, he shall advertise the application in the Journal; and within the prescribed period any person may give notice to the comptroller of opposition thereto on either or both of the following grounds, that is to say—

(a) that the failure to pay the renewal fee was not unintentional; or

(b) that there has been undue delay in the making of the application.

(5) If notice of opposition is given within the period aforesaid, the comptroller shall notify the applicant, and shall give to him

and to the opponent an opportunity to be heard before he decides the case.

(6) If no notice of opposition is given within the period aforesaid, or if in the case of opposition the decision of the comptroller is in favour of the applicant, the comptroller shall, upon payment of any unpaid renewal fee and such additional fee as may be prescribed, make the order in accordance with the application.

(7) An order under this section for the restoration of a patent—

(a) may be made subject to such conditions as the comptroller thinks fit, including in particular a condition requiring the registration in the register of patents of any matter in respect of which the provisions of this Act as to entries in that register have not been complied with; and

(b) shall contain such provision as may be prescribed for the protection of persons who may have begun to avail themselves of the patented invention between the date when the patent ceased to have effect and the date of the application under this section;

and if any condition of an order under this section is not complied with by the patentee, the comptroller may, after giving to the patentee an opportunity to be heard, revoke the order and give such directions consequential on the revocation as he thinks fit.

(8) An appeal shall lie from any decision of the comptroller under this section."

### Section 21

For subsection (1) there shall be substituted the following subsection:—

"(1) The comptroller may, upon application made under this section by a patentee, or by an applicant for a patent at any time after the acceptance of the complete specification, allow the complete specification to be amended by way of disclaimer, correction or explanation, subject to such conditions, if any, as the comptroller thinks fit.

Every applicant for leave to amend a specification under this section shall state the nature of the proposed amendment and shall give full particulars of the reasons for which the application is made."

In subsection (2) for the words "The request" there shall be substituted the words "Any application for leave to amend a specification under this section"; for the words "one month from its first advertisement" there shall be substituted the words "the prescribed period after the advertisement"; and at the end of the subsection there shall be added the words:—

"Provided that where the application is made before the publication of the complete specification, the comptroller may, if he thinks fit, dispense with advertisement under this subsection or direct that advertisement shall be postponed until the publication of the complete specification."

In subsection (3) for the words "hear and decide the case" there shall be substituted the words "give to that person and to the opponent an opportunity to be heard before he decides the case."

1ST SCH.  
—cont.

Subsection (4) shall be omitted.

For subsection (5) there shall be substituted the following subsection:—

“(5) An appeal shall lie from any decision of the comptroller under this section.”

For subsection (6) there shall be substituted the following subsection:—

“(6) No amendment shall be allowed, except for the purpose of correcting an obvious mistake, the effect of which would be that the specification as amended would claim or describe matter not in substance disclosed in the specification before the amendment or that any claim of the specification as amended would not fall wholly within the scope of a claim of the specification before the amendment.”

For subsection (7) there shall be substituted the following subsection:—

“(7) Where, after the date of the publication of a complete specification, any amendment of the specification is allowed or approved by the comptroller, the court or the Appeal Tribunal under this Act, the right of the patentee or applicant to make the amendment shall not be called in question except on the ground of fraud; and the fact that the specification has been amended shall be advertised in the Journal, and the amendment shall in all courts and for all purposes be deemed to form part of the specification:

Provided that in construing the specification as amended reference may be made to the specification as originally published.”

In subsection (8) for the words “This subsection shall not apply when and so long as” there shall be substituted the words “Leave to amend a specification shall not be granted under this section on an application made while”.

At the end of the section there shall be added the following subsection:—

“(9) This section (except subsection (7)) shall not apply in relation to any amendment of a specification effected in proceedings in opposition to the grant of a patent, or on a reference to the comptroller of a dispute as to the infringement or validity of a claim, or effected in pursuance of any provision of this Act authorising the comptroller to direct a reference to another specification or patent to be inserted, or to refuse to grant a patent or to revoke a patent, unless the specification is amended to his satisfaction.”

### Section 22

After the words “think fit” there shall be inserted the words “and if in any such proceedings for revocation the court decides that the patent is invalid the court may allow the specification to be amended under this section instead of revoking the patent.”

In the proviso for the words from the beginning to "before the amendment" there shall be substituted the words "Provided that (except for the purpose of correcting an obvious mistake) no amendment shall be so allowed the effect of which would be that the specification as amended would claim or describe matter not in substance disclosed in the specification before the amendment or that any claim of the specification as amended would not fall wholly within the scope of a claim of the specification before the amendment."

1ST SCH.  
—cont.

#### Section 24

In subsection (1) for the words "the comptroller shall, if the patentee so requests, cause the patent to be indorsed with the words 'licences of right' and a corresponding entry to be made in the register" there shall be substituted the words "the patentee may apply to the comptroller for the patent to be indorsed with the words 'licences of right'; and where such an application is made the comptroller shall, if satisfied that the patentee is not precluded by contract from granting licences under the patent, cause the patent to be indorsed accordingly."

In paragraph (a) of subsection (1) for the words "paragraphs (c) and (d)" there shall be substituted the words "paragraph (d)"; and paragraphs (b) and (c), and in paragraph (d) the words from "Service" to the end of the paragraph, shall be omitted.

For subsection (2) there shall be substituted the following subsection:—

"(2) An application for the indorsement of a patent under this section shall contain a statement (to be verified in such manner as may be prescribed) that the patentee is not precluded by contract from granting licences under the patent; and the comptroller may require from the applicant such further evidence as he may think necessary."

For subsection (3) there shall be substituted the following subsection:—

"(3) Within the prescribed period after a patent has been indorsed under this section, any person who claims that the patentee is and was at the time of the indorsement precluded by a contract in which the claimant is interested from granting licences under the patent may apply to the comptroller for cancellation of the indorsement; and where the comptroller is satisfied on any such application that the patentee is and was precluded as aforesaid, he shall cancel the indorsement."

In subsection (4) for the word "request," in both places where that word occurs, there shall be substituted the word "application".

In subsection (5) for the word "invention" there shall be substituted the word "indorsement".

In subsection (6) the words "advertise the application in the prescribed manner and shall" shall be omitted.

In subsection (7) for the words from the beginning to "indorsement" there shall be substituted the words "The comptroller shall advertise in the prescribed manner any application made to him

1ST SCH.  
—cont.

for the cancellation of the indorsement of a patent; and within the prescribed period after such advertisement—

- (a) in the case of an application under subsection (3) of this section, the patentee; and
- (b) in the case of an application under subsection (6) of this section, any person interested,

may give notice to the comptroller of opposition to the cancellation”.

### Section 26

In subsection (1) for the words from the beginning of the subsection to “so entitled” there shall be substituted the words “Any person interested who did not oppose the grant of a patent”.

In subsection (2) for the words from “make an order” where those words occur for the first time, to “application” there shall be substituted the words “by order direct that the patent shall be revoked either unconditionally or unless within such time as may be specified in the order the complete specification is amended to his satisfaction”; and for the words “revoking the patent”, where those words occur for the second time, there shall be substituted the words “for the unconditional revocation of the patent”.

In subsection (3) the words “in the prescribed manner” shall be omitted; and for the words from “and the comptroller may” to the end of the subsection there shall be substituted the words “and where such an offer is made—

- (a) the comptroller shall advertise the offer in the prescribed manner, and within the prescribed period after such advertisement any person interested may give notice to the comptroller of opposition to the surrender;
- (b) where any such notice of opposition is duly given the comptroller shall notify the patentee;
- (c) if the comptroller is satisfied, after hearing the patentee and any opponent, if desirous of being heard, that the patent may properly be surrendered, he may accept the offer and by order revoke the patent.”

### Section 28

In subsection (1) for the words from “a book” to the end of the subsection there shall be substituted the words “a register of patents, in which there shall be entered particulars of patents in force, of assignments and transmissions of patents and of licences under patents, and notice of all matters which are required by or under this Act to be entered in the register and all such other matters affecting the validity or proprietorship of patents as the comptroller thinks fit”.

Subsection (2) shall be omitted.

For subsection (4) there shall be substituted the following subsection:—

“(4) Rules made by the Board of Trade under this Act may require the supply to the comptroller for filing at the Patent Office of copies of such deeds, licences and other documents as may be prescribed by the rules.”



**Section 31**

In subsection (1) the words from the beginning to "assistance", and subsections (2) and (3), shall cease to have effect.

1st Sch.  
—cont.

**Section 32A**

In paragraph (a) the words from "and to such terms" to "deemed desirable" and the words from "and in exercising" to the end of the paragraph shall be omitted; in paragraphs (a) and (b) for the words "the patentee" in both places where those words occur there shall be substituted the words "the plaintiff"; in paragraph (b) the words from "and may impose" to the end of the paragraph shall be omitted; and paragraph (c) shall be omitted.

At the end of the section there shall be added the following subsection:—

"(2) As a condition of relief under paragraph (a) or paragraph (b) of subsection (1) of this section the court may direct that the specification be amended to its satisfaction upon application made for that purpose under section twenty-two of this Act and such an application may be made accordingly whether or not all other issues in the proceedings have been determined."

**Section 33**

For the words "nor had reasonable means" to "an article with" there shall be substituted the words "and had no reasonable ground for supposing, that the patent existed; and a person shall not be deemed to have been aware or to have had reasonable grounds for supposing as aforesaid by reason only of the application to an article of"; for the words from "stamped" to "number of the patent" there shall be substituted the words "unless the number of the patent accompanied the word or words in question"; and for the words "any proceedings for an injunction" there shall be substituted the words "the power of the court to grant an injunction in any proceedings for infringement of a patent."

**Section 35**

For section 35 there shall be substituted the following section:—

"35.—(1) If in any proceedings before the court the validity of any claim of a specification is contested and that claim is found by the court to be valid, the court may certify that the validity of that claim was contested in those proceedings. Certificate of contested validity of specification.

(2) Where any such certificate has been granted, then if in any subsequent proceedings before the court for infringement of the patent or for revocation of the patent, a final order or judgment is made or given in favour of the party relying on the validity of the patent, that party shall, unless the court otherwise directs, be entitled to his costs as between solicitor and client so far as concerns the claim in respect of which the certificate was granted:

Provided that this subsection shall not apply to the costs of any appeal in any such proceedings as aforesaid."

**Section 36**

In subsection (1) the words "or other like proceedings" and the words from "or an infringement" to the end of the subsection shall

1st Sch.  
—cont.

be omitted and after the words “infringement of a patent” there shall be inserted the words “or of rights arising from the publication of a complete specification.”

### Section 37

In subsection (2) for the words “joint patentees” where those words occur for the first time there shall be substituted the words “the persons registered as grantee or proprietor of a patent”, and for those words where they occur for the second time there shall be substituted the words “persons so registered”; after the word “invention” there shall be inserted the words “or any interest therein”; and for the words from “or otherwise” to the end of the subsection there shall be substituted the words “or the exercise of any right under section thirty-eight of the Patents and Designs Act, 1949, as he thinks fit”.

In subsection (3) for the words “joint patentees” there shall be substituted the words “persons registered as grantee or proprietor” and for the words “by directions given under the last foregoing subsection, empower” there shall be substituted the words “upon application made to him in the prescribed manner by any such other person, and after giving to the person in default an opportunity to be heard, give directions empowering”.

In subsection (4) for the words from the beginning to “affect” there shall be substituted the words “No directions shall be given under this section so as to affect”, and for the words “or any rights or obligations arising out of those relationships” there shall be substituted the words “or their rights or obligations as such”.

### Section 38

In subsection (1) for the words from the beginning to “public policy” there shall be substituted the words—

“Subject to the provisions of this section, any condition of a contract for the sale or lease of a patented article or of an article made by a patented process or for licence to use or work a patented article or process, or relating to any such sale, lease or licence, shall be void in so far as it purports—

- (a) to require the purchaser, lessee or licensee to acquire from the vendor, lessor or licensor, or his nominees, or prohibit him from acquiring from any specified person, or from acquiring except from the vendor, lessor or licensor, or his nominees, any articles other than the patented article or an article made by the patented process;
- (b) to prohibit the purchaser, lessee or licensee from using articles (whether patented or not) which are not supplied by, or any patented process which does not belong to the vendor, lessor or licensor, or his nominees, or to restrict the right of the purchaser, lessee or licensee to use any such articles or process;”

After the words “on reasonable terms” there shall be inserted the words “specified in the contract, and”; and the words from “In any action” to the end of the subsection shall be omitted.

In subsection (2) for the words from "relating to" to "patented process" there shall be substituted the words "for the sale or lease of a patented article or for licence to manufacture, use or work a patented article or process, or relating to any such sale, lease or licence"; and after the word "pay" there shall be inserted the words "to the other party".

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—cont.

Subsection (3) shall be omitted.

For subsection (4) there shall be substituted the following subsection :—

"(4) In proceedings against any person for an infringement of a patent, it shall be a defence to prove that at the time of the infringement there was in force a contract relating to the patent made by or with the consent of the plaintiff and containing a condition void by virtue of this section."

In subsection (5), in paragraph (a) for the word "of" there shall be substituted the words "supplied by".

#### Section 41

In subsection (1) for the words "covered by a patent" there shall be substituted the words "claimed in a complete specification"; for the words "made available to the public by publication" there shall be substituted the word "published"; in paragraph (a) for the words "not less than fifty years before the date of the patent" there shall be substituted the words "more than fifty years before the date of filing of the first-mentioned specification"; in paragraph (b) for the words "not less" there shall be substituted the word "more"; and paragraph (d) shall be omitted.

For subsection (2) there shall be substituted the following subsection :—

"(2) Subject as hereinafter provided, an invention claimed in a complete specification shall not be deemed to have been anticipated by reason only that the invention was published before the priority date of the relevant claim of the specification, if the patentee or applicant for the patent proves—

- (a) that the matter published was obtained from him or (where he is not himself the true and first inventor) from any person from whom he derives title, and was published without his consent or the consent of any such person; and
- (b) where the patentee or applicant for the patent or any person from whom he derives title learned of the publication before the date of the application for the patent or (in the case of a convention application) before the date of the application for protection in a convention country, that the application or the application in a convention country, as the case may be, was made as soon as reasonably practicable thereafter:

Provided that this subsection shall not apply if the invention was before the priority date of the claim commercially worked in the United Kingdom, otherwise than for the purpose of reason-

1st Sch.  
—cont.

able trial, either by the patentee or applicant for the patent or any person from whom he derives title or by any other person with the consent of the patentee or applicant for the patent or any person from whom he derives title.”

At the end of the section there shall be added the following subsections:—

“(3) An invention claimed in a complete specification shall not be deemed to have been anticipated by reason only that, at any time within one year before the priority date of the relevant claim of the specification, the invention was publicly worked in the United Kingdom—

- (a) by the patentee or applicant for the patent or any person from whom he derives title; or
- (b) by any other person with the consent of the patentee or applicant for the patent or any person from whom he derives title,

if the working was effected for the purpose of reasonable trial only and if it was reasonably necessary, having regard to the nature of the invention, that the working for that purpose should be effected in public.

(4) An invention claimed in a complete specification shall not be deemed to have been anticipated by reason only of the communication of the invention to a Government department or to any person authorised by a Government department to investigate the invention or its merits, or of anything done, in consequence of such a communication, for the purpose of the investigation.

(5) Notwithstanding anything in this Act or the Patents and Designs Act, 1949,—

- (a) the comptroller shall not refuse to accept a complete specification or to grant a patent; and
- (b) a patent shall not be revoked or invalidated,

by reason only of any circumstances which by virtue of the provisions of this section do not constitute an anticipation of the invention claimed in the specification.”

#### Section 43

In subsection (1) for the words “legal representative” there shall be substituted the words “personal representative.”

#### Section 45

For section forty-five there shall be substituted the following section:—

“Publication of invention at exhibitions or before learned societies.

