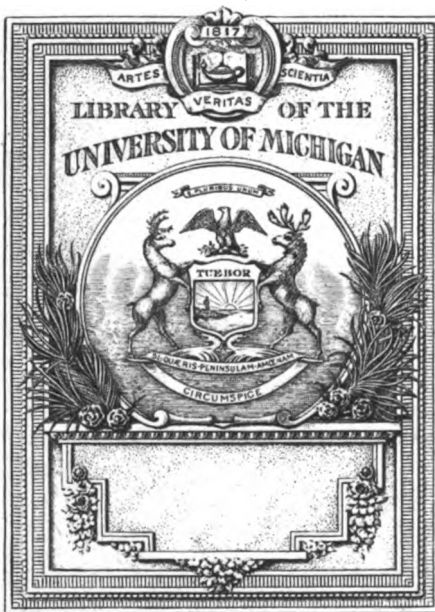


**B** 351526



350.742  
67131



THE  
PUBLIC GENERAL ACTS

and the  
Church Assembly Measures  
of  
1947

Being those which received the Royal Assent  
in the  
Tenth, Eleventh and Twelfth Years of the Reign of  
His Majesty

*King George The Sixth*

In the Second and Part of the Third Session of the  
Thirty-Eighth Parliament of the United Kingdom of  
Great Britain and Northern Ireland

with

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

[IN TWO VOLUMES]

VOLUME I

Public General Acts, 10 & 11 Geo. 6, Chapters 5 to 47



PRINTED BY SIR NORMAN GIBB SCORGIE, C.V.O., C.B.E.  
Controller of His Majesty's Stationery Office and King's Printer of Acts  
of Parliament

To be purchased directly from H.M. STATIONERY OFFICE at the following addresses:  
York House, Kingsway, London, W.C.2 ; 13a Castle Street, Edinburgh, 2 ;  
39-41 King Street, Manchester, 2 ; 1 St. Andrew's Crescent, Cardiff ;  
Tower Lane, Bristol, 1 ; 80 Chichester Street, Belfast  
OR THROUGH ANY BOOKSELLER

1947

Price for the two volumes

£2 5s. od. net

# CONTENTS

---

## VOLUME I

	Page
TABLE I.—Chronological List of Short Titles of the Public General Acts of 1947 ... ..	c
THE PUBLIC GENERAL ACTS OF 1947—	
10 & 11 GEO. 6, cc. 5-47 ... ..	I
TABLE II.—Alphabetical List of Short Titles with arrangement of Sections of Acts printed in Volume I ... ..	i

---

## VOLUME II

THE PUBLIC GENERAL ACTS OF 1947—	
10 & 11 GEO. 6, cc. 48-55 ... ..	1049
11 & 12 GEO. 6, cc. 1-13 ... ..	1935
TABLE III.—Chronological List of Short Titles of the Church Assembly Measures of 1947 ... ..	i
THE CHURCH ASSEMBLY MEASURES OF 1947—	
10 & 11 GEO. 6, Nos. 1-3 ... ..	ii
TABLE IV.—Effect of Legislation ... ..	xxvii
INDEX to the Public General Acts and Church Assembly Measures of 1947... ..	lxxi