45. An invention claimed in a complete specification shall not be deemed to have been anticipated by reason only of—

- (a) the display of the invention with the consent of the true and first inventor at an exhibition certified by the Board of Trade for the purposes of this section, or the use thereof with his consent for the purposes of such an exhibition in the place where it is held;

- (b) the publication of any description of the invention in consequence of the display or use of the invention at any such exhibition as aforesaid ;
- (c) the use of the invention, after it has been displayed or used at any such exhibition as aforesaid and during the period of the exhibition, by any person without the consent of the true and first inventor ;
- (d) the description of the invention in a paper read by the true and first inventor before a learned society or published with his consent in the transactions of such a society,

1ST SCH.  
—cont.

if the application for the patent is made by the true and first inventor or a person deriving title from him not later than six months after the opening of the exhibition or the reading or publication of the paper as the case may be ; and accordingly the comptroller shall not refuse to accept the specification or to grant a patent thereon, and the patent when granted shall not be revoked or invalidated by reason only of such matters as aforesaid."

#### Section 46

For section forty-six, there shall be substituted the following section :—

" 46. Rules made by the Board of Trade under section eighty-six of this Act shall provide for the publication by the comptroller—

Publication of  
journal and  
reports.

- (a) of a journal containing particulars of applications for patents and other proceedings under this Act ; and
- (b) of reports of cases relating to patents, trade marks and registered designs decided by the comptroller, the Appeal Tribunal or any court."

#### Section 49

For subsection (1) there shall be substituted the following subsection :—

" (1) An application for the registration of a design under this Part of this Act shall be made in the prescribed form and shall be filed at the Patent Office in the prescribed manner and for the purpose of deciding whether a design is new or original the comptroller may make such searches, if any, as he thinks fit."

Subsection (2) shall cease to have effect.

For subsection (3) there shall be substituted the following subsection :—

" (3) The comptroller may refuse any application for the registration of a design or may register the design in pursuance of the application subject to such modifications, if any, as he thinks fit ; but an appeal shall lie from any decision of the comptroller under this subsection."

For subsection (5) there shall be substituted the following subsection :—

" (5) Except as otherwise expressly provided by this Act, a design when registered shall be registered as of the date on which

1st Sch  
—cont.

the application for registration was made, or such other date (whether earlier or later than that date) as the comptroller may in any particular case direct :

Provided that no proceedings shall be taken in respect of any infringement committed before the date on which the certificate of registration of the design under this Act is issued."

### Section 50

Subsection (1) shall cease to have effect.

In subsection (2) for the words "Where the proprietor of a registered design applies for registration in the same class of goods" there shall be substituted the words "Where the registered proprietor of a design registered in respect of any article makes an application for registration in respect of one or more other articles of the registered design, or for registration in respect of the same or one or more other articles"; for the words from "of that other design" where those words first occur to the end of paragraph (b) there shall be substituted the words "made on that application be invalidated by reason only of the previous registration or publication of the registered design."

In the proviso for the words "copyright conferred by the registration of that other design" there shall be substituted the words "copyright in a design registered by virtue of this section"; and before the words "registered design" there shall be inserted the word "original".

After subsection (2) there shall be inserted the following subsection:—

"(3) Where any person makes an application for the registration of a design in respect of any article and either—

(a) that design has been previously registered by another person in respect of some other article ; or

(b) the design to which the application relates consists of a design previously registered by another person in respect of the same or some other article with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof.

then, if at any time while the application is pending the applicant becomes the registered proprietor of the design previously registered, the foregoing provisions of this section shall apply as if at the time of making the application the applicant had been the registered proprietor of that design."

### Section 51

In subsection (1) after the word "registration" there shall be inserted the words "in the prescribed form".

In subsection (2) for the words "in case of loss of the original certificate" there shall be substituted the words "in a case where he is satisfied that the certificate of registration has been lost or destroyed".

**Section 52**

In subsection (1) after the words "Patent Office" there shall be inserted the words "under the control of the comptroller"; the words "book called the" shall be omitted; and at the end of the subsection there shall be inserted the words "or as the comptroller may think fit."

Subsection (2) shall cease to have effect.

1ST SCH.  
—cont.

**Section 53**

In subsections (2) and (3) the words "or within such further time (not exceeding three months) as the comptroller may, on a request made to him before the expiration of that further time, allow" shall be omitted; for the word "manner" there shall be substituted the word "form" and after the word "fee" there shall be inserted the words "before the expiration of the said five years or within such further period (not exceeding three months) thereafter as may be specified in a request made to the comptroller and accompanied by the prescribed additional fee".

In subsection (3) for the words "may subject to any rules under this Act" there shall be substituted the word "shall".

**Section 54**

Section fifty-four shall cease to have effect.

**Section 55**

For the words from "be deemed to be" to the end of the section there shall be substituted the words "constitute grounds on which an application to register the design may be refused or the registration thereof invalidated." At the end of the section there shall be added the following subsection:—

"(2) An application for the registration of a design shall not be refused, and the registration of a design shall not be invalidated, by reason only of the communication of the design by the proprietor thereof to a Government department or to any person authorised by a Government department to consider the merits of the design, or of anything done in consequence of such a communication."

**Section 56**

For section fifty-six there shall be substituted the following section:—

"56.—(1) Subject to the following provisions of this section and to any rules made by the Board of Trade in pursuance of sections thirty-one and forty-four of the Patents and Designs Act, 1949, the representation or specimen of a design registered under this Act shall be open to inspection at the Patent Office on and after the day on which the certificate of registration is issued. Inspection of registered designs.

(2) In the case of a design registered in respect of an article of any class prescribed for the purposes of this subsection, no representation or specimen filed in pursuance of the application shall, until the expiration of such period after the day on which the certificate of registration is issued as may be prescribed in

1ST SCH.  
—cont.

relation to articles of that class, be open to inspection at the Patent Office except by the registered proprietor, a person authorised in writing by the registered proprietor, or a person authorised by the comptroller or by the court:

Provided that where the comptroller proposes to refuse an application for the registration of any other design on the ground that it is the same as or differs only in immaterial details or in features which are ordinary trade variants from the first-mentioned design, the applicant shall be entitled to inspect the representation or specimen of the first-mentioned design filed in pursuance of the application for registration of that design.

(3) In the case of a design registered in respect of an article of any class prescribed for the purposes of the last foregoing subsection, the representation or specimen of the design shall not, during the period prescribed as aforesaid, be inspected by any person by virtue of this section except in the presence of the comptroller or of an officer acting under him; and except in the case of an inspection authorised by the proviso to that subsection, the person making the inspection shall not be entitled to take a copy of the representation or specimen of the design or any part thereof."

#### Section 57

For the words "the registration still exists in respect of the design, and if so in respect of what classes of goods" there shall be substituted the words "the design is registered, and if so, in respect of what articles and whether any extension of the period of copyright has been granted".

#### Section 58

In paragraph (a) of subsection (1) for the words "has been published in the United Kingdom prior to the date of the registration" there shall be substituted the words "was not, at the date of the registration thereof, new or original or on any other ground on which the comptroller could have refused to register the design".

For paragraph (b) of subsection (1) there shall be substituted the following paragraph:—

"(b) for the grant of a compulsory licence in respect of the design on the ground that the design is not applied in the United Kingdom by any industrial process or means to the article in respect of which it is registered to such an extent as is reasonable in the circumstances of the case."

In the proviso to subsection (1) for the words "with any country outside the United Kingdom" there shall be substituted the words "applying to the United Kingdom and any convention country".

In subsection (2) for the words "this section" there shall be substituted the words "the foregoing provisions of this section"; and the words "and the comptroller may at any time refer any such application to the Appeal Tribunal for trial" shall cease to have effect.

At the end of the section there shall be added the following subsection:—

"(3) The comptroller may, upon a request made in the prescribed manner by the registered proprietor, cancel the registration of a design."



**Section 58A**1ST SCH.  
—cont.

For the words "section twenty-nine of this Act" there shall be substituted the words "sections twenty-seven to thirty of the Patents and Designs Act, 1949"; and at the end of the section there shall be added the words "subject to the following modifications:—

- (a) for references to making, exercising and using, or to making, exercising, using and vending, a patented invention, there shall be substituted references to using a registered design;
- (b) for references to the priority date of any claim of the complete specification and to the acceptance of the complete specification in respect of the patent, there shall be substituted references to the date of registration of the design; and
- (c) for paragraph (a) of subsection (2) of section twenty-nine there shall be substituted the following paragraph—
  - (a) if the registered proprietor is a party to the proceedings, apply for cancellation of the registration of the design upon any ground upon which the registration of a design may be cancelled on an application to the court under section seventy-two of the principal Act".

**Section 59**

For section fifty-nine there shall be substituted the following section:—

"59. An application for the registration of a design shall not be refused and the registration thereof shall not be invalidated by reason only—

Disclosure of  
designs at  
exhibitions.

- (a) that a representation of the design, or any article to which the design has been applied, has been displayed, with the consent of the proprietor of the design, at an exhibition certified by the Board of Trade for the purposes of this section;
- (b) that after any such display as aforesaid, and during the period of the exhibition, a representation of the design or any such article as aforesaid has been displayed by any person without the consent of the proprietor; or
- (c) that a representation of the design has been published in consequence of any such display as is mentioned in paragraph (a) of this section,

if the application for registration of the design is made not later than six months after the opening of the exhibition."

**Section 68**

For the words from "either" to the end of the section there shall be substituted the words "the complete specification has been published".

**Section 69**

For subsection (1) there shall be substituted the following subsection:—

"(1) An application for a patent and any specification filed in pursuance thereof, shall not, except with the consent of the

1st SCH.  
—cont.

applicant, be published by the comptroller or be open to public inspection at any time before the date advertised in the Journal in pursuance of section nine of this Act”.

In subsection (2) the words “drawings, photographs, tracings” shall be omitted and for the words “public inspection” there shall be substituted the words “inspection at the Patent Office”.

### Section 70

For section seventy there shall be substituted the following section:—

“Power of  
comptroller to  
correct clerical  
errors.

70.—(1) The comptroller may, in accordance with the provisions of this section,—

- (a) correct any clerical error in any patent, any application for a patent or any document filed in pursuance of such an application or any error in the register of patents;
- (b) correct any error in an application for the registration or in the representation of a design or any error in the register of designs.

(2) A correction may be made in pursuance of this section either on a request in writing made by any person interested and accompanied by the prescribed fee or without such a request.

(3) Where the comptroller proposes to make any such correction as aforesaid otherwise than in pursuance of a request made under this section he shall give notice of the proposal:—

- (a) in the case of such a correction as is mentioned in paragraph (a) of subsection (1) of this section, to the patentee or applicant for the patent;
- (b) in the case of such a correction as is mentioned in paragraph (b) of subsection (1) of this section, to the registered proprietor or applicant for registration of the design,

and to any other person who appears to him to be concerned and shall give them an opportunity to be heard before making the correction.

(4) Where a request is made under this section for the correction of any error in a patent or application for a patent or any document filed in pursuance of such an application, and it appears to the comptroller that the correction would materially alter the meaning or scope of the document to which the request relates, and ought not to be made without notice to persons affected thereby, he shall require notice of the nature of the proposed correction to be advertised in the prescribed manner.

(5) Within the prescribed time after any such advertisement as aforesaid any person interested may give notice to the comptroller of opposition to the request, and where such notice of opposition is given the comptroller shall give notice thereof to the person by whom the request was made, and shall give to him and to the opponent an opportunity to be heard before he decides the case.”

### Section 71

In subsection (1) the words “the copyright in” shall be omitted; after the words “registered design” there shall be inserted the words “or to a share in a patent or registered design”; after the words “his

title" there shall be inserted the words "as proprietor or co-proprietor"; after the word "proprietor" there shall be inserted the words "or co-proprietor"; and for the words from "cause an entry to be made" to the end of the subsection there shall be substituted the words "enter in the register particulars of the instrument or event by which he derives title."

In subsection (2) for the words "his title" there shall be substituted the words "notice of his interest".

In subsection (3) for the words "proprietor of a patent or" there shall be substituted the words "grantee or proprietor of a patent or as the proprietor of a" and the word "absolutely" shall be omitted.

In subsection (4) for the words "copyright in a" there shall be substituted the word "registered"; and after the words "or to any" there shall be inserted the words "share or".

### Section 72

In subsection (1) the words "in the prescribed manner" shall be omitted.

### Section 73

The words "(if so required within the prescribed time by the applicant)" shall be omitted.

### Section 73A

In subsection (2), after the word "design", where that word occurs for the second time, there shall be inserted the words "or for the determination of a dispute as to an invention under section thirty-nine of the Patents and Designs Act, 1949" the words "or the court" in both places where those words occur and the word "compulsory" shall be omitted and for the word "proceedings", where that word occurs for the second time, there shall be substituted the words "opposition, application".

### Section 77

In subsection (1) for the words from "shall be given" to "to the contrary" there shall be substituted the words "may be given by affidavit or statutory declaration"; and for the words "evidence by declaration" to the end of the subsection there shall be substituted the words "such evidence as aforesaid, and may allow any witness to be cross-examined on his affidavit or declaration".

For subsection (2) there shall be substituted the following subsection:—

"(2) Subject to any such rules as aforesaid, the comptroller shall in respect of the examination of witnesses on oath and the discovery and production of documents have all the powers of an official referee of the Supreme Court, and the rules applicable to the attendance of witnesses in proceedings before such a referee shall apply to the attendance of witnesses in proceedings before the comptroller."

### Section 79

After the words "kept there" there shall be inserted the words "and copies purporting to be so certified and sealed of representations and specimens of designs kept there".

1st SCH.  
—cont.

### Section 82

For section eighty-two, there shall be substituted the following section:—

“ Hours of  
business and  
excluded days.

82.—(1) Rules made by the Board of Trade under this Act may specify the hour at which the Patent Office shall be deemed to be closed on any day for purposes of the transaction by the public of business under this Act or of any class of such business, and may specify days as excluded days for any such purposes.

(2) Any business done under this Act on any day after the hour specified as aforesaid in relation to business of that class, or on a day which is an excluded day in relation to business of that class, shall be deemed to have been done on the next following day not being an excluded day; and where the time for doing anything under this Act expires on an excluded day, that time shall be extended to the next following day not being an excluded day.

(3) Rules made by the Board of Trade under the Trade Marks Act, 1938, may, in relation to any business under that Act, make provision for any matter for which provision may be made, by virtue of subsection (1) of this section, by rules made by the Board of Trade under this Act; and accordingly subsection (2) of this section shall apply in relation to any business under the said Act of 1938 as if for references therein to this Act there were substituted references to that Act.”

### Section 83

Section eighty-three shall cease to have effect.

### Section 83A

The words “embodied in” shall be omitted.

### Section 84

In the proviso to subsection (1), after the word “letters” there shall be inserted the words “issued by or with the consent of the company”.

For subsection (2) there shall be substituted the following subsection:—

“(2) Any person who contravenes the provisions of this section shall be liable on summary conviction to a fine not exceeding, in the case of a first offence, twenty pounds, and in the case of a second or subsequent offence, fifty pounds; and where an offence under this section is committed by a body corporate, every person who at the time of the commission of the offence is a director, general manager, secretary or other similar officer of the body corporate, or is purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.”

In subsection (4) after the word “business” there shall be inserted the words “of acting as agent for other persons for the purpose”.

**Section 85**1st SCH.  
—cont.

In subsection (1), after the words “erased from” there shall be inserted the words “and not restored to”; and after the words “register of patent agents” where those words occur for the first time, there shall be inserted the words “or who has been convicted of an offence under the last foregoing section” and after that subsection there shall be inserted the following subsection:—

“(1A) Rules under this Act may authorise the comptroller to refuse to recognise as agent in respect of any business under this Act any person, not being registered as a patent agent, who in the opinion of the comptroller is engaged wholly or mainly in acting as agent in applying for patents in the United Kingdom or elsewhere in the name or for the benefit of a person by whom he is employed.”

**Section 86**

For subsection (1) there shall be substituted the following subsection:—

“(1) Subject to the provisions of this Act, the Board of Trade may make such rules as they think expedient for regulating the business of the Patent Office in relation to patents and designs and for regulating all matters by this Act or the Patents and Designs Act, 1949, placed under the direction or control of the comptroller or the Board, and in particular, but without prejudice to the generality of the foregoing provision—

- (a) for prescribing the form of applications for patents and applications for registration of designs and of any specifications, drawings, representations, specimens or other documents which may be filed at the Patent Office, and for requiring copies to be furnished of any such representations, specimens or documents;
- (b) for regulating the procedure to be followed in connection with any application or request to the comptroller or in connection with any proceeding before the comptroller and for authorising the rectification of irregularities of procedure;
- (c) for regulating the keeping of the register of patents and the register of designs;
- (d) for regulating the registration of patent agents, and for authorising, in such cases as may be prescribed by the rules, the erasure from that register of the name of any person registered therein or the suspension of the right of any such person to act as a patent agent;
- (e) for authorising the publication and sale of copies of specifications, representations of designs, drawings and other documents in the Patent Office, and of indexes to and abridgements of specifications, drawings or other documents;
- (f) for prescribing anything authorised or required by this Act or the Patents and Designs Act, 1949, to be prescribed by rules made by the Board.”

1st Sch.  
—cont.

Subsection (2) shall be omitted.

In subsection (3) the words “ or any of them ” and the words “ or those to which the resolution applies ” shall be omitted.

#### Section 87

In subsection (1) for the words from “ or a secretary ” to the end of the subsection there shall be substituted the words “ of the Board of Trade, any secretary, under-secretary or assistant secretary of the Board, or any person authorised in that behalf by the President ”.

In subsection (2) after the word “ secretary ” there shall be inserted the word “ under-secretary ”.

#### Section 88

The words from “ shall ” to “ but ” shall be omitted.

#### Section 89

In subsection (2) after the word “ registered ” there shall be inserted the words “ in respect of that article ”.

In subsection (3) for the words “ a registered design ” there shall be substituted the words “ registered in respect of the article ”.

#### Section 91

For subsections (1) to (4) there shall be substituted the following subsections:—

“ (1) An application for a patent for an invention in respect of which protection has been applied for in a Convention country, or for registration of a design in respect of which protection has been so applied for may be made by the person by whom the application for protection was made or his personal representative or assignee:

Provided that no application shall be made by virtue of this section after the expiration—

- (a) in the case of an application for a patent, of twelve months from the date of the application for protection in a Convention country or, where more than one such application for protection has been made, from the date of the first application, and
- (b) in the case of an application for registration of a design, of six months from that date.

(2) An application for a patent made by virtue of this section shall be accompanied by a complete specification, and every such application—

- (a) shall specify the date on which and the Convention country in which the application for protection, or the first such application, was made ; and
- (b) shall state that no application for protection in respect of the invention had been made in a Convention country before that date by the applicant or any person from whom he derives title.

(3) Where applications for protection have been made in one or more Convention countries in respect of two or more inventions which are cognate or of which one is a modification of another, a single application for a patent may, subject to the provisions of this Act and the Patents and Designs Act, 1949, be made in respect of those inventions at any time within twelve months from the date of the earliest of the said applications for protection :

1ST SCH.  
—cont.

Provided that the fee payable on the making of any such application shall be the same as if a separate application had been made in respect of each of the said inventions, and the requirements of the last foregoing subsection shall in the case of any such application apply separately to the applications for protection in relation to each of the said inventions.

(4) An application for the registration of a design made by virtue of this section shall not be refused and the registration of a design on such an application shall not be invalidated by reason only of the registration or publication of the design in the United Kingdom or the Isle of Man during the period specified in subsection (1) of this section as that within which the application for registration may be made ; and a design registered on an application made by virtue of this section shall be registered as of the date of the application for protection in the Convention country, or, where more than one such application for protection has been made, the date of the first such application :

Provided that no proceedings shall be taken in respect of any infringement committed before the date on which the certificate of registration of the design under this Act is issued."

#### *Section 91A*

In subsection (2) for the words from "in respect of which" to "United Kingdom" there shall be substituted the words "administered by His Majesty's Government in the United Kingdom in accordance with a mandate from the League of Nations or under the trusteeship system of the United Nations".

In subsection (3) for the words from "in respect of which" to "exercised" there shall be substituted the words "administered by another country in accordance with a mandate from the League of Nations or under the trusteeship system of the United Nations".

#### *Section 91B*

In subsection (1) the words "in priority to other applicants", in both places where those words occur, shall be omitted and for the words "proviso (a)" there shall be substituted the words "paragraph (a) or, as the case may be, paragraph (b) of the proviso".

In subsection (2) paragraph (d) shall be omitted ; in paragraph (f) for the words "the design applied" there shall be substituted the words "articles to which the design is applied have been imported or made"; and for the word "reservations" there shall be substituted the word "restrictions".

1ST SCH.  
—cont.

### Section 91C

In subsection (1), in paragraph (a) for the words “the legal representative” there shall be substituted the words “the personal representative”; in paragraph (b) for the words “any such application shall have priority over” there shall be substituted the words “an application for a patent or for the registration of a design made as aforesaid shall not be prejudiced, and the grant of a patent or the registration of a design in pursuance of such an application shall not be invalidated, by”; after the word “design” where that word occurs for the first time, there shall be inserted the words “or by the grant of a patent or the registration of a design on such an application” and the words “or any part thereof”, where those words occur for the second time, shall be omitted.

### Section 91D

In subsection (1) the words “or any of them” and the words “to which the resolution applies” shall be omitted.

### Section 92

For subsection (2) there shall be substituted the following subsection :—

“(2) Subject to the provisions of this Act relating to Scotland, Northern Ireland and the Isle of Man, any petition under section eighteen of this Act and any reference or application to the court under this Act shall, subject to rules of court, be dealt with by such judge of the High Court as the Lord Chancellor may select for the purpose.

No appeal shall lie from any decision of the court under section eighteen of this Act.”

### Section 92A

In subsection (3), there shall be omitted from the words after paragraph (c) the words “and the awarding of costs” and there shall be added at the end of the subsection the words “and upon any appeal under this Act to the Appeal Tribunal, the Tribunal may exercise any power which could have been exercised by the comptroller in the proceeding from which the appeal is brought.”

For subsection (4) there shall be substituted the following subsection :—

“(4) Rules made under this section shall provide for the appointment of scientific advisers to assist the Tribunal upon appeals under this Act relating to patents and for regulating the functions of such advisers; and the remuneration of a scientific adviser appointed in accordance with such rules shall be defrayed out of moneys provided by Parliament.”

### Section 93

The definitions of “His Majesty’s dominions outside the United Kingdom”, “proprietor of a new or original design” and “working on a commercial scale” shall be omitted.



In the definition of "invention," after the word "Monopolies" there shall be inserted the words "and any new method or process of testing applicable to the improvement or control of manufacture".

1st SCH.  
—cont.

For the definition of "inventor" and "applicant" there shall be substituted the following definition:—

“ ‘applicant’ includes a person in whose favour a direction has been given under section eleven of the Patents and Designs Act, 1949, and the personal representative of a deceased applicant ”.

After the last-mentioned definition there shall be inserted the following definition:—

“ ‘article’, in relation to patents, has the meaning assigned to it by section fifty of the Patents and Designs Act, 1949 ”.

For the definition of "copyright" there shall be substituted the following definition:—

“ ‘copyright’ has the meaning assigned to it by section forty-three of the Patents and Designs Act, 1949 ”.

After the definition of "date of application" there shall be inserted the following definition:—

“ ‘date of filing’ in relation to any document filed under this Act means the date on which the document is filed or, where it is deemed by virtue of any provision of this Act or of rules made thereunder, to have been filed on any different date, means the date on which it is deemed to be filed ”.

At the end of the section there shall be added the following words:—

“ ‘assignee’ includes the personal representative of a deceased assignee, and references to the assignee of any person include references to the assignee of the personal representative or assignee of that person ;

‘priority date’ has the meaning assigned to it by section four of the Patents and Designs Act, 1949 ;

‘published’, where that expression is used (otherwise than in relation to a complete specification) in any provision relating to patents, means made available to the public ; and without prejudice to the generality of the foregoing provision a document shall be deemed for the purposes of any such provision as aforesaid to be published if it can be inspected as of right at any place in the United Kingdom by members of the public, whether upon payment of a fee or otherwise ;

‘registered proprietor’, in relation to a design, means the person or persons for the time being entered in the register of designs as the proprietor of the design ;

‘set of articles’ has the meaning assigned to it by subsection (1) of section fifty of the Patents and Designs Act, 1949.

1st SCH.  
—cont.

(2) For the purposes of section ninety-one and ninety-one C of this Act, the expression 'personal representative' in relation to a deceased person includes the legal representative of the deceased appointed in any country outside the United Kingdom.

(3) Subject to the provisions of this and the next following subsection, the author of a design shall be treated for the purposes of this Act as the proprietor of the design:

Provided that where the design is executed by the author for another person for good consideration, that other person shall be treated for the purposes of this Act as the proprietor.

(4) Where a design, or the right to apply a design to any article, becomes vested, whether by assignment, transmission or operation of law, in any person other than the original proprietor, either alone or jointly with the original proprietor, that other person, or as the case may be the original proprietor and that other person, shall be treated for the purposes of this Act as the proprietor of the design or as the proprietor of the design in relation to that article."

#### Section 94

At the end of the section there shall be added the words "the expression 'chose in action' means a right of action or an incorporeal moveable; the expression 'arbitrator' means arbiter; the expression 'plaintiff' means pursuer; and the expression 'defendant' means defender".

#### First Schedule

For the words from "Fees on Instruments" to the end of the Schedule there shall be substituted the words:—

<i>"Maximum Fees</i>				£	s.	d.
On application for patent	...	...	...	1	0	0
On filing of complete specification	...	...	...	4	0	0
On sealing of patent	...	...	...	5	0	0
Renewal fees in respect of—						
fifth year of patent	...	...	...	10	0	0
sixth year of patent	...	...	...	10	0	0
seventh year of patent	...	...	...	10	0	0
eighth year of patent	...	...	...	10	0	0
ninth year of patent	...	...	...	15	0	0
tenth year of patent	...	...	...	15	0	0
eleventh year of patent	...	...	...	20	0	0
twelfth year of patent	...	...	...	20	0	0
thirteenth year of patent	...	...	...	20	0	0
fourteenth year of patent	...	...	...	20	0	0
fifteenth year of patent	...	...	...	20	0	0
sixteenth year of patent	...	...	...	20	0	0"

## SECOND SCHEDULE

Section 51.

*Provisions of principal Act repealed*

Subsection (4) of section one.

Subsection (5) of section two.

Subsections (1), (2) and (4) of section six.

Paragraphs (d) and (e) of subsection (1) of section eleven.

Section thirteen.

Subsection (1) of section seventeen.

Subsection (4) of section twenty-one.

Paragraphs (b) and (c) of subsection (1) of section twenty-four.

Section twenty-seven.

Subsection (2) of section twenty-eight.

Section twenty-nine.

Section thirty.

Subsections (2) and (3) of section thirty-one.

Section thirty-four.

Subsection (1) of section thirty-seven.

Subsection (3) of section thirty-eight.

Section thirty-eight A.

Paragraph (d) of subsection (1) of section forty-one.

Section forty-two.

Subsection (2) of section forty-three.

Subsection (2) of section forty-nine.

Subsection (1) of section fifty.

Subsection (2) of section fifty-two.

Section fifty-four.

Section sixty.

Section eighty-three.

Subsection (2) of section eighty-six.

Paragraph (d) of subsection (2) of section ninety-one B.

## THIRD SCHEDULE

Section 51.

*Transitional Provisions*

1. Section four of this Act shall apply in relation to a complete specification filed before the commencement of this Act as it applies in relation to a complete specification filed after the commencement of this Act :

Provided that for the purposes of the said section four a claim of any such specification filed after a provisional specification shall be deemed to be fairly based on the matter disclosed in the provisional specification unless the claim is for a further or different invention to that contained in the provisional specification.

3RD SCH.  
—cont.

2. Notwithstanding anything in section five of the principal Act as amended by this Act, a complete specification shall not be filed after the commencement of this Act in respect of an application which, by virtue of the said section five, was deemed to be abandoned at any time before the commencement of this Act :

Provided that nothing in this paragraph shall affect any power of the comptroller under section six of the Patents, Designs, Copyright and Trade Marks (Emergency) Act, 1939, to extend the time for filing a complete specification.

3. Where a complete specification has been filed before the commencement of this Act but has not been accepted, the provisions of the principal Act shall have effect, in relation to matters arising before the acceptance or refusal of acceptance of the complete specification, as if this Act had not been passed.

4. Section seven of this Act shall not apply in any case where the complete specification was accepted before the commencement of this Act, but the provisions of sections eleven and twenty-six of the principal Act relating to the grounds on which the grant of a patent may be opposed or on which a patent may be revoked by the comptroller shall in any such case have effect as if this Act had not been passed.

5. The power of the comptroller under subsection (4) of section six of this Act to refuse the grant of a patent unless the complete specification is amended to his satisfaction shall not be exercisable in relation to any complete specification which was accepted before the commencement of this Act.

6. Subsection (2) of the section substituted by this Act for section fifteen of the principal Act shall apply in relation to any application for a patent made before the commencement of this Act as it applies in relation to an application made after the commencement of this Act.

7. Notwithstanding anything in this Act, a patent sealed before the commencement of this Act and bearing a date within the period beginning with the third day of September, nineteen hundred and thirty-nine, and ending with the commencement of this Act, may be revoked by the court on the ground specified in paragraph (oo) of subsection (2) of section twenty-five of the principal Act.

8. Where, in relation to any invention or design, the time for giving notice to the comptroller under section forty-five or section fifty-nine of the principal Act expired before the commencement of this Act and the notice was not given, the provisions of the sections substituted by this Act for those sections shall not apply in relation to that invention or any patent for that invention or in relation to that design or any registration of that design.

9. In relation to a complete specification which was accepted before the commencement of this Act, this Act and the principal Act as amended by this Act shall have effect as if for the words "the date of the publication," wherever those words occur, there were substituted the words "the date of the acceptance."

10. Where a specification filed before the commencement of this Act has become open to public inspection, it shall continue to be open to public inspection notwithstanding any amendment of section sixty-nine of the principal Act effected by this Act.

3RD SCH.  
—cont.

11. Where a specification which, before the commencement of this Act, has become open to public inspection under subsection (4) of section ninety-one of the principal Act, has been amended before acceptance, nothing in section twenty-one of the principal Act as amended by this Act shall be construed as authorising reference to be made, in construing the specification, to the specification as it subsisted before acceptance.

12. Where two or more persons are registered as grantee or proprietor in respect of a patent which was granted or for which application was made before the commencement of this Act, the right of each of those persons to assign the whole or part of his interest in the patent shall not be restricted by reason only of the provisions of section thirty-eight of this Act.

13. The amendments effected by this Act of section twenty-two and section thirty-two A of the principal Act shall not affect any proceedings which are pending at the commencement of this Act.

14. A condition in any contract in force immediately before the commencement of this Act shall not be invalidated by reason only of any amendment of section thirty-eight of the principal Act effected by this Act.

15. Notwithstanding the repeal by this Act of section thirty-eight A of the principal Act, subsection (2) of that section shall continue to apply in any case where the complete specification was filed before the commencement of this Act.

16. The provisions of section thirty of the principal Act and of any rules made by virtue of that section shall continue to apply in relation to any patent granted before the commencement of this Act in pursuance of that section as if this Act had not been passed.

17. Section thirty-five of this Act shall not apply in relation to any infringement of a patent committed before the commencement of this Act.

18. Any design registered before the commencement of this Act shall be deemed to be registered under the principal Act in respect of articles of the class in which it is registered.

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Petty Sessions (Ireland) Act, 1851 ... ..	14 & 15 Vict. c. 93.
Interpretation Act, 1889 ... ..	52 & 53 Vict. c. 63.
Courts of Law Fees (Scotland) Act, 1895 ... ..	58 & 59 Vict. c. 14.
Patents and Designs Act, 1907 ... ..	7 Edw. 7. c. 29.
Supreme Court of Judicature (Consolidation) Act, 1925 ... ..	15 & 16 Geo. 5. c. 49.
Solicitors Act, 1932... ..	22 & 23 Geo. 5. c. 37.
Solicitors (Scotland) Act, 1933 ... ..	23 & 24 Geo. 5. c. 21.
Arbitration Act, 1934 ... ..	24 & 25 Geo. 5. c. 14.
Trade Marks Act, 1938 ... ..	1 & 2 Geo. 6. c. 22.
Patents, Designs, Copyright and Trade Marks (Emergency) Act, 1939 ... ..	2 & 3 Geo. 6. c. 107.
Supreme Court of Judicature (Amendment) Act, 1944 ... ..	7 & 8 Geo. 6. c. 9.
Atomic Energy Act, 1946 ... ..	9 & 10 Geo. 6. c. 80.
Crown Proceedings Act, 1947 ... ..	10 & 11 Geo. 6. c. 44.
Monopolies and Restrictive Practices (Inquiry and Control) Act, 1948 ... ..	11 & 12 Geo. 6. c. 66.