*Rules of Goids*  
*Sullivan*  
 9-20-48  
 15986  
 2✓

**TABLE I.**

**A CHRONOLOGICAL LIST OF THE SHORT TITLES OF THE PUBLIC GENERAL ACTS INCLUDED IN THESE VOLUMES.**

Chapter of 10 & 11 Geo. 6.*	Vol. and Page
5 The Greenwich Hospital Act, 1947 ... ..	I, p. 1
6 The Trustee Savings Banks Act, 1947 ... ..	I, p. 3
7 The Pensions (Increase) Act, 1947 ... ..	I, p. 10
8 The Road Traffic (Driving Licences) Act, 1947 ... ..	I, p. 16
9 The Malta (Reconstruction) Act, 1947 ... ..	I, p. 18
10 The House of Commons (Redistribution of Seats) Act, 1947 ... ..	I, p. 20
11 The Appellate Jurisdiction Act, 1947 ... ..	I, p. 24
12 The Births and Deaths Registration Act, 1947 ... ..	I, p. 25
13 The County Councils Association Expenses (Amend- ment) Act, 1947 ... ..	I, p. 26
14 The Exchange Control Act, 1947 ... ..	I, p. 27
15 The Agricultural Wages (Regulation) Act, 1947 ... ..	I, p. 70
16 The Summer Time Act, 1947 ... ..	I, p. 82
17 The Consolidated Fund (No. 1) Act, 1947 ... ..	I, p. 83
18 The Air Navigation Act, 1947 ... ..	I, p. 85
19 The Polish Resettlement Act, 1947 ... ..	I, p. 92
20 The Dog Racecourse Betting (Temporary Provisions) Act, 1947 ... ..	I, p. 106
21 The Forestry Act, 1947 ... ..	I, p. 109
22 The Civic Restaurants Act, 1947 ... ..	I, p. 113
23 The Treaties of Peace (Italy, Roumania, Bulgaria, Hungary and Finland) Act, 1947 ... ..	I, p. 117
24 The Naval Forces (Enforcement of Maintenance Liabilities) Act, 1947 ... ..	I, p. 119
25 The Army and Air Force (Annual) Act, 1947 ... ..	I, p. 121
26 The Cotton (Centralised Buying) Act, 1947 ... ..	I, p. 128
27 The National Health Service (Scotland) Act, 1947 ... ..	I, p. 144
28 The Isle of Man Harbours Act, 1947 ... ..	I, p. 232
29 The Penicillin Act, 1947 ... ..	I, p. 233
30 The Indian Independence Act, 1947 ... ..	I, p. 236
31 The National Service Act, 1947 ... ..	I, p. 255

\* The following chapters of the session 10 & 11 Geo. 6 were printed in the volume of Public General Acts of 1946:—

1. The Expiring Laws Continuance Act, 1946 (p. 1225).
2. The Ministry of Defence Act, 1946 (p. 1227).
3. The Unemployment and Family Allowances (Northern Ireland Agreement) Act, 1946 (p. 1228).
4. The Royal Marines Act, 1946 (p. 1232).

Chapter of 10 & 11 Geo. 6.		Vol. and Page
32	The Agriculture (Emergency Payments) Act, 1947 ...	I, p. 277
33	The Foreign Marriage Act, 1947... ..	I, p. 281
34	The Trafalgar Estates Act, 1947 ... ..	I, p. 285
35	The Finance Act, 1947 ... ..	I, p. 287
36	The Education (Exemptions) (Scotland) Act, 1947 ...	I, p. 400
37	The Northern Ireland Act, 1947... ..	I, p. 401
38	The Probation Officers (Superannuation) Act, 1947 ...	I, p. 414
39	The Statistics of Trade Act, 1947 ... ..	I, p. 418
40	The Industrial Organisation and Development Act, 1947 ... ..	I, p. 429
41	The Fire Services Act, 1947 ... ..	I, p. 442
42	The Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947 ... ..	I, p. 492
43	The Local Government (Scotland) Act, 1947 ... ..	I, p. 513
44	The Crown Proceedings Act, 1947 ... ..	I, p. 861
45	The Public Offices (Site) Act, 1947 ... ..	I, p. 895
46	The Wellington Museum Act, 1947 ... ..	I, p. 901
47	The Companies Act, 1947 ... ..	I, p. 908
48	The Agriculture Act, 1947 ... ..	II, p. 1049
49	The Transport Act, 1947 ... ..	II, p. 1169
50	The Isle of Man (Customs) Act, 1947 ... ..	II, p. 1343
51	The Town and Country Planning Act, 1947 ... ..	II, p. 1346
52	The Appropriation Act, 1947 ... ..	II, p. 1556
53	The Town and Country Planning (Scotland) Act, 1947	II, p. 1605
54	The Electricity Act, 1947 ... ..	II, p. 1809
55	The Supplies and Services (Extended Purposes) Act, 1947 ... ..	II, p. 1932
Chapter of 11 & 12 GEO. 6.		
1	The Expiring Laws Continuance Act, 1947 ... ..	II, p. 1935
2	The Jersey and Guernsey (Financial Provisions) Act, 1947 ... ..	II, p. 1937
3	The Burma Independence Act, 1947 ... ..	II, p. 1938
4	The New Zealand Constitution (Amendment) Act, 1947	II, p. 1951
5	The Ministers of the Crown (Treasury Secretaries) Act, 1947 ... ..	II, p. 1952
6	The Housing (Temporary Accommodation) Act, 1947... ..	II, p. 1953
7	The Ceylon Independence Act, 1947 ... ..	II, p. 1953
8	The Mandated and Trust Territories Act, 1947 ... ..	II, p. 1958
9	The Finance (No. 2) Act, 1947 ... ..	II, p. 1960
10	The Emergency Laws (Miscellaneous Provisions) Act, 1947 ... ..	II, p. 1973
11	The Medical Practitioners and Pharmacists Act, 1947... ..	II, p. 1989
12	The Pensions (Governors of Dominions, &c.) Act, 1947	II, p. 1998
13	The Public Works Loans Act, 1947 ... ..	II, p. 2001