## CHAPTER 63

### *Legal Aid and Solicitors (Scotland), Act 1949*

#### ARRANGEMENT OF SECTIONS

##### PART I

##### LEGAL AID AND LEGAL ADVICE

##### *Legal Aid*

##### Section.

1. Scope and general conditions of legal aid.
2. Financial conditions of legal aid.
3. Contributions from assisted persons and payments out of property recovered.
4. Assessment of disposable capital and income and of maximum contribution.
5. Legal aid in matters not involving litigation.
6. Solicitors and counsel.

##### *Legal Advice*

7. Right to and nature of legal advice.

##### *Administration and Finance*

8. Functions of Law Society.
9. Legal Aid (Scotland) Fund.
10. Accounts and audit.
11. Pension rights of employees.

*Supplementary*

Section.

12. Regulations.
13. Rules of Court.
14. Adaptation of rights to indemnity.
15. Offences.
16. Application to Crown.
17. Interpretation, transitional provisions, repeals and citation of Part I.

PART II

ESTABLISHMENT OF LAW SOCIETY OF SCOTLAND AND PROVISIONS  
RELATING TO SOLICITORS

*Law Society of Scotland*

18. Establishment of Law Society of Scotland and provisions relating to the Society.

*Practising certificates*

19. Certificate required for practising as a solicitor.

*Rules for professional conduct*

20. Council of Society to make rules with respect to bank accounts, etc.
21. Relief to banks.

*Scottish Solicitors Guarantee Fund*

22. Constitution of Guarantee Fund.

*Discipline and offences*

23. Complaints to Discipline Committee.
24. Provisions as to employment of disqualified solicitor.
25. Provisions as to taking apprentices.

*Supplementary*

26. Minor and consequential amendments, and repeals.
27. Service of notices, etc.
28. Interpretation, citation and construction of Part II.

PART III

GENERAL

29. Citation and construction.

SCHEDULES :

First Schedule.—Proceedings for which legal aid may be given.

Part I.—Description of Proceedings.

Part II.—Excepted Proceedings.

Second Schedule.—Resources to be disregarded on application for legal aid.

Third Schedule.—Remuneration of persons giving legal aid.

Fourth Schedule.—Provisions relating to the Law Society of Scotland.

Part I.—General.

Part II.—Temporary provisions with respect to meetings of the Society.

Fifth Schedule.—Provisions with respect to practising certificates and the suspension of solicitors from practising in cases of sequestration, of granting a trust deed for creditors or of insanity.

Sixth Schedule.—Provision with respect to the Scottish Solicitors Guarantee Fund.

Seventh Schedule.—Minor and consequential amendments.

Eighth Schedule.—Enactments repealed.

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An Act to make legal aid and advice in Scotland more readily available for persons of small or moderate means and to enable the cost of legal aid or advice for such persons to be defrayed wholly or partly out of moneys provided by Parliament; to establish a Law Society of Scotland; to amend the law relating to solicitors in Scotland; and for purposes connected with the matters aforesaid. [30th July 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART I

### LEGAL AID AND LEGAL ADVICE

#### *Legal Aid*

Scope and  
general  
conditions of  
legal aid.

1.—(1) This and the three next following sections provide for, and (save as hereinafter mentioned) relate only to legal aid in connection with proceedings before courts and tribunals in Scotland and before the House of Lords on appeal from the Court of Session.

(2) Unless and until regulations otherwise provide, the proceedings in connection with which legal aid may be given are any proceedings of a description mentioned in Part I of the First Schedule to this Act, except proceedings mentioned in Part II of that Schedule.



(3) Subject to the provisions of this section, the proceedings in connection with which legal aid may be given may be varied by regulations, and the regulations may describe the proceedings to be included or excluded by reference to the court or tribunal, to the issues involved, to the capacity in which the person requiring legal aid is concerned, or otherwise.

(4) Regulations made for the purpose of the last foregoing subsection—

- (a) shall not provide for legal aid being given in connection with proceedings before any court or tribunal before which persons have no right and are not normally allowed to be heard by counsel or a solicitor; and
- (b) shall not come into force unless or until approved by resolution of each House of Parliament.

(5) Legal aid shall consist of representation, on the terms provided for by this Act, by a solicitor and so far as necessary by counsel (including all such assistance as is usually given by solicitor or counsel in the steps preliminary or incidental to any proceedings or in arriving at or giving effect to a settlement to prevent or bring to an end any proceedings).

(6) A person shall not be given legal aid in connection with any civil proceedings or in connection with any criminal proceedings by way of appeal against conviction or sentence (whether in summary proceedings or in proceedings on indictment) unless he shows that he has a *probabilis causa litigandi*, and may also be refused legal aid in any such proceedings as aforesaid if it appears unreasonable that he should receive it in the particular circumstances of the case.

(7) Save as expressly provided by or under this Part of this Act, the fact that the services of counsel or a solicitor are given by way of legal aid shall not affect the relationship between or the rights of counsel, solicitor and client.

2.—(1) Subject to this Part of this Act, legal aid shall be available for any person whose disposable income does not exceed four hundred and twenty pounds a year:

Financial conditions of legal aid.

Provided that a person may be refused legal aid if he has a disposable capital of more than five hundred pounds and it appears that he can afford to proceed without legal aid.

(2) Notwithstanding the provisions of the foregoing subsection, legal aid shall be available in connection with criminal proceedings to an accused person without inquiry into his resources—

- (a) where the proceedings are taken under solemn procedure, until, after being brought before a magistrate

**PART I**  
**—cont.**

- for examination on declaration, he is admitted to bail or committed until liberated in due course of law, or
- (b) where the proceedings are taken under summary procedure, until the conclusion of the first diet at which he is called upon to plead.
- (3) Where a person receives legal aid in connection with any proceedings—
- (a) the expenses incurred in connection with the proceedings, so far as they would ordinarily be paid in the first instance by or on behalf of the solicitor acting for him, shall be so paid ;
- (b) his solicitor and counsel shall not take any payment in respect of the legal aid except such payment as is directed by this Part of this Act to be made out of the legal aid fund ;
- (c) he may be required to make a contribution to the legal aid fund in respect of the sums payable thereout on his account;
- (d) any sums recovered by virtue of an award of expenses or of an agreement as to expenses in his favour with respect to the proceedings shall be paid to the legal aid fund ;
- (e) his liability by virtue of an award of expenses against him with respect to the proceedings shall not exceed the amount (if any) which in the opinion of the court or tribunal making the award is a reasonable one for him to pay having regard to all the circumstances, including the means and the conduct in connection with the dispute of all parties.
- (4) It shall be competent, at any time within such period as may be prescribed after the making of such an award of expenses as is mentioned in paragraph (e) of the last foregoing subsection, for any party concerned in such award to apply to the court or tribunal by which the award was made for a re-assessment of the amount of the award on the ground that since the award was made there has been a relevant change of circumstances, and on such application the court or tribunal may re-assess the amount of the award as seems to them proper.
- (5) For the purposes of any inquiry under this section as to the means of a person who has been found liable in expenses, his dwelling-house, wearing apparel and household furniture and the tools and implements of his trade or profession shall be left out of account except to such extent as may be prescribed, and except as aforesaid, shall not, in any part of the United Kingdom, be subject to diligence in execution of the award.

3.—(1) A person's contribution to the legal aid fund in respect of any proceedings may include—

PART I  
—cont.

(a) a contribution in respect of income not greater than half the amount (if any) by which his disposable income exceeds one hundred and fifty-six pounds a year; and

Contributions from assisted persons and payments out of property recovered.

(b) a contribution in respect of capital not greater than the amount (if any) by which his disposable capital exceeds seventy-five pounds.

(2) A person may be required to make any contribution to the legal aid fund in one sum or by instalments.

(3) If the total contribution to the legal aid fund made by a person in respect of any proceedings is more than the net liability of that fund on his account, the excess shall be repaid to him.

(4) Except so far as regulations otherwise provide, any sums remaining unpaid on account of a person's contribution to the legal aid fund in respect of any proceedings and, if the total contribution is less than the net liability of that fund on his account, a sum equal to the deficiency shall be paid, in priority to any other debts, out of any property (wherever situate) which is recovered or preserved for him in the proceedings.

(5) The reference in the last foregoing subsection to property recovered or preserved for any person shall include his rights under any settlement arrived at to prevent or bring to an end the proceedings and any sums recovered by virtue of an award of expenses made in his favour in the proceedings (not being sums payable into the legal aid fund under the last foregoing section).

(6) Nothing in subsection (4) of this section shall prevent a court allowing any damages or expenses to be set off against other damages or expenses.

(7) References in this section to the net liability of the legal aid fund on any person's account in relation to any proceedings refer to the aggregate amount of the sums paid or payable out of that fund on his account in respect of those proceedings to any solicitor and not recouped to that fund by sums which are recovered by virtue of an award of expenses or of an agreement as to expenses in his favour with respect to those proceedings.

4.—(1) References in this Act to a person's disposable income or disposable capital shall be taken as referring to the rate of his income or the amount of his capital after making—

Assessment of disposable capital and income and of maximum contribution.

(a) such deductions as may be prescribed in respect of the maintenance of dependants, interest on loans, income tax, rates, rent and other matters for which the person in question must or reasonably may provide; and

(b) such further allowances as may be prescribed to take account of the nature of his resources.

PART I  
—cont.

(2) Regulations may make provision as to the manner in which the rate of a person's income and the amount of his capital are to be computed for the purposes of the foregoing subsection, and in particular for determining whether any resources are to be treated as income or capital and for taking into account fluctuations of income.

(3) The regulations shall include provision for securing that the resources of a person seeking or receiving legal aid shall be treated as not including the subject matter of the dispute.

(4) Except in so far as the regulations otherwise provide, any resources of a person's wife or husband shall be treated for the purposes of this section as that person's resources, and the regulations may also make provision, in relation to minors and pupils and other special cases, for taking into account the resources of other persons.

(5) The regulations shall include provision for securing that in computing resources there shall be observed the rules set out in paragraphs 1, 4, 5 and (so far as relevant) 6 of the Second Schedule to the National Assistance Act, 1948, and again set out with the necessary adaptations of the said paragraph 6 in the Second Schedule to this Act:

Provided that the regulations may provide that the reference in the said paragraph 1 to borrowing money shall not apply in any prescribed circumstances.

(6) Subject to the provisions of this section, a person's disposable income and disposable capital, and the maximum amount of his contribution to the legal aid fund in respect of any proceedings, shall be determined by the National Assistance Board, and the Board may call attention to any special circumstances affecting the maximum amount of the lump sum and periodical payments which he could reasonably make on account of any contribution.

(7) Any increase attributable to the last foregoing subsection in the expenses of the National Assistance Board shall be defrayed out of moneys provided by Parliament.

(8) Regulations for the purposes of this section shall be made with the concurrence of the Treasury.

5.—(1) This section provides for, and (except for subsection (6)) relates only to, legal aid in taking steps to assert or dispute a claim where—

- (a) the question of taking, defending or being a party to proceedings before a court or tribunal does not arise or has not yet arisen; but
- (b) if it did arise, the proceedings would, or might properly, be such that legal aid could be given in connection therewith under section one of this Act.

Legal aid in matters not involving litigation.

(2) Legal aid under this section shall consist of the assistance of a solicitor on the terms provided for by this section, and (save as expressly provided by or under this Part of this Act) the fact that the assistance is given by way of legal aid shall not affect the relationship between or rights of solicitor and client.

(3) A person shall not be given legal aid under this section unless he shows that he has reasonable grounds for taking steps to assert or dispute the claim, and may also be refused such aid if it appears unreasonable that he should receive it in the particular circumstances of the case.

(4) Subject to the provisions of this section, sections two, three and four of this Act shall apply for the purposes of this section with the necessary modifications of references to proceedings or to the subject matter of the dispute and with the following omissions, that is to say—

(a) so much of sections two and three as relates to awards of expenses,

(b) in section four, subsections (5), (6) and (7).

(5) Unless and until regulations otherwise provide, legal aid shall not be available under this section for any person whose disposable income exceeds one hundred and fifty-six pounds a year or whose disposable capital exceeds seventy-five pounds; and provision may be made by regulations for restricting the nature and extent of the assistance which may be given by way of legal aid under this section.

(6) Where a person receives legal aid under this section in any matter and, on that matter giving rise or appearing likely to give rise to proceedings, he is given legal aid also in connection with those proceedings, then, except in so far as regulations otherwise provide, section three of this Act shall apply as if all the legal aid had been received in connection with the proceedings.

6.—(1) Lists of solicitors and advocates willing to act for persons receiving legal aid shall be prepared and maintained, and there may be separate lists for different purposes, for different courts and for different districts.

(2) Any practising solicitor or advocate shall be entitled to have his name on the appropriate lists or any of them, unless the Law Society, in the case of a solicitor, or the Faculty of Advocates, in the case of an advocate, determine that there is good reason for excluding him arising out of his conduct when acting or selected to act for persons receiving legal aid or his

**PART I**  
**—cont.**

professional conduct generally, or, in the case of a member of a firm of solicitors, out of that of any person who is for the time being a member of the firm :

Provided that any solicitor or advocate may appeal to the Court of Session against his exclusion from any list, and on such appeal the Court may make such order in the matter as they think fit.

(3) Where a person is entitled to receive legal aid, the solicitor to act for him and, if the case requires counsel, his counsel, shall be selected from the appropriate list, and he shall be entitled to make the selection himself :

Provided that—

- (a) where in pursuance of arrangements made by the Law Society in accordance with the scheme made under section eight of this Act a solicitor is available in any court of summary jurisdiction within the meaning of the Summary Jurisdiction (Scotland) Act, 1908, for the special purpose of giving legal aid in connection with proceedings in that court to any accused person during the period ending with the conclusion of the first diet at which such person is called on to plead, an accused person seeking such legal aid under this Part of this Act in that court shall not be entitled to receive such aid during that period otherwise than by representation by that solicitor ; and
- (b) this subsection shall not prejudice the right of solicitor or counsel, where he has good reason, to refuse or give up a case or to entrust it to another.

(4) Subject to this Part of this Act, a solicitor who has acted for a person receiving legal aid shall be paid for so acting out of the legal aid fund, and any fees due to counsel for so acting shall be paid to the solicitor instructing him out of that fund.

(5) The sums payable to a solicitor or counsel for acting for a person receiving legal aid shall not exceed those allowed under the Third Schedule to this Act.

(6) In the foregoing provisions of this section, references to acting for a person receiving legal aid shall, in relation to a solicitor, include references to acting for such a person on the instructions of another solicitor.

(7) Subsection (5) of this section shall not affect the sums recoverable by virtue of an award of expenses in favour of a person who has received legal aid or of an agreement as to expenses in favour of such a person which provides for taxation ; and for the purposes of any such award or agreement, the solicitor who acted for the person in whose favour it is made shall be treated as having paid any counsel's fees.

*Legal advice*

7.—(1) Subject to this Part of this Act, legal advice shall be available in Scotland for any person.

(2) Legal advice shall consist of oral advice on legal questions given by a solicitor in accordance with the scheme made under section eight of this Act and shall include help in preparing an application for legal aid and in supplying information required in connection therewith for determining disposable income and capital, but (subject to the following provisions of this section) shall not include advice on any law other than Scots law.

(3) Lists of solicitors willing to give legal advice shall be prepared and maintained, and there may be different lists for different districts; and the provisions of subsections (2) to (5) of the last foregoing section shall, subject to the necessary modifications, apply for the purposes of this section.

(4) In the case of a member of the forces, legal advice shall include advice on the law—

- (a) of any part of the United Kingdom; and
- (b) where regulations so provide, of any other country or territory in which he has been resident whether in the course of his service or not.

(5) In the case of a person who has been a member of the forces at any time after the passing of this Act, the last foregoing subsection shall apply so as to authorise the giving of advice on matters arising in the course of his service furth of Scotland as it applies in the case of a person who is a member of the forces.

(6) If provision corresponding to this Part of this Act is made for England, legal advice shall, in the case of any person, include—

- (a) help for the purposes of that provision corresponding to the help mentioned in subsection (2) of this section; and
- (b) where regulations so provide, advice on the law of England.

(7) If provision corresponding to this Part of this Act is made for Northern Ireland, the last foregoing subsection shall apply in relation to Northern Ireland as it applies in relation to England.

(8) Provision may be made by regulations for further defining or restricting the questions (whether of Scots or any other law) on which legal advice may be given.

(9) A person seeking legal advice may be required—

- (a) to satisfy such person as may be designated for the purpose under the scheme made under section eight of this Act that he cannot afford to obtain it in the ordinary way; and
- (b) to pay a fee of half a crown or such other fee as may be prescribed for each interview.

PART I  
—cont.  
Right to and  
nature of  
legal advice.

PART I  
—cont.

(10) Any fees paid under this section shall be paid into the legal aid fund.

(11) A person seeking legal advice shall have the same privilege for communications made for that purpose to the person giving it, and the same remedies against that person for any negligence, as if he had been consulting him as his solicitor in the ordinary way.

(12) The limitation of legal advice to oral advice shall not prevent the person giving it, where he thinks the person seeking it will need a written note of the advice given or any part of it, from giving him such a note.

*Administration and finance*Functions of  
Law Society.

8.—(1) Subject to this Part of this Act, it shall be the responsibility of the Law Society to make arrangements, in accordance with a scheme made by them with the approval of the Secretary of State and with the concurrence of the Treasury, for securing that legal aid and legal advice are available as required by this Part of this Act and generally to administer this Part of this Act.

(2) Any scheme made as aforesaid may be varied or revoked by a subsequent scheme so made.

(3) For the purpose of making or varying any such scheme as aforesaid the Law Society shall appoint a committee consisting of members of the Law Society and of persons nominated by the Faculty of Advocates.

(4) Any scheme under this section shall provide for the establishment for the purpose of administering the scheme of a central committee consisting of members of the Law Society and of the Faculty of Advocates, and for the inclusion in such a committee, to an extent not exceeding one-third of the total membership thereof, of persons who are not members of the Law Society or of the Faculty of Advocates.

(5) Any scheme under this section shall also provide for the establishment of such local committees as may be specified in the scheme.

(6) Any scheme under this section shall define the constitution of any committee established as aforesaid, may regulate its quorum and procedure and the tenure of office of its members, and may provide for the payment to its members of fees and allowances; but any such committee shall have power to determine its own procedure so far as not regulated as aforesaid.

(7) Where a scheme under this section is submitted to the Secretary of State for his approval, any member of the committee who was present when the scheme or any provision thereof was considered by the committee, and who then objected to the scheme or to that provision, may inform the Secretary of State of his objection; and the Secretary of State shall not approve



a scheme, where he has been informed of an objection under this subsection, without first giving the members of the committee an opportunity to make representations about the matter in dispute.

**PART I**  
—cont.

(8) Subject to this Part of this Act, a scheme under this section may include provisions as to the persons by whom and the manner in which questions arising in the administration of this Part of this Act are to be determined and as to any other matters incidental to the administration thereof.

(9) Nothing done by the Law Society in securing in accordance with this Part of this Act that legal aid is available to any person in connection with any proceedings shall render them liable to be held to be *dominus litis* in relation to those proceedings.

(10) The Law Society shall, as soon as possible after the end of each financial year, make a report to the Secretary of State on the operation of this Part of this Act during that year.

(11) A copy of such report shall be laid before Parliament by the Secretary of State.

**9.**—(1) The functions of the Law Society under this Part of this Act shall include the establishment and administration of the Legal Aid (Scotland) Fund (in this Part of this Act referred to as “the legal aid fund”).

(2) All receipts and expenses of the Law Society attributable to this Part of this Act shall be paid into and out of the legal aid fund, and the general funds of the Law Society shall be indemnified thereout against any liability in respect of those expenses.

(3) The said expenses shall include—

- (a) any fees and allowances payable to members of a committee by virtue of the last foregoing section;
- (b) a proper proportion of any expenses incurred partly in connection with functions under this Part of this Act and partly for other purposes;
- (c) such sums as may be proper for the use wholly or partly in connection with those functions of property acquired for other purposes.

(4) The said receipts shall include such sums as may be proper for the use by the Law Society otherwise than in connection with their functions under this Part of this Act of property acquired at the expense of the legal aid fund.

(5) The proper proportion of any expenses, or the proper sum, for the purpose of any question arising under subsection (3) or (4) of this section shall be determined by the Secretary of State.

**PART I**  
—*cont.*

(6) The sums required to meet payments out of the legal aid fund, after allowing for sums received apart from this provision, shall be paid to that fund by the Secretary of State at such times and in such manner as he may with the approval of the Treasury determine, and shall be so paid out of moneys provided by Parliament.

(7) Estimates of the sums required as aforesaid shall from time to time be submitted to the Secretary of State by the Law Society.

(8) An estimate shall be submitted under the last foregoing subsection at least once in every financial year at such time as the Secretary of State may with the approval of the Treasury direct.

(9) An estimate under that subsection shall be in such form and shall give such particulars as may be so directed.

**Accounts  
and audit.**

**10.**—(1) The Law Society shall keep such accounts with respect to the legal aid fund and shall prepare in respect of each financial year a statement of accounts in such form, as the Secretary of State may with the approval of the Treasury direct.

(2) The accounts shall be audited by persons to be appointed in respect of each financial year by the Secretary of State and in accordance with a scheme of audit approved by him, and the auditors shall be furnished by the Law Society with copies of the said statement and shall report to the Secretary of State on the accounts and the said statement.

(3) No person shall be qualified to be so appointed auditor unless he is a member of one or more of the following bodies:—

The Society of Accountants in Edinburgh;

The Institute of Accountants and Actuaries in Glasgow;

The Society of Accountants in Aberdeen;

The Institute of Chartered Accountants in England and Wales;

The Society of Incorporated Accountants and Auditors;

The Association of Certified and Corporate Accountants;

The Institute of Chartered Accountants in Ireland.

(4) So soon as the accounts have been audited, the auditors shall send to the Secretary of State copies of the statement of accounts and of their report, and the Secretary of State shall send a copy of the statement and of the report to the Comptroller and Auditor General.

(5) The Comptroller and Auditor General shall examine every statement and report sent to him under the last foregoing subsection, and may inspect the accounts kept with respect to the legal aid fund and any records relating thereto, and shall certify every such statement and lay a copy of it together with his report thereon before Parliament.

**11.**—(1) Arrangements shall be made, in accordance with regulations, for providing pensions to or in respect of persons employed by the Law Society whole-time for the purpose of their functions under this Part of this Act. PART I  
—cont.  
Pension rights  
of employees.

(2) The regulations may require the arrangements to extend, with any necessary adjustments, to persons employed by the Law Society part-time for that purpose or (whether whole-time or part-time) for that and other purposes.

(3) The arrangements may include the establishment and administration, by the Law Society or otherwise, of a pension scheme, with or without a pension fund.

(4) The regulations may direct that receipts and expenses of the Law Society attributable to their establishment and administration of a pension scheme under this section shall, notwithstanding anything in section nine of this Act, be dealt with under the scheme instead of being paid into and out of the legal aid fund.

(5) Regulations for the purposes of this section shall be made with the concurrence of the Treasury.

#### *Supplementary*

**12.**—(1) The Secretary of State may make such regulations as appear to him necessary or desirable for preventing abuses of this Part of this Act by persons seeking or receiving legal aid or advice. Regulations.

(2) Regulations may make provision as to the information to be furnished by a person seeking or receiving legal aid or advice.

(3) Regulations may also modify any provision of this Part of this Act so far as appears to the Secretary of State necessary to meet the special circumstances where—

(a) a person seeking or receiving legal aid or advice—

- (i) is not resident in Scotland; or
- (ii) is concerned in a representative, fiduciary or official capacity; or
- (iii) is concerned jointly with or has the same interest as other persons, whether receiving legal aid or advice or not; or

(iv) has available to him rights or facilities making it unnecessary for him to take advantage of this Part of this Act, or has a reasonable expectation of receiving financial or other help from a body of which he is a member;

(b) a person seeks legal aid in a matter of special urgency;

(c) a person begins to receive legal aid after having consulted a solicitor in the ordinary way with respect

**PART I**  
*—cont.*

to the same matter, or ceases to receive legal aid before the matter in question is finally settled;

(d) there is any relevant change of circumstances while a person is receiving legal aid.

(4) The power of the Secretary of State to make regulations shall be exercisable by statutory instrument.

(5) Any statutory instrument by which that power is exercised, other than one making regulations for the purposes of subsection (3) of section one of this Act, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Rules of  
Court.**

**13.—**(1) The Court by act of adjournment or act of sederunt, as the case may be, may—

(a) make provision as to the proceedings which are or are not to be treated as distinct proceedings for the purposes of legal aid, and as to the apportionment of sums recovered or recoverable by virtue of any award of expenses made generally with respect to proceedings treated as distinct;

(b) regulate the procedure of any court or tribunal in relation to legal aid, and in particular may make provision—

(i) as to the taxation of expenses incurred in connection with proceedings not actually begun; and

(ii) as to the cases in which and the extent to which a person receiving legal aid may be required to find caution, and the manner in which caution in such cases may be found;

(c) make provision as to the cases in which a person may be treated as having disintitiled himself to a continuance of legal aid by his conduct in connection therewith;

(d) make provision for the recovery of sums due to the legal aid fund and for making effective the priority conferred by this Part of this Act on the payment of such sums out of property recovered or preserved for a person receiving legal aid, including provision—

(i) for the enforcement for the benefit of that fund of any award of expenses or any agreement as to expenses in favour of a person who has received legal aid; and

(ii) making a solicitor's right to payment out of the legal aid fund dependent, in whole or in part, on his performance of any duties imposed on him by any act of sederunt or act of adjournment made for the purposes of this paragraph.

(2) The High Court of Justiciary by act of adjournal may fix the fees to be paid in the High Court and in the inferior courts in respect of the representation of persons receiving legal aid in connection with criminal proceedings therein, and the Court of Session by act of sederunt may make provision for the like matters in connection with civil proceedings in any court or tribunal other than the Court of Session and the sheriff court.

(3) The Court may, by act of adjournal or act of sederunt, as the case may be, restrict to such proportion of the fees for the time being applicable as may be provided therein the fees to be paid to auditors of court, messengers-at-arms, sheriff officers and shorthand writers in any case where such fees are payable in the first instance by or on behalf of a person receiving legal aid:

Provided that the imposition of any restriction under this subsection shall not affect the sums recoverable by virtue of an award of expenses in favour of a person who has received legal aid, or of an agreement as to expenses in favour of such a person which provides for taxation.

(4) The Court may, by act of adjournal or act of sederunt, as the case may be, make provision for the taxation by the Auditor of the Court of Session or the auditor of the sheriff court of accounts of expenses incurred in connection with the giving of legal aid and with respect to the remuneration to be paid to auditors in respect of the taxation of such accounts.

(5) Before making rules of court regulating the procedure of any court or tribunal, the Court shall so far as practicable consult any rules council or similar body by whom or on whose advice rules of procedure for the court or tribunal may be made apart from this Act or whose consent or concurrence is required to any such rules so made.

(6) The powers conferred by this section on the Court shall be exercisable by statutory instrument, and the Statutory Instruments Act, 1946, shall apply to a statutory instrument containing rules of court made under this section by the Court in like manner as if the rules had been made by a Minister of the Crown.

(7) In this section the expression "the Court" means in relation to criminal proceedings, the High Court of Justiciary, and in relation to civil proceedings, the Court of Session.

14.—(1) This section shall have effect for the purpose of adapting in relation to this Part of this Act any right (however and whenever created or arising) which a person may have to be indemnified against expenses incurred by him. Adaptation  
of rights to  
indemnity.

(2) In determining for the purposes of any such right the reasonableness of any expenses, the possibility of avoiding them or part of them by taking advantage of this Part of this Act shall be disregarded.

PART I  
—cont.

(3) Where a person having any such right to be indemnified against expenses incurred in connection with any proceedings receives legal aid in connection with those proceedings, then (without prejudice to the effect of the indemnity in relation to his contribution, if any, to the legal aid fund) the right shall enure also for the benefit of that fund as if the expenses incurred by that fund on behalf of the said person in connection with the proceedings had been incurred by him.

(4) Where—

(a) a person's right to be indemnified against expenses incurred in connection with any proceedings arises by virtue of an agreement and is subject to any express condition conferring on those liable thereunder any right with respect to the bringing or conduct of the proceedings; and

(b) those liable have been given a reasonable opportunity of exercising the right so conferred and have not availed themselves of that opportunity;

the right to be indemnified shall be treated for the purposes of the last-foregoing subsection as not being subject to that condition.

(5) Where under subsection (3) of this section a person's right to be indemnified against expenses incurred in connection with any proceedings enures for the benefit of the legal aid fund, then, for the purposes of section three of this Act, the net liability of the fund on his account shall be treated as reduced by the amount of any sums recovered for the benefit of the fund by virtue of the said right.

(6) The three last foregoing subsections shall apply in relation to legal aid under section five of this Act with the necessary modifications of references to proceedings:

Provided that, where by virtue of subsection (6) of that section the legal aid is treated for the purposes of section three of this Act as given in connection with any proceedings, it shall also be so treated for the purposes of this section.

## Offences.

15.—(1) If any person seeking or receiving legal aid or advice—

(a) wilfully fails to comply with any regulations as to the information to be furnished by him; or

(b) in furnishing any information required by the regulations or required for the purpose of establishing whether he has a *probabilis causa litigandi* knowingly makes any false statement or false representation;

he shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both.

(2) No information furnished for the purposes of this Part of this Act to the Law Society or to any committee or person on their behalf shall be disclosed—

- (a) in the case of such information furnished by, or by any person acting for, a person seeking or receiving legal aid or advice, without the consent of the person seeking or receiving legal aid or advice ; or
- (b) in the case of such information furnished otherwise than as aforesaid, without the consent of the person who furnished it ;

and any person who, in contravention of this subsection, discloses any information obtained by him when employed by or acting on behalf of the Law Society shall be liable on summary conviction to a fine not exceeding one hundred pounds :

Provided that this subsection shall not apply to the disclosure of information—

- (i) for the purpose of facilitating the proper performance by any person or body of functions under this Part of this Act ; or
- (ii) for the purpose of any criminal proceedings for an offence thereunder or of any report of any such proceedings.

(3) Notwithstanding anything in the Summary Jurisdiction (Scotland) Act, 1908, proceedings for an offence against subsection (1) of this section may be commenced at any time within two years from the date of the commission of the offence or within six months from the date when evidence sufficient in the opinion of the Lord Advocate to justify proceedings comes to his knowledge, whichever period is the shorter ; and for the purposes of this subsection a certificate by the Lord Advocate as to the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence thereof.

(4) For the avoidance of doubt it is hereby declared that information furnished to counsel or a solicitor as such by or on behalf of a person seeking or receiving legal aid or advice is not information furnished to the Law Society or a person on their behalf.

**16.** This Part of this Act shall bind the Crown.

Application,  
to Crown.

**17.—(1)** In this Part of this Act, unless the context otherwise requires—

the expression “ Law Society ” means the Law Society of Scotland established under the provisions of Part II of this Act, and any reference to the Council of the Law Society shall be taken as a reference to the council elected in accordance with the provisions of the said Part II;

Interpretation,  
transitional  
provisions,  
repeals, and  
citation of  
Part I.

**PART I**  
—*cont.*

- the expressions “legal aid” and “legal advice” mean respectively legal aid and legal advice under this Part of this Act;
- the expression “legal aid fund,” means the Legal Aid (Scotland) Fund established in accordance with section nine of this Act ;
- the expression “member of the forces” means a person serving on full pay as a member of any of the naval, military or air forces of the Crown raised in the United Kingdom (including any women’s force administered by the Admiralty, Army Council or Air Council);
- the expression “person” does not include a body of persons, corporate or unincorporate, so as to authorise legal aid or advice to be given to such a body;
- the expression “prescribed” means prescribed by regulations;
- the expression “regulations” means regulations made by the Secretary of State under this Part of this Act ;
- the expression “tribunal” includes an arbiter or oversman, however appointed, and whether the arbitration takes place under a reference by consent or otherwise.