THE  
PUBLIC GENERAL STATUTES.

10 & 11 GEO. 6.

CHAPTER 5.

An Act to repeal certain restrictions on the amount of special Greenwich Hospital pensions and of expenditure out of Greenwich Hospital Funds for the education and maintenance of children, and to make further provision for the granting out of those Funds of widows' pensions, children's allowances and gratuities to dependants. [18th February 1947.]

**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 provisions of the Greenwich Hospital Acts, 1865 to 1942, that is to say—
- (a) so much of section five of the Greenwich Hospital Act, 1869, as limits the amount of the special Greenwich Hospital pensions which may be appointed to non-commissioned officers and men admitted to the benefits of Greenwich Hospital in lieu of maintenance ;
  - (b) so much of section four of the Greenwich Hospital Act, 1872, as limits the number of daughters of warrant officers, non-commissioned officers and men of the Royal Navy and Royal Marines who at any one time may be educated and maintained under that section ; and
  - (c) so much of section five of the said Act of 1872 as limits the amount that may be expended under the said section five on the education and maintenance of any son or daughter of a deceased or distressed commissioned officer of the Royal Navy or Royal Marines,

Removal of restrictions on amount of special Greenwich Hospital pensions and of expenditure on education and maintenance of children.  
32 & 33 Vict. c. 44.  
35 & 36 Vict c. 67.

shall cease to have effect.

(2) In accordance with sub-paragraph (a) of the foregoing subsection, section six of the Pensions (Increase) Act, 1920 and paragraph (b) of subsection (1) of section seven of the Pensions (Increase) Act, 1944 (which provide for disregarding certain increases of pensions in determining the amount of, or eligibility for, such special Greenwich Hospital pensions as aforesaid) are hereby repealed.

Extension of  
power to  
grant pensions,  
etc., under  
46 & 47 Vict.  
c. 32, s. 2.

2.—(1) The power of the Admiralty, under section two of the Greenwich Hospital Act, 1883, to grant pensions to widows, allowances to children, and gratuities to dependants of certain non-commissioned and petty officers and men dying in the service of the Crown shall include power to grant such pensions, allowances and gratuities in the case of any person deceased, whether before or after the passing of this Act, while serving, or having served, as a non-commissioned officer, petty officer or man of the Royal Navy or Royal Marines or of any naval reserve force, so however that pensions, allowances and gratuities shall not be granted by virtue of this section except in accordance with regulations of the Admiralty made under section four of the said Act of 1883.

(2) In accordance with the last foregoing subsection, section two of the said Act of 1883 shall be amended so as to have effect as set out in the First Schedule to this Act.

Short title,  
citation and  
repeals.

3.—(1) This Act may be cited as the Greenwich Hospital Act, 1947, and the Greenwich Hospital Acts, 1865 to 1942 and this Act may be cited together as the Greenwich Hospital Acts, 1865 to 1947.

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

---

## SCHEDULES.

---

### FIRST SCHEDULE.

---

Section 2.

*Section 2 of 46 & 47 Vict. c. 32 as amended by  
section 2 of this Act.*

2.—(1) The Admiralty may out of the funds of Greenwich Hospital from time to time grant pensions to widows and allowances to children of any person deceased, whether before or after the passing of the Greenwich Hospital Act, 1947, while serving, or having served, as a non-commissioned officer, petty officer or man of the Royal Navy or Royal Marines or of any naval reserve force.

(2) The Admiralty may out of the said funds from time to time grant gratuities to parents or other relatives dependent on any such person deceased, as aforesaid, so however that the total expenditure in such gratuities shall not exceed in any one year the sum of five hundred pounds.

(3) Pensions, allowances and gratuities shall not be granted by virtue of this section except in accordance with regulations of the Admiralty made under section four of this Act, so however that nothing in this subsection shall affect any pension, allowance or gratuity granted before the passing of the Greenwich Hospital Act, 1947.

---

## SECOND SCHEDULE.

Section 3.

*Enactments Repealed.*

Session and Chapter.	Short Title.	Extent of Repeal.
32 & 33 Vict. c. 44.	The Greenwich Hospital Act 1869.	In section five, the words from "but so that" to the end of the section.
35 & 36 Vict. c. 67.	The Greenwich Hospital Act 1872.	In section four, the words from "subject to" to the end of the section; in section five the words from "subject to" to the end of the section.
61 & 62 Vict. c. 24.	The Greenwich Hospital Act 1898.	Section four.
10 & 11 Geo. 5. c. 36.	The Pensions (Increase) Act, 1920.	Section six.
7 & 8 Geo. 6. c. 21.	The Pensions (Increase) Act, 1944.	In section seven, in subsection (1), the words from the second "and" to the end of the subsection.

## CHAPTER 6.

*Trustee Savings Banks Act, 1947.*

## ARRANGEMENT OF SECTIONS.

## Section.

1. Allocation of part of superannuation benefits to dependants.
2. Death gratuities payable after five years' service.
3. Superannuation payments for transferred officers.
4. Establishment of superannuation reserves.
5. Establishment by trustee savings banks of contributory superannuation funds.
6. Advances by trustee savings banks for development.
7. Short title, construction, citation and application.

An Act to make further provision as to the superannuation benefits of officers of trustee savings banks and of the Inspection Committee, and to empower trustee savings banks to make advances for the extension or formation of other such banks. [18th February 1947.]

**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.—(1) An officer of a trustee savings bank who retires from the service of the bank, otherwise than on the ground of ill health, at any time after the coming into operation for that

Allocation of part of superannuation benefits to dependants.

25 & 26 Geo. 5.  
c. 23.

bank of rules under this section shall be allowed to surrender, as from the date of his retirement, such part (not exceeding one-third) of any annual allowance which the trustees of the bank may grant to him under section fourteen of the Act of 1929 as may be provided by the rules in return for the trustees' granting to the wife or husband, as the case may be, of the officer or to a dependant of the officer a pension, payable from the like source as the said allowance, of such value as according to the tables for the time being in force for the purposes of section two of the Superannuation Act, 1935 (which provides for the allocation of superannuation benefits) is actuarially equivalent, on the date of the officer's retirement, to the value of that part of the said annual allowance which is surrendered.