(2) Without prejudice to the powers conferred by the foregoing provisions of this Part of this Act, regulations may make such provision (including provision modifying this Part of this Act) as appears to the Secretary of State, with the concurrence of the Treasury, to be expedient as to the application of this Part of this Act in relation to persons who have been admitted to take, defend or be a party to any proceedings in forma pauperis or as poor persons, and to other persons concerned in proceedings commenced before or shortly after legal aid is made available.

(3) The Act of the Parliament of Scotland, 1424, cap. 24 (which provides for the appointment of counsel for the poor), so much of section (10) of the Act of the Parliament of Scotland, 1587, cap. 57, as provides for the appointment of counsel and solicitors to act for persons accused of crime, the Appeal (Forma Pauperis) Act, 1893, and section fifty-one of, and rules one hundred and fifty-two to one hundred and sixty-nine in the First Schedule to, the Sheriff Courts (Scotland) Act, 1907 (which relate to the poor’s roll in the sheriff court) shall cease to have effect.

(4) This Part of this Act (including the First, Second and Third Schedules and Part I of the Eighth Schedule to this Act) may be cited separately as the Legal Aid (Scotland) Act, 1949, and shall come into force on such day as the Secretary of State may by statutory instrument appoint, and different days may be appointed for different purposes.

(5) The enactments specified in Part I of the Eighth Schedule to this Act are hereby repealed.



## PART II

ESTABLISHMENT OF LAW SOCIETY OF SCOTLAND AND  
PROVISIONS RELATING TO SOLICITORS*Law Society of Scotland*

**18.—(1)** There shall be established a Society (in this Part of this Act referred to as “the Society”) to be called “The Law Society of Scotland,” which Society shall be a body corporate by that name, shall have a common seal and may sue and be sued under that name.

Establishment of Law Society of Scotland and provisions relating to the Society.

(2) Every solicitor who has in force a practising certificate under section nineteen of this Act shall, by virtue thereof and without election, be a member of the Society and shall cease to be a member when the certificate ceases to have effect:

Provided that until the day appointed for the purposes of the said section nineteen every solicitor who is the holder of a certificate by the Commissioners of Inland Revenue authorising him to practise as a solicitor in Scotland shall, while that certificate is in force, be a member of the Society by virtue thereof and without election.

(3) Subject to the provisions of this Act, all powers and duties vested in the General Council of Solicitors in Scotland shall be transferred to and vest in the Council of the Society, and references in any Act of Parliament, deed, decree or other document to the General Council shall be construed as references to the Council of the Society.

(4) All property held by or on behalf of the General Council shall be transferred to and vest in the Society subject to any debts and liabilities of the General Council, and the General Council and any person holding property on behalf of that Council shall at the expense of the Society execute all such documents as are necessary for the purposes of giving effect to the provisions of this subsection.

(5) The provisions of the Fourth Schedule to this Act shall have effect with respect to the Society.

*Practising Certificates*

**19.—(1)** Subject to the provisions of this section, a person shall not, after the appointed day, be qualified to practise as a solicitor unless he has in force a certificate (in this Act referred to as a “practising certificate”) authorising him to practise as a solicitor, and any person who after that date practises as a solicitor or in any way holds himself out as entitled by law to practise as a solicitor without having in force a practising certificate shall be guilty of an offence under the principal Act unless he proves that he acted without receiving or without expectation of any fee, gain or reward, directly or indirectly.

Certificate required for practising as a solicitor.

**PART II**  
**—cont.**

(2) Practising certificates shall be issued by the registrar in accordance with the provisions of the Fifth Schedule to this Act so, however, that a practising certificate shall not be issued to a solicitor while he is suspended from practice as a solicitor.

(3) The provisions of the Fifth Schedule to this Act shall have effect with respect to practising certificates issued by the registrar and the suspension of solicitors from practice in cases of sequestration, of granting a trust deed for creditors or of insanity.

(4) Nothing in this section shall require a practising certificate to be taken out by a person who is by law authorised to act as solicitor to a public department without admission, or by any assistant or officer appointed to act under the direction of such solicitor.

*Rules for Professional Conduct*

Council of  
Society to  
make rules  
with respect  
to bank  
accounts, etc.

**20.—**(1) The Council of the Society shall make rules—

- (a) as to the opening and keeping by solicitors of accounts and the deposits at banks for moneys not belonging to them received by them in the course of their practice;
- (b) as to the keeping by solicitors of books and accounts containing particulars and information as to moneys not belonging to them received, held or paid by them in the course of their practice; and
- (c) subject to the provisions of the Sixth Schedule to this Act, as to the action which the Council may take to enable them to ascertain whether or not the rules are being complied with;

and may, if they see fit, make rules for regulating in respect of any other matter the professional practice, conduct and discipline of solicitors:

Provided that—

- (i) rules shall not be made under this section until a Council of the Society has been elected in accordance with a scheme approved under paragraph 6 of Part I of the Fourth Schedule to this Act;
- (ii) before making any rules under this section the Council shall send to each member of the Society a draft of the rules and shall thereafter submit the same to a meeting of the Society and shall take into consideration any resolution relating to amendments of the rules that may be passed at the meeting;
- (iii) rules made under this section shall not come into operation until they have been approved by the Lord President after considering such objections, if any, as he may consider relevant.

(2) Rules made under paragraphs (a) and (b) of the preceding subsection shall not apply to a solicitor—

PART II  
—cont.

(a) who is in employment as solicitor to a Minister of the Crown or a government department or as an assistant or officer appointed to act under the direction of such solicitor, so far as regards moneys received, held or paid by him in the course of that employment; or

(b) who is in employment in an office connected with the administration of a local authority or a statutory undertaking or a designated body to which he has been appointed by the authority or the statutory undertakers or the persons responsible for the management of that body by reason of his being a solicitor, so far as regards moneys received, held or paid by him in the course of his employment in such office.

In this subsection the expression “local authority” means a county council, town council or district council or a combination of such councils, the expression “statutory undertakers” has the meaning assigned to it in the Local Government (Scotland) Act, 1947, and the expression “designated body” means any body, whether corporate or unincorporate, for the time being designated by the Council of the Society for the purposes of this section.

(3) Failure to comply with rules made under this section may be treated as professional misconduct for the purposes of Part V of the principal Act.

**21.**—(1) Subject to the provisions of this section, no bank shall, in connection with any transaction on any account of any solicitor kept with it or with any other bank (other than an account kept by a solicitor as trustee for a specified beneficiary), incur any liability or be under any obligation to make any inquiry or be deemed to have any knowledge of any right of any person to any moneys paid or credited to any such account which it would not incur or be under or be deemed to have in the case of an account kept by a person entitled absolutely to all the moneys paid or credited to it:

Relief to  
banks.

Provided that nothing in this subsection shall relieve a bank from any liability or obligation under which it would be apart from this Act.

(2) Notwithstanding anything in the preceding subsection, a bank at which a solicitor keeps a special account for clients' moneys shall not, in respect of any liability of the solicitor to the bank, not being a liability in connection with that account, have or obtain any recourse or right, whether by way of set-off, counter-claim, charge, or otherwise against moneys standing to the credit of that account:

Provided that nothing in this subsection shall deprive a bank of any right existing at the time when the rules first made under section twenty of this Act come into operation.

**PART II**  
—*cont.**Scottish Solicitors Guarantee Fund***Constitution  
of Guarantee  
Fund.**

**22.**—(1) As from the appointed day there shall be constituted a fund to be called “The Scottish Solicitors Guarantee Fund” (in this Part of this Act referred to as “the Guarantee Fund”) which Fund shall be vested in the Society and shall be under the control and management of the Council of the Society.

(2) Subject to the provisions of this section and of the Sixth Schedule to this Act, the Guarantee Fund shall be held by the Society for the purpose of making grants in order to compensate persons who in the opinion of the Council of the Society suffer pecuniary loss by reason of dishonesty on the part of any solicitor or any servant of any solicitor in connection with the practice of the solicitor or any trust of which the solicitor was or is a trustee, and whether or not he had a practising certificate in force when the act of dishonesty was committed, and notwithstanding that subsequent to the commission of that act he may have died or had his name removed from or struck off the roll of solicitors or may have ceased to practise or been suspended from practice:

Provided that no grant may be made under this section—

- (a) in respect of a loss made good otherwise;
- (b) in respect of a loss which in the opinion of the Council has arisen before the day appointed for the purposes of subsection (1) of this section;
- (c) in respect of a loss which in the opinion of the Council has arisen while the solicitor was suspended from practice;
- (d) to a solicitor or his representatives in respect of a loss suffered by him or them in connection with his practice as a solicitor by reason of dishonesty on the part of a partner or servant of such solicitor; or
- (e) unless an application for a grant is made to the Society in such manner, and within such period after the date on which the loss first came to the knowledge of the applicant, as may be prescribed by rules made under the Sixth Schedule to this Act.

(3) The decision of the Council of the Society with respect to every application for a grant shall be final, and the Council may refuse to make a grant or may make a grant only to a limited extent if they are of opinion that there has been negligence on the part of the applicant or of any person for whom he is responsible which has contributed to the loss in question.

**The Council of the Society or any committee appointed by them may administer oaths for the purpose of inquiry into any matters which affect the making or refusal of a grant from the Guarantee Fund.**

**PART II**  
**—cont.**

(4) The provisions of the Sixth Schedule to this Act shall have effect with respect to the Guarantee Fund, including the making of contributions thereto by solicitors and the administration and management of the Fund by the Council of the Society, but nothing in the said provisions shall apply to or in the case of a solicitor—

- (a) who is not in practice as a solicitor; or
- (b) who is suspended from practice as a solicitor during suspension; or
- (c) who is in any such employment as is specified in subsection (2) of section twenty of this Act, so however that where any solicitor in such employment engages in private practice as a solicitor, the said provisions and the other provisions of this Part of this Act relating to the Guarantee Fund shall apply to him and in his case so far as regards such private practice.

#### *Discipline and Offences*

**23.—(1) A complaint may be made to the Discipline Committee by the Council of the Society.**

Complaints to  
Discipline  
Committee.

(2) The Council of the Society may appoint a solicitor to act as Fiscal for the purpose of investigating and prosecuting complaints.

**24. Any person who, whilst disqualified from practising as a solicitor by reason of having been struck off the roll of solicitors or suspended from practice as a solicitor, seeks or accepts employment by a solicitor in connection with that solicitor's practice without previously informing him that he is disqualified as aforesaid, shall be guilty of an offence under the principal Act.**

Provisions as  
to employment  
of disqualified  
solicitor.

**25.—(1) A solicitor shall not, without the special leave in writing of the Council of the Society, take any apprentice, unless he is in practice as a solicitor at the time and either has at some time been in continuous practice as such for a period of at least three years or is in partnership with at least one other solicitor who is and has been in practice as aforesaid.**

Provisions as  
to taking  
apprentices.

(2) The Council of the Society may make rules as to the number of apprentices who may be taken by a solicitor or by a firm of solicitors, but such rules shall not come into operation until they have been approved by the Lord President.

PART II  
—cont.

(3) A contravention of the foregoing provisions of this section or of rules made thereunder on the part of a solicitor may be treated as an act of professional misconduct for the purposes of Part V of the principal Act.

(4) If—

(a) during the term of any apprenticeship either the apprentice or the solicitor has been continuously absent from the solicitor's place of business for a period of three months or longer without reasonable cause; or

(b) the Council of the Society are for any other reason of opinion that the indenture ought to be discharged;

the Council of the Society may, on the application either of the solicitor or of the apprentice, discharge the indenture upon such terms, if any, as they think fit, and may determine what period, if any, of service of the apprentice under the indenture shall be deemed to be good service.

If the Council of the Society determine that any of the period of service shall be deemed to be good service, the apprentice may, if within six months after the indenture was discharged as aforesaid he enters into a second indenture with another master, serve with him the period required to complete the apprenticeship.

### Supplementary

Minor and consequential amendments, and repeals.

26.—(1) The amendments specified in the third column of the Seventh Schedule to this Act, being amendments of a minor or consequential nature, shall be made in the enactments specified in the first and second columns of that Schedule.

(2) The enactments specified in Part II of the Eighth Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule:

Provided that the repeal of sections two, three and four of, and the First and Second Schedules to, the principal Act shall not take effect until a Council of the Society has been elected in accordance with a scheme approved under paragraph 6 of Part I of the Fourth Schedule to this Act.

Service of notices, etc.

27. Any notice or other document which is required or authorised under the principal Act or this Part of this Act to be given to or served on any person shall be duly given or served if it is delivered to him or left at, or sent by post to, his last-known place of business or residence.

28.—(1) In this Part of this Act the following expressions shall, unless the context otherwise requires, have the meanings hereby respectively assigned to them, that is to say—

PART II  
—*cont.*  
Interpretation,  
citation and  
construction  
of Part II.

“appointed day” means such day as the Secretary of State may by statutory instrument appoint, and different days may be appointed for different purposes;

“expenses of the Society” includes the expenses of the Discipline Committee so far as not otherwise defrayed and any expenses incurred by the Council of the Society in the exercise of powers or duties vested in the Council by or by virtue of this Part of this Act, and the reasonable travelling and maintenance expenses of members of the Council or of committees of the Council incurred in attending meetings of the Council or of committees thereof, or otherwise on the business of the Society;

“principal Act” means the Solicitors (Scotland) Act, 1933;

“property” includes property, whether heritable or moveable, and rights and interests in, to or over such property;

“purposes of this Act” includes purposes relating to powers or duties vested in the Society or in the Council of the Society by or by virtue of any provision of this Act;

“servant” includes an apprentice.

(2) This Part of this Act (including the Fourth, Fifth, Sixth and Seventh Schedules and Part II of the Eighth Schedule to this Act) may be cited separately as the Solicitors (Scotland) Act, 1949, and shall be construed as one with the principal Act; and the Solicitors (Scotland) Acts, 1933 and 1934, and this Part of this Act may be cited together as the Solicitors (Scotland) Acts, 1933 to 1949.

### PART III

#### *General*

29.—(1) This Act may be cited as the Legal Aid and Solicitors (Scotland) Act, 1949.

Citation and  
construction.

(2) A reference in this Act to any enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended by any other enactment including this Act.

## SCHEDULES

## Section 1.

## FIRST SCHEDULE

## PROCEEDINGS FOR WHICH LEGAL AID MAY BE GIVEN

## PART I

*Description of Proceedings*

1. Civil proceedings in any of the following courts—
  - (a) the House of Lords in the exercise of its jurisdiction in relation to appeals from the Court of Session;
  - (b) the Court of Session;
  - (c) the Lands Valuation Appeal Court;
  - (d) the Scottish Land Court;
  - (e) the sheriff court.
2. Proceedings before any person to whom a case is referred in whole or in part by any of the said courts.
3. Criminal proceedings in any of the following courts—
  - (a) the High Court of Justiciary;
  - (b) the sheriff court;
  - (c) any court of summary jurisdiction within the meaning of the Summary Jurisdiction (Scotland) Act, 1908.

## PART II

*Excepted Proceedings*

1. Proceedings wholly or partly in respect of—
  - (a) defamation or verbal injury;
  - (b) breach of promise of marriage;
  - (c) the inducement of one spouse to leave or remain apart from the other.
2. Election petitions under the Parliamentary Elections Act, 1868, or the Elections (Scotland) (Corrupt and Illegal Practices) Act, 1890.
3. Proceedings in the small debt court in which liability for the debt and the amount thereof are admitted.
4. Proceedings in the sheriff court for summary removing in which liability for the debt and the amount thereof are admitted.

## Section 4.

## SECOND SCHEDULE

## RESOURCES TO BE DISREGARDED ON APPLICATION FOR LEGAL AID

1. In taking into account the value to any person of an interest in the dwelling-house in which he resides, any sum which might be obtained by him by selling that interest or borrowing money upon the security thereof shall be disregarded.
- . . . . .



4. There shall be wholly disregarded—

2ND SCH.  
—cont.

- (a) any death grant paid to a person under the provisions of section twenty-two of the National Insurance Act, 1946;
- (b) any maternity grant to which a woman is entitled under section fourteen of the National Insurance Act, 1946.

5.—(1) Any such payment or part of a payment as is specified in the following provisions of this paragraph shall be disregarded up to the amount of one pound a week or, if the person in question is in receipt of more than one payment so specified, up to the said amount in the aggregate.

(2) The payments and parts of payments hereinbefore referred to are:—

- (a) the first ten shillings and sixpence a week of any payment of sick pay received from a friendly society or trade union;
- (b) the first ten shillings and sixpence a week of any superannuation payment or superannuation payments in respect of previous service or employment from which the recipient has retired or resigned (whether payable by a former employer or not), not being a payment or payments—

- (i) on account of a pension under the Old Age Pensions Act, 1936, or under or by virtue of the Widows', Orphans' and Old Age Contributory Pensions Acts, 1936 to 1941, or under any enactment repealed by any of those Acts, or

- (ii) on account of a retirement pension under the National Insurance Act, 1946;

- (c) any payment by way of attendance allowance under section fourteen of the National Insurance Act, 1946, and any payment by way of maternity allowance under section fifteen of that Act;

- (d) any of the following payments, that is to say:—

- (i) any payment in respect of retired pay or pension to which section sixteen of the Finance Act, 1919, applies, including any payment in respect of a dependants' allowance attached to such a pension,

- (ii) any payment in respect of a disablement pension awarded under the Personal Injuries (Emergency Provisions) Act, 1939, including an increase in such a pension in respect of dependants,

- (iii) any weekly payment by way of compensation under any enactment relating to workmen's compensation,

- (iv) any payment by way of disablement benefit under section twelve of the National Insurance (Industrial Injuries) Act, 1946.

6. Where under subsection (4) of section four of this Act the resources of two or more persons are to be aggregated, the last foregoing paragraph shall apply to the aggregate of the resources of both or all the said persons.

## Section 6.

## THIRD SCHEDULE

## REMUNERATION OF PERSONS GIVING LEGAL AID

1.—(1) The sums allowed by way of fees to counsel in connection with proceedings in the House of Lords or the Court of Session shall be eighty-five per cent. of the amount allowed on taxation.

(2) The sums allowed by way of fees to counsel in connection with civil proceedings in the sheriff court shall, where the expenses are taxed on the higher scale, be eighty-five per cent. of the amount allowed on taxation, and where the expenses are taxed on any other scale, be the full amount allowed on taxation.

(3) The sums allowed by way of fees to counsel in connection with criminal proceedings shall be the full amount allowed on taxation of the fees fixed by act of adjournment under subsection (2) of section thirteen of this Act or, in connection with any criminal proceedings for the conduct of which an inclusive fee is so fixed, shall be that fee.

(4) The sums allowed by way of fees to counsel in any other case shall be the full amount allowed on taxation of the fees fixed by act of sederunt under subsection (2) of the said section thirteen.

2.—(1) The sums allowed by way of remuneration to a solicitor in connection with proceedings in the House of Lords or the Court of Session shall be the full amount allowed on taxation on account of outlays and eighty-five per cent. of the amount so allowed on account of fees.

(2) The sums allowed by way of remuneration to a solicitor in connection with civil proceedings in the sheriff court shall, where the expenses are taxed on the higher scale, be the full amount allowed on taxation on account of outlays, and eighty-five per cent. of the amount so allowed on account of fees, and where the expenses are taxed on any other scale, be the full amount allowed on taxation, whether on account of outlays or of fees.

(3) The sums allowed by way of remuneration to a solicitor in connection with criminal proceedings shall be the full amount allowed on taxation on account of outlays and the full amount so allowed of the fees fixed by act of adjournment under subsection (2) of the said section thirteen or, in connection with any criminal proceedings for the conduct of which an inclusive fee is so fixed, shall be that fee.

(4) The sums allowed by way of remuneration to a solicitor in respect of his being available and of his giving legal aid in a court of summary jurisdiction in pursuance of such arrangements as are mentioned in paragraph (a) of the proviso to subsection (3) of section six of this Act shall be such as may be determined under the scheme made under section eight of this Act.

(5) The sums allowed by way of remuneration to a solicitor in connection with any other proceedings in any court or tribunal shall be the full amount allowed on taxation on account of outlays and the full amount so allowed of the fees fixed by act of sederunt under subsection (2) of the said section thirteen.

(6) The sums allowed by way of remuneration to a solicitor in connection with the giving of legal aid under section five of this Act or with the giving of legal advice shall be such as may be determined under the scheme made under section eight of this Act.

3. For the purposes of paragraph 1 of this Schedule counsel's fees shall be taxed as if they had been paid by the solicitor, and shall be treated as outlays for the purposes of the last foregoing paragraph.

3RD SCH.  
—cont.

4. The expenses incurred in connection with civil proceedings in the sheriff court shall, for the purposes of this Schedule, be taxed on the like scale as applies to the expenses awarded in those proceedings as between the parties thereto :

Provided that if no award of expenses is made, or expenses are awarded on a scale other than the scale which, apart from the special circumstances of the particular proceedings, would be applicable, the expenses shall, for the purposes aforesaid, be taxed on such scale as the sheriff, on application made to him, may direct.

5. Expenses shall be taxed for the purposes of this Schedule according to the ordinary rules and as between solicitor and client :

Provided that no question shall be raised as to the propriety of any act for which prior approval was obtained as required by regulations.

6. Where regulations so provide, an amount, whether on account of outlays or fees, fixed by agreement between the Law Society and the solicitor to whom such amount is payable in the first instance out of the legal aid fund shall for the purposes of this Schedule be treated as if it were an amount allowed on taxation :

Provided that this paragraph shall not have effect in relation to any amount if any person to or by whom such amount is payable in whole or in part requires it to be fixed by taxation.

#### FOURTH SCHEDULE

Section 18.

##### PROVISIONS RELATING TO THE LAW SOCIETY OF SCOTLAND

##### PART I

##### *General*

1. In addition to the other powers and duties vested in the Society by this Act, the objects of the Society shall include the promotion of the interests of the profession of solicitors in Scotland and the interests of the public in relation to that profession, and the doing of all such other things as are incidental or conducive to the exercise of the said powers and duties and the attainment of the said objects.

Objects of  
Society.

2. There shall be paid to the Society by every member of the Society, along with his application for a practising certificate, an annual subscription of one pound, or such other sum as shall be fixed from time to time by the Society in general meeting :

Annual  
subscription.

Provided that until the day appointed for the purposes of section nineteen of this Act the annual subscription payable by each member of the Society shall be one pound or such other sum as shall be fixed from time to time by the Society in general meeting and shall be due on such date as may be determined by the Council.

3.—(1) Subject to the provisions of this Act, the business of the Society (including the management of their income and property) shall be conducted by a Council to be elected in manner hereinafter provided. The Council may act for and in name of the Society in any matter other than a matter which under this Part of this Act is to be determined by the Society in general meeting.

Powers of  
Council of  
Society.

4TH SCH.  
—cont.

(2) The Council may, without prejudice to any other powers competent to them, take into consideration and make recommendations or representations with regard to any matters which are in their opinion of importance to solicitors in Scotland.

(3) Any deed to which the Society are a party shall be held to be validly executed on behalf of the Society if it is sealed with the common seal of the Society and subscribed on behalf of the Society by two members of the Council and the secretary of the Society, or other person appointed by the Council to act for the secretary, without attestation by witnesses.

## Temporary provisions as to Council and meetings of Society.

4.—(1) Until the election of a Council by the Society in accordance with a scheme approved by the Society under paragraph 6 of this Part of this Schedule, the General Council shall act as the Council of the Society and the chairman, vice-chairman and clerk of the General Council shall act as the chairman, vice-chairman and secretary of the Society respectively.

(2) Until a scheme is approved by the Society under paragraph 6 of this Part of this Schedule the provisions of Part II of this Schedule shall have effect with respect to meetings of the Society.

## Scheme making permanent provision as to Council meetings and proceedings, &amp;c. of Society.

5.—(1) Immediately after the passing of this Act the General Council, as the Council of the Society, shall prepare a scheme with respect to—

- (a) the constitution, election and proceedings of the Council of the Society;
- (b) the meetings of the Society;
- (c) the appointment of a chairman, vice-chairman, secretary and other officers and servants of the Society; and
- (d) the appointment of committees and the constitution thereof; and such a scheme may—
  - (i) confer power on the Council of the Society to admit as honorary members of the Society (having no right to vote at meetings of the Society and not being liable to any annual subscription) persons who have ceased to be practising solicitors;
  - (ii) contain such other provisions with respect to the administration, management and proceedings of the Society as are considered necessary or proper and are not inconsistent with any of the provisions of the principal Act or this Act.

(2) A scheme prepared under this paragraph shall provide for the admission, on application made in that behalf and on payment of the annual subscription, as a member of the Society of any solicitor who, by virtue of the provisions of subsection (4) of section nineteen of this Act, is exempted from taking out a practising certificate.

## Provisions as to consideration and passing of scheme.

6.—(1) The General Council, as the Council of the Society, shall within six months after the passing of this Act send to each member of the Society a copy of the scheme prepared by them, together with a notice drawing attention to the rights of members under this paragraph with regard to the submission of amendments or alternative schemes.

(2) Any member of the Society shall within two months of receiving a copy of the said scheme from the Council send to the Council a copy of any amendment thereof or of any alternative scheme which he proposes to move at the general meeting hereinafter mentioned.

(3) On the expiration of the said period of two months the Council shall forthwith convene a general meeting of the Society to consider the scheme prepared by them and any amendments thereof and any alternative schemes sent in by members, and shall send to each member with the notice of the meeting a copy of such amendments and alternative schemes.

4TH SCH.  
—cont.

(4) On the scheme prepared by the Council, whether as submitted or as amended, or any alternative scheme, being approved by a resolution passed by a majority of the members present in person or by proxy at the meeting or at any adjournment thereof, the provisions of the scheme as approved shall have effect as if enacted in this Act.

(5) Notwithstanding the provisions of sub-paragraph (2) of this paragraph the chairman of the meeting may accept a motion relating to any amendment of a scheme before the meeting if he considers the amendment to be of a minor or drafting character.

(6) The accidental omission to send to any member a copy of the scheme or the notice required to be sent therewith or a copy of any amendment or alternative scheme or the non-receipt by any member of any such copy or notice as aforesaid shall not invalidate the proceedings at the said meeting or the scheme approved thereat.

7. If the General Council, as the Council of the Society, fail to send to members of the Society within six months after the passing of this Act copies of a scheme prepared by them, any of the Societies named in the Second Schedule to the principal Act may send to the Council a scheme with respect to the matters aforesaid and the provisions of the last preceding paragraph (including the obligations imposed on the Council thereby) shall apply with respect to a scheme sent in by any of the said Societies as they apply with respect to a scheme prepared by the Council.

Alternative  
scheme.

8. The Society may, by a resolution passed by a majority consisting of not less than two-thirds of the members of the Society present in person or by proxy at a meeting of the Society of which due notice specifying the intention to propose the resolution has been given, or at any adjournment thereof, rescind, add to or amend any of the provisions of the said approved scheme.

Alteration of  
approved  
scheme.

9.—(1) The Society may accept any gift of property for the purposes of the Society, and may accept, hold and administer any gift of property or hold as trustees any property for any purpose which the Society consider to be for the benefit of solicitors in Scotland or their dependants or employees or any substantial body of such solicitors or dependants or employees.

Provisions as to  
property of  
Society.

(2) Save as otherwise provided in this Act or as respects any trust constituted for a special purpose, the expenses of the Society shall be defrayed out of the subscriptions and other income received by the Society or the Council thereof and out of other property belonging to the Society.

(3) The Society may purchase or otherwise acquire land for any of the purposes of this Act, and may sell, lease or otherwise dispose of the same as seems proper to them.

(4) The Society may borrow for any of the purposes of this Act in such manner and on such security as they may determine.

4TH SCH.  
—cont.

(5) The Society may invest any moneys not immediately required to meet expenses and other outlays of the Society in any investment in which trustees in Scotland are by law authorised to invest, but nothing in this sub-paragraph shall prevent the investment of any moneys forming part of any property held in trust for a special purpose in any class of investment authorised by the deed constituting the trust.

## PART II

### *Temporary provisions with respect to meetings of the Society*

1. The Chairman of the General Council may whenever he thinks fit convene a general meeting of the Society, and a general meeting shall be convened by him on the instructions of the General Council or on a requisition signed by not less than twenty members of the Society. The requisition must state the objects of the meeting, and must be deposited with the Clerk to the General Council, and may consist of several documents in like form, each signed by one or more requisitionists.

2. Twenty-one days' notice at the least (exclusive of the day on which the notice is served but inclusive of the day for which the notice is given) specifying the place, the day and the hour of meeting and the general nature of the business shall be given to each member of the Society. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any member shall not invalidate the proceedings at any meeting.

3. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. Twenty members personally present shall be a quorum.

4. The Chairman of the General Council shall preside as chairman at a general meeting. If at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the members present shall choose someone of their number to be chairman.

5. The chairman may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more, seven days' notice of the adjourned meeting shall be given. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

6. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least three members present in person or by proxy entitled to vote, and, unless a poll is so demanded, a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the Society, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

7. If a poll is duly demanded it shall be taken at once in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

4TH SCH.  
—cont.

8. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.

9. On a show of hands every member present in person shall have one vote.

10. On a poll votes may be given either personally or by proxy.

11. The instrument appointing a proxy shall be in writing under the hand of the appointer. A proxy must be a member of the Society.

12. The instrument appointing a proxy shall be deposited with the Clerk to the General Council not less than forty-eight hours before the time for holding the meeting or adjourned meeting, at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

13. Where a notice of a meeting is sent by the Society by post, service of the notice shall be deemed to have been effected at the expiration of twenty-four hours after the letter containing the notice is posted.

#### FIFTH SCHEDULE

Section 19.

#### PROVISIONS WITH RESPECT TO PRACTISING CERTIFICATES AND THE SUSPENSION OF SOLICITORS FROM PRACTICE IN CASES OF SEQUESTRATION, OF GRANTING A TRUST DEED FOR CREDITORS OR OF INSANITY

1.—(1) Subject to the provisions of this Schedule, the Council of the Society may make rules with respect to—

Applications for practising certificates.

- (a) applications for, and the issue of, practising certificates; and
- (b) the keeping of a register of applications for practising certificates and of certificates issued, which register shall be open for inspection during office hours without payment.

(2) The making of a false statement by a solicitor in an application for a practising certificate may be treated for the purposes of Part V of the principal Act as professional misconduct on the part of that solicitor, unless he proves that the statement was made without intention to deceive.

(3) If in any case, not being a case to which the next succeeding paragraph applies, the registrar on application duly made to him refuses or neglects to issue a practising certificate, the applicant may apply to the Court, who may make such order in the matter as they may think fit.

2.—(1) Subject to the provisions of this paragraph, where a solicitor applies for a practising certificate in any of the following cases, that is to say—

Discretion of registrar in special cases to refuse practising certificate or to issue certificate subject to conditions.

- (a) when for twelve months or more he has ceased to hold a practising certificate in force; or
- (b) after his estate has been sequestrated or he has granted a trust deed for behoof of creditors, whether he has obtained his discharge or not; or

5TH SCH.  
—cont.

- (c) when, having been struck off the roll of solicitors or suspended from practice, he has been restored to the roll or his suspension has expired, as the case may be; or
- (d) not having held a practising certificate in force within the twelve months next following the date of his admission to the roll of solicitors; or
- (e) without having paid in full any expenses for which he has been found liable under paragraph 5 of the Sixth Schedule to this Act or any fine imposed on him or any expenses ordered to be paid by him under Part V of the principal Act;

he shall, unless the registrar otherwise orders, give to the registrar at least six weeks before the application is made notice of his intention to make the application, and the registrar may in his discretion grant or refuse the application or decide to issue a certificate to the applicant subject to such terms and conditions as the registrar may in his discretion think fit; and where he decides to issue a certificate subject to terms and conditions may, if he thinks fit, postpone the issue of the certificate pending the hearing and determination of an appeal under this paragraph:

Provided that where, having regard to certain facts, a discretion becomes exercisable by the registrar in any of the cases mentioned in heads (a), (b), (c) and (d) of this sub-paragraph, as soon thereafter as a practising certificate has been issued in the exercise of such discretion to the applicant free of conditions those facts shall cease to operate so as to require such solicitor to give the notice mentioned in this paragraph or to vest any discretion in the registrar.