19 & 20 Geo. 5.  
c. 27.

In this Act the expression "the Act of 1929" means the Savings Banks Act, 1929, as amended by this Act.

(2) Rules under this section may with the approval of the National Debt Commissioners be made for any trustee savings bank by the trustees of the bank, and may provide—

- (a) for the application thereof to officers of the bank generally or to any class of such officers ;
- (b) for the circumstances in which, and the conditions as to proof of good health and other matters subject to which, an officer to whom the rules apply may surrender an allowance in accordance with the foregoing subsection ;
- (c) for the application in relation to any pension granted in return for such a surrender of the provisions of subsection (3) of section fourteen of the Act of 1929 (under which an allowance under that section is only to be continued so long as, in the opinion of the Inspection Committee, the funds of a bank admit of its payment), subject to such modifications as appear to the trustees requisite for excluding from the application of that subsection so much of a pension as represents deductions in respect thereof made from instalments of the annual allowance of the retiring officer already paid to him.

(3) Any such pension as aforesaid for the benefit of a dependant, not being the spouse of the retiring officer, shall be payable in respect of the period, if any, for which the dependant survives the retiring officer, and any such pension as aforesaid for the benefit of the spouse of the retiring officer shall, according as the retiring officer may in conformity with the rules of the bank under this section elect, be payable either—

- (a) in respect of the period, if any, for which the spouse survives the retiring officer, or
- (b) in respect both of the period of their joint lives subsequent to the retirement and of the period, if any, for which the spouse survives the retiring officer,

and the rules may provide that a pension payable thereunder in respect of the periods mentioned in paragraph (b) of this subsection shall be paid at one rate in respect of the first of those periods and at a higher rate in respect of the second.

(4) If any person has, in accordance with rules under this section, surrendered part of an allowance, then for the purpose of calculating the amount of any gratuity which may be granted to his legal personal representative under paragraph (c) of subsection (1) of section fourteen of the Act of 1929 the sums paid or payable to him at the time of his death on account of the said allowance shall be deemed to be the sums which would have been so paid or payable but for the surrender.

(5) The foregoing provisions of this section shall apply to the Inspection Committee and officers thereof as they apply to a trustee savings bank and officers thereof, with the substitution for references to the trustees of a trustee savings bank or to such a bank of references to the Committee, and for references to section fourteen of the Act of 1929 and any provision thereof of references to that section or provision as applied by section fifteen of the Act of 1929.

2. The power conferred by sections fourteen and fifteen of the Act of 1929 to grant a gratuity to the legal personal representative of an officer of a trustee savings bank or of the Inspection Committee who dies while still employed in the service of the bank or Committee shall be exercisable in the case of any such officer who has served not less than five years' service as such, and accordingly in paragraph (b) of subsection (1) of the said section fourteen for the words "ten years' service" there shall be substituted the words "five years' service".

Death gratuities payable after five years' service.

3.—(1) Where, whether before or after the commencement of this Act, an officer of the Inspection Committee or the Trustee Savings Banks Association has been transferred to service with a trustee savings bank, or an officer of a trustee savings bank or the Trustee Savings Banks Association has been transferred to service with the Inspection Committee, then for the purposes of section fourteen or fifteen of the Act of 1929 (which provide for superannuation benefits for officers of a trustee savings bank and of the Inspection Committee, being benefits depending on length of service with trustee savings banks or with the Committee, as the case may be) and of the last foregoing section the period of continuous trustee savings bank service of the officer ending with the transfer shall, subject to the provisions of this section, be reckoned as if it were a period of service with the bank or Committee to service with which the officer is transferred.

Superannuation payments for transferred officers.

(2) In this section the expression "trustee savings bank service" means service with any trustee savings bank institution, that is to say, any trustee savings bank, the Inspection Committee or the Trustee Savings Banks Association, and trustee savings bank service shall be treated as continuous if interrupted only on transfer from one trustee savings bank institution to another.

(3) In respect of the transfer, whether before or after the commencement of this Act, of an officer of a trustee savings bank to service with another such bank or the Inspection Committee or the Trustee Savings Banks Association, or of an officer of the Committee to service with a trustee savings bank or the Association, the trustees of the bank from service with which he is transferred or the Committee, as the case may be, may, with the approval of the National Debt Commissioners, pay to the bank, Committee or Association to service with which the officer is transferred such amount as may with the like approval be determined by the trustees or Committee making the payment to represent the superannuation value, at the date of the transfer, of the continuous trustee savings bank service of the officer ending with that date.

Any payment under this subsection by trustees or the Inspection Committee may be defrayed in the like manner as sums payable by the trustees or Committee under section fourteen or fifteen of the Act of 1929.

(4) No payment shall be made—

- (a) by the trustees of a trustee savings bank under the said section fourteen by reference to previous service of an officer of the bank with the Inspection Committee or the Trustee Savings Banks Association, or
- (b) by the Inspection Committee under the said section fifteen by reference to previous service of an officer of the Committee with a trustee savings bank or the Trustee Savings Banks Association,

unless on the transfer of the officer in question to service with the bank or the Committee, as the case may be, payment was made to them in respect of the officer by the bank, Committee or Association from service with which the officer was transferred of an amount equal to the superannuation value, at the date of the transfer, of the said previous service.

(5) For the purposes of this section, the superannuation value, at the date of any transfer, of any service of a transferred officer shall be an amount, calculated in accordance with rules for the purposes of this section made by the National Debt Commissioners, equivalent to the actuarial value at that date of the superannuation benefits, so far as attributable to the service in question, which would be payable in respect of him if he continued to serve with the bank, Committee or Association from

service with which he is transferred at the remuneration payable to him immediately before the transfer until his trustee savings bank service was terminated by death or retirement.

4.—(1) The trustees of a trustee savings bank, or of two or more such banks acting jointly, may, with the approval of the Inspection Committee and in accordance with rules made by the trustees with the consent of the National Debt Commissioners, establish a reserve fund to be known as the superannuation reserve; and where such a reserve has been established any superannuation payment falling to be made by the trustees of the bank, or of any of the banks, for which the reserve was established shall, in such cases and to such extent as may be provided by rules made as aforesaid, be defrayed out of the superannuation reserve instead of being defrayed in the manner provided by the said section fourteen or the foregoing provisions of this Act.

Establishment  
of super-  
annuation  
reserves.

In this section the expression "superannuation payment" means a payment under section fourteen of the Act of 1929 or under the foregoing provisions of this Act.

(2) Rules made as aforesaid shall provide for the source from which and the manner in which the trustees shall make payments to the superannuation reserve, and for the application of the assets thereof otherwise than in defraying superannuation payments either where it is determined in accordance with the rules that the assets of the superannuation reserve exceed the amount likely to be required for defraying such payments or in the event of the winding up of the bank, or of any of the banks, for which the reserve was established, or in such other circumstances as may be provided by the rules; and—

(a) save as may be provided by the rules the assets of the superannuation reserve shall not be applicable except for the purpose of defraying superannuation payments and any expenses of managing the reserve, and

(b) subsection (3) of section fourteen of the Act of 1929 (under which payments under that section are only to be continued so long as, in the opinion of the Inspection Committee, the funds of the bank admit of their payment) shall, notwithstanding anything in that subsection or in rules made under section one of this Act, not apply to so much of any superannuation payment as is payable out of the superannuation reserve.

(3) The assets of any superannuation reserve established under this section shall be invested with the National Debt Commissioners on the same terms and in the like manner as assets of the bank in question which are invested with the Commissioners in pursuance of section fifteen of the Trustee Savings Banks Act, 1863.

26 & 27 Vict.  
c. 87.

(4) The National Debt Commissioners, after consultation with the Inspection Committee, may require any trustees to amend rules made by them for the purposes of this section in such manner as the Commissioners may specify, and if it appears to the Commissioners that the trustees have failed within a reasonable time to comply with any such requirement the Commissioners may direct that the rules shall have effect as if amended in accordance with the requirement.

(5) Rules under this section may contain such incidental and supplementary provisions as appear requisite for the purposes of this section.

(6) Where superannuation reserves have been established, whether jointly or separately, for two or more trustee savings banks, the reserves may, with the approval of the National Debt Commissioners, be amalgamated on such terms as to the making of payments out of the amalgamated reserves as may be agreed between the trustees of the banks in question, and where superannuation reserves have been amalgamated in pursuance of this subsection, they shall be treated as if they were a single superannuation reserve established by the said banks acting jointly, and the foregoing provisions of this section shall apply accordingly.

Establishment  
by trustee  
savings banks  
of contributory  
superannua-  
tion funds.

5.—(1) The trustees of a trustee savings bank, or of two or more such banks acting jointly, may in accordance with rules made by them with the consent of the National Debt Commissioners establish a contributory superannuation fund, to be vested in trustees appointed in accordance with the rules, to which contributions shall be made, of such amounts and payable at such times and in such manner as may be provided by the rules,—

- (a) by the persons for whom provision can be made out of the fund and who are employed in the service of the bank or banks by whom the fund is established ;
- (b) by the trustees of the said bank or banks, from such source as may be provided by the rules.

(2) The assets of any fund established under this section shall be applied—

- (a) in providing, in respect of persons employed in the service of the bank or banks in question or any class of such persons, as may be provided by the rules, benefits of all or any of the descriptions provided for by the Act of 1929, of amounts not exceeding those which could be paid under that Act,
- (b) in repaying, in such cases and to such extent as may be provided by the rules, the amount of contributions made to the fund by persons in the service of the bank, or any of the banks, in question, together with compound



interest thereon calculated at such rate and in such manner as may be provided by the rules but subject to the deduction (in so far as the rules so provide) of sums due from such persons to the bank by whom they have been employed,

(c) in defraying, in so far as the rules so provide, the cost of payments under subsection (3) of section three of this Act,

(d) in defraying the expenses of management of the fund :

Provided that where it is determined in accordance with the rules that the assets of the fund exceed the amount likely to be required under the four foregoing paragraphs, or in the event of the winding up of the bank, or of any of the banks, for which the fund was established, or in such other circumstances as may be provided by the rules, the assets shall become applicable in such other manner as may be so specified.

(3) Subsections (3) to (6) of the last foregoing section shall apply for the purposes of this section with the substitution for references to a superannuation reserve of references to a contributory superannuation fund and for references to that section of references to this section.

6.—(1) The trustees of a trustee savings bank may, with the approval of the National Debt Commissioners, make advances, of such amounts, on such terms and conditions and for such period as may be approved by the Commissioners,—

Advances by trustee savings banks for development.

(a) to the trustees of another trustee savings bank for the purpose of enabling the operations of that other bank to be extended ;

(b) to any persons proposing to form a new trustee savings bank for the purpose of providing for expenses incurred or to be incurred in connection with the formation and the initial working of the new bank.

(2) The amount of any advance made by the trustees of a bank under this section shall be defrayed either as part of the current expenses of the bank or, with the sanction of the Inspection Committee, out of any moneys standing to the credit of the bank in the separate surplus fund.

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

Short title,  
construction,  
citation and  
application.

7.—(1) This Act may be cited as the Trustee Savings Banks Act, 1947.

(2) This Act shall be construed as one with the Trustee Savings Banks Acts, 1863 to 1934, and those Acts and this Act may be cited together as the Trustee Savings Banks Acts, 1863 to 1947.

(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.

---

## CHAPTER 7.

### *Pensions (Increase) Act, 1947.*

#### ARRANGEMENT OF SECTIONS.

##### Section.

1. Raising of limits for, and rates of, pensions increases under principal Act.
2. Minor amendments of principal Act.
3. Continuance in force of principal Act.
4. Increase of limits of income under Act of 1920.
5. Payment of increases under schemes not falling within principal Act.
6. Short title, construction, citation and interpretation.

---

An Act to authorise further increases under, and otherwise amend, the Pensions (Increase) Act, 1944, and to continue that Act in force as amended; to authorise further increases under the Pensions (Increase) Act, 1920; and to authorise increases in pensions to which that Act does not apply.

[18th February 1947.]

**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:—

Raising of  
limits for, and  
rates of,  
pensions  
increases  
under principal  
Act.  
7 & 8 Geo. 6.  
c. 21.

1.—(1) The limit specified in the proviso to subsection (1) of section one of the Pensions (Increase) Act, 1944 (hereafter in this Act referred to as "the principal Act"), under which an increase of pension is not to be made under that section where the income of the pensioner exceeds the said limit, and in paragraph 4 of the Second Schedule to the principal Act, which restricts any such increase to the amount required to

raise the income of the pensioner to the said limit, shall be increased as follows, that is to say,—

- (a) in the case of a pensioner who is married or has at least one dependant, from three hundred pounds a year to four hundred and fifty pounds a year;
- (b) in the case of any other pensioner, from two hundred and twenty-five pounds a year to three hundred and fifty pounds a year.

(2) For paragraphs 2 and 3 of the said Second Schedule (which specify the amounts of the increases in pensions authorised under the said section one) there shall be substituted the following paragraphs:—

“ 2. Where a pensioner is married or has at least one dependant, then, subject to the provisions of this Schedule:—

(a) if the pension does not exceed one hundred pounds a year, the authorised increase shall be forty per cent. of the amount of the pension:

(b) if the pension exceeds one hundred pounds a year but does not exceed one hundred and thirty-three pounds six shillings and eightpence a year, the authorised increase shall be the amount of forty pounds a year:

(c) if the pension exceeds one hundred and thirty-three pounds six shillings and eightpence a year but does not exceed two hundred pounds a year, the authorised increase shall be thirty per cent. of the amount of the pension:

(d) if the pension exceeds two hundred pounds a year but does not exceed three hundred and ninety pounds a year, the authorised increase shall be the amount of sixty pounds a year: and

(e) if the pension exceeds three hundred and ninety pounds a year, the authorised increase shall be the amount which is necessary to increase the pension to four hundred and fifty pounds a year.

3. Where a pensioner is unmarried and has no dependants then, subject to the provisions of this Schedule:—

(a) if the pension does not exceed seventy-five pounds a year, the authorised increase shall be forty per cent. of the amount of the pension:

(b) if the pension exceeds seventy-five pounds a year but does not exceed one hundred pounds a year, the authorised increase shall be the amount of thirty pounds a year:

(c) if the pension exceeds one hundred pounds a year but does not exceed one hundred and fifty

pounds a year, the authorised increase shall be thirty per cent. of the amount of the pension:

(d) if the pension exceeds one hundred and fifty pounds a year but does not exceed three hundred and five pounds a year, the authorised increase shall be the amount of forty-five pounds a year:

(e) if the pension exceeds three hundred and five pounds a year, the authorised increase shall be the amount which is necessary to increase the pension to three hundred and fifty pounds a year."

(3) For paragraph (c) of subsection (1) of section two of the principal Act (which provides that where a pension payable under the Superannuation Acts exceeds six hundred pounds a year but is less than six hundred and forty-five pounds a year the pension may be increased to six hundred and forty-five pounds a year) there shall be substituted the following paragraphs:—

"(c) where the pension exceeds six hundred pounds a year but does not exceed seven hundred and fifty pounds a year, by five per cent.:

(d) where the pension exceeds seven hundred and fifty pounds a year but is less than seven hundred and eighty