(2) Within fourteen days after being notified of the decision of the registrar, the applicant may appeal against such decision to the Court, who may affirm the decision of the registrar or may direct him to issue a certificate to the applicant on such terms and conditions, if any, as the Court may think fit or may make such other order as shall be just.

Bankruptcy of  
solicitor.

3.—(1) Upon the estate of a solicitor being sequestrated or upon a solicitor granting a trust deed for behoof of his creditors, any practising certificate then held by him shall cease to have effect, and, subject to the provisions of this paragraph, he shall be suspended from practice as a solicitor until he has obtained his discharge.

(2) It shall be the duty of a solicitor, upon his estate being sequestrated or his granting a trust deed for behoof of his creditors, to intimate the same forthwith in writing to the registrar, and it shall also be the duty of the trustee on the sequestrated estate or acting under the trust deed, immediately on his appointment, to intimate his appointment in writing to the registrar.

(3) A solicitor may at any time while he is suspended from practice under this paragraph apply to the registrar to terminate the suspension, and the registrar in his discretion may by order terminate the suspension unconditionally or subject to such terms and conditions as he may think fit or may refuse the application.



(4) If the registrar refuses the application or terminates the suspension subject to any terms or conditions, the solicitor may appeal against that decision to the Court, who may either affirm the decision of the registrar, or vary any terms or conditions imposed by the registrar, or terminate the suspension unconditionally or subject to such terms and conditions as they may think fit.

5TH SCH.  
—cont.

(5) If a solicitor suspended from practice under the provisions of this paragraph ceases to be so suspended at any time during the period for which the practising certificate held by him at the time of suspension would otherwise have continued in force, the certificate shall thereupon again have effect.

4. Upon an order or warrant being granted for the detention of a solicitor as a lunatic, or upon a curator bonis being appointed upon the estate of a solicitor, any practising certificate then held by the solicitor shall cease to have effect, and no practising certificate shall be issued to a solicitor while any such order or warrant remains in force or while his estate is under the control of a curator bonis:

Insanity of  
a solicitor.

Provided that if the order or warrant ceases to be in force or his estate ceases to be under such control at any time during the period for which the practising certificate would otherwise have continued in force, the certificate shall thereupon again have effect.

5.—(1) Every practising certificate issued during the month of November in any year shall bear the date of, and have effect for all purposes from, the first day of November in that year, but save as aforesaid every practising certificate shall bear the date of, and take effect on, the day on which it is issued.

Period of  
validity of  
practising  
certificates.

(2) Subject to the provisions of this Act, every certificate shall continue in force from the day from or on which it has or takes effect in accordance with the provisions of this paragraph until the thirty-first day of October next following the date of issue thereof (both dates inclusive) and shall then expire:

Provided that if the holder of a certificate is struck off the roll of solicitors such certificate shall forthwith expire.

6. Any list purporting to be issued by authority of the Council of the Society and to contain the names of solicitors in Scotland who have before the first day of December in any year obtained practising certificates for the period of twelve months from the first day of November in that year shall, until the contrary is proved, be evidence that the persons named therein as solicitors holding such certificates for the period then current are solicitors holding such certificates. The absence from such a list of the name of any person shall, until the contrary is proved, be evidence that the person is not qualified to practise as a solicitor under a certificate for the current period, but in the case of any such person an extract from the roll of solicitors certified as correct by the registrar shall be evidence of the facts appearing in the extract.

Law list to be  
prima facie  
evidence of  
solicitor holding  
practising  
certificate.

## Section 22.

## SIXTH SCHEDULE

PROVISIONS WITH RESPECT TO THE SCOTTISH SOLICITORS  
GUARANTEE FUNDContributions  
by solicitors  
to Guarantee  
Fund.

1.—(1) Subject to the provisions of this Act, there shall be paid to the Society on behalf of the Guarantee Fund by every solicitor in respect of each year during which or part of which he is in practice as a solicitor, along with his application for a practising certificate, a contribution (in this Schedule referred to as an “annual contribution”) not exceeding the sum of five pounds:

Provided that the sum payable by a solicitor in respect of the year in which he first commences to practise after admission, and in respect of each of the two years immediately following, shall be one-half of the annual contribution.

(2) The Council of the Society shall, not later than the thirty-first day of July in each year, fix the amount, if any, of the annual contribution to be paid in respect of the next ensuing year.

(3) No annual contribution shall be payable by a solicitor so long as the amount of the Guarantee Fund, including the value of all investments forming part of the Fund and after providing for all outstanding liabilities, is in the opinion of the Council of the Society not less than the sum of one hundred thousand pounds or such other sum as the Council may from time to time determine.

(4) If at any time the Council of the Society are of opinion that the liabilities of the Guarantee Fund render it expedient in order to secure the financial stability of the Fund, the Council may, by a resolution of which not less than ten days' previous notice in writing has been given to each member of the Council, impose upon every solicitor a contribution (in this Schedule referred to as a “special contribution”) of the amount specified in the resolution, and the special contribution shall be payable to the Society in one sum, or, if the Council so determine, by instalments on or before such date or dates as may be specified in the resolution:

Provided that—

- (a) no special contribution shall be payable by a solicitor in the year in which he first commences to practise after admission or in either of the two years immediately following;
- (b) the amount payable by way of special contribution by a solicitor shall not in any year exceed the sum of ten pounds.

(5) No annual contribution and no special contribution shall be payable by any solicitor who is in the employment of another solicitor or of a firm of solicitors and who does not engage in practice as a solicitor on his own account.

(6) Without prejudice to any other method of recovering contributions payable to the Society under this Schedule, whether annual

or special, a practising certificate shall not be issued to a solicitor except on production of evidence of payment of the contributions (if any) due by him to the Fund on or before the issue of the certificate.

6TH SCH.  
—cont.

(7) In this Schedule the expression “year” means the period of twelve months commencing on the first day of April or such other day as may be fixed by the Council of the Society.

2.—(1) Moneys not immediately required to meet sums payable out of the Guarantee Fund may be invested by the Society in any investments in which trustees in Scotland are by law authorised to invest.

Provisions as to investment, borrowing, audit and separation of funds.

(2) The Society may borrow money for the purposes of the Guarantee Fund in such manner and on such security as they may determine, so, however, that the total sum due at any time in respect of any such loans shall not exceed twenty thousand pounds.

(3) The accounts of the Guarantee Fund shall be made up annually for the year ending on the thirty-first day of March or on such other day as may be fixed by the Council and shall be audited by an auditor appointed by the Society. As soon as the audit is completed the audited accounts and the auditor’s report thereon shall be submitted to the Council of the Society and a copy of the audited accounts and of the auditor’s report shall be sent to the Lord Advocate and to every solicitor who is contributing to the Fund.

(4) All investments and other moneys forming part of the Guarantee Fund, and the books and accounts relating to that Fund, shall be kept separate from the other investments and moneys, books and accounts of the Society, and the investments and other moneys forming part of the Guarantee Fund shall not be liable for any obligations, debts, or liabilities incurred by the Society or the Council of the Society in relation to any business of the Society other than the business of the Guarantee Fund, nor shall the investments and other moneys of the Society held for purposes other than those relating to the Guarantee Fund be liable for any obligations, debts, or liabilities incurred by the Society or the Council of the Society in relation to the Guarantee Fund.

3.—(1) The Society shall have power to enter into a contract of insurance with any person, body of persons, or corporation authorised by law to carry on insurance business for guaranteeing the sufficiency of the Guarantee Fund or for any other purpose in relation to the Fund.

Power of Society to enter into contracts of insurance.

(2) Any such contract of insurance may be entered into in relation to solicitors generally or in relation to any solicitor or solicitors named therein.

(3) No person other than the Society shall have any right of action against the person, body or corporation with whom any such contract of insurance was entered into or have any right to any moneys payable thereunder.

## 6TH SCH.

—cont.

Provisions as to  
applications for  
grants, &c.

4.—(1) Every application for a grant from the Guarantee Fund shall be in such form as may be prescribed by rules made under this Schedule and shall be accompanied, if so required by the Council of the Society, by a statutory declaration, and the applicant shall produce to the Council such documents and other evidence as they may demand.

(2) The Council of the Society may, as a condition of making a grant out of the Guarantee Fund, require the person to whom the grant is made to assign to the Society at the expense of the Society any rights and remedies competent to him against the solicitor in question, his partner or servant, or any other person in respect of the loss.

(3) A grant from the Guarantee Fund may, in the discretion of the Council of the Society, be paid in one sum or in such instalments as the Council may determine.

(4) The Council of the Society may make rules with regard to the procedure to be followed in giving effect to the provisions of this Act relating to the Guarantee Fund, including matters to be prescribed thereunder and also with respect to any matters incidental, ancillary or supplemental to those provisions or concerning the administration, management or protection of the Guarantee Fund.

Power of  
Council of  
Society to have  
affairs of  
solicitors  
investigated.

5.—(1) If the Council of the Society have reasonable cause to believe that a solicitor or a servant of his has been guilty of any such dishonesty as is mentioned in subsection (2) of section twenty-two of this Act, they may require the production or delivery to any person appointed by the Council at a time and place to be fixed by the Council, and may take possession of all books, accounts, deeds, securities, papers and other documents in the possession or control of such solicitor or his firm or relating to any trust of which he is a sole trustee or is co-trustee only with a partner or servant of his or with more than one of such persons.

(2) If any person having possession or control of any such books, accounts, deeds, securities, papers and other documents refuses or fails forthwith after being required by the Council so to do to produce or deliver the same or cause the same to be produced or delivered in manner aforesaid, the Council may apply to the Court for an order, and the Court may on such application make an order upon such person to produce or deliver the same or cause the same to be produced or delivered in manner aforesaid within such time as the Court may order.

(3) Upon taking possession of any such books, accounts, deeds, securities, papers and other documents, which have been produced or delivered to the Council, the Council shall serve upon such solicitor and every person from whom they shall have been received a notice giving particulars and the date of taking possession thereof.

(4) Every requirement and notice made or given under this paragraph shall be in writing under the hand of such person as may be

appointed by the Council for the purpose, and the Council may serve any such requirement or notice on any solicitor or other person either personally or by forwarding it by registered letter addressed to his last-known place of business or residence.

6TH SCH.  
—cont.

(5) Within fourteen days after a notice under sub-paragraph (3) of this paragraph has been served in accordance with the last preceding sub-paragraph, the solicitor or other person upon whom such notice has been served may apply to the Court for an order directing the Council to return such books, accounts, deeds, securities, papers and other documents to the person or persons from whom they were received by the Council or to such other person or persons as the applicant may require. On the hearing of such application the Court may make the order applied for or such other order with respect to the matter as they may think fit.

(6) If no application shall be made to the Court in accordance with the last preceding sub-paragraph or if the Court on any such application shall direct that the books, accounts, deeds, securities, papers and other documents shall remain in the custody or control of the Council, the Council may make inquiries to ascertain the person or persons to whom the same belong and may deal with the same in accordance with the directions of such person or persons.

6. If the Council are satisfied that a solicitor or a servant of his has been guilty of any such dishonesty as is mentioned in subsection (2) of section twenty-two of this Act, they may apply to the Court for an order and the Court may on such application make an order that no payment shall be made without the leave of the Court by any banker named in the order out of any banking account in the name of such solicitor or his firm.

Control of  
banking  
accounts.

## SEVENTH SCHEDULE

Section 26.

### MINOR AND CONSEQUENTIAL AMENDMENTS

Session and Chapter	Short Title	Nature of Amendment
23 & 24 Geo. 5. c. 21.	The Solicitors (Scotland) Act, 1933.	In section nine, in paragraph (ii) after the words "six months", in both places where they occur, there shall be inserted the words "or such longer period as the registrar may in any particular case on cause shown fix"; In section nineteen, for the words "on the expiry of six months from the date of the application" there shall be substituted the words

7TH SCH.  
—cont.

Session and Chapter	Short Title	Nature of Amendment
23 & 24 Geo. 5. c. 21—cont.	The Solicitors (Scotland) Act, 1933—cont.	<p>“only on the solicitor satisfying the Discipline Committee that he has made adequate arrangements with respect to the business which he has then in hand”;</p> <p>In section twenty-six, at the end of subsection (2) there shall be added the words “or may take such further or other action as the Court think fit”;</p> <p>In section twenty-seven, in subsection (1), after the words “of professional misconduct” where they first occur there shall be inserted the words “or if the person making the complaint fails to comply with any of the rules made under section thirty-three of this Act”;</p> <p>In section twenty-eight, in subsection (1) after the words “investigating the complaint” there shall be inserted the words “or in such portion thereof as the Committee think fit”, and in subsection (2) after the words “due by him” there shall be inserted the words “to them and, where a finding relating to expenses has been made by the Committee in favour of the complainer, authorising the complainer to recover from such solicitor the expenses found due by the solicitor to the complainer”;</p> <p>In section thirty-four, after the words “competent for” there shall be inserted the words “the Lord Advocate and for”, and for the words “is prima facie” there shall be substituted the words “may have been”;</p> <p>In section thirty-nine, the words “either directly or indirectly for or in expectation of any fee, gain or reward” shall be omitted, and after the word “Act” there shall be inserted the</p>

Session and Chapter	Short Title	Nature of Amendment
23 & 24 Geo. 5. c. 21— <i>cont.</i>	The Solicitors (Scotland) Act, 1933— <i>cont.</i>	words " unless he proves that " he so acted without receiving " or without expectation of " any fee, gain or reward, " directly or indirectly "; In section fifty, at the end of the definition of " Society," there shall be inserted the words " but shall not include the " Law Society of Scotland " established under the Solici- " tors (Scotland) Act, 1949 ".

7TH SCH.  
—*cont.*

## EIGHTH SCHEDULE

Section 17 (5).

## ENACTMENTS REPEALED

## PART I

Year or Session and Chapter	Subject matter or Title	Extent of Repeal
1424, c. 24. ...	Act of the Parliament of Scotland " Anent billis of complayntis ".	The whole Act so far as unrepealed.
1587, c. 57 ...	Act of the Parliament of Scotland " For the furtherance and furth-setting of the criminall justice ower all the Realme."	In section (10) the words from " And that all and quhat-sumeuir liegis " to the end of the section.
56 & 57 Vict. c. 22. 7 Edw. 7. c. 51	The Appeal (Forma Pauperis) Act, 1893. The Sheriff Courts (Scotland) Act, 1907.	The whole Act. Section fifty-one. In the First Schedule, rules one hundred and fifty-two to one hundred and sixty-nine.

## PART II

Session and Chapter	Short Title	Extent of Repeal
23 & 24 Geo. 5. c. 21.	The Solicitors (Scotland) Act, 1933.	Sections two to six; and the First and Second Schedules.

Section 26 (2).

*Table of Statutes referred to in this Act*

Short Title	Session and Chapter
Parliamentary Elections Act, 1868 ... ..	31 & 32 Vict. c. 125.
Elections (Scotland) (Corrupt and Illegal Practices) Act, 1890 ... ..	53 & 54 Vict. c. 55.
Appeal Forma Pauperis Act, 1893 ... ..	56 & 57 Vict. c. 22.
Sheriff Courts (Scotland) Act, 1907 ... ..	7 Edw. 7. c. 51.
Summary Jurisdiction (Scotland) Act, 1908 ... ..	8 Edw. 7. c. 65.
Finance Act, 1919 ... ..	9 & 10 Geo. 5. c. 32.
Solicitors (Scotland) Act, 1933 ... ..	23 & 24 Geo. 5. c. 21.
Old Age Pensions Act, 1936 ... ..	26 Geo. 5 & 1 Edw. 8. c. 31.
Personal Injuries (Emergency Provisions) Act, 1939. ... ..	2 & 3 Geo. 6. c. 82.
Statutory Instruments Act, 1946 ... ..	9 & 10 Geo. 6. c. 36.
National Insurance (Industrial Injuries) Act, 1946 ... ..	9 & 10 Geo. 6. c. 62.
National Insurance Act, 1946 ... ..	9 & 10 Geo. 6. c. 67.
Local Government (Scotland) Act, 1947 ... ..	10 & 11 Geo. 6. c. 43.
National Assistance Act, 1948 ... ..	11 & 12 Geo. 6. c. 29.





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**TABLE II**


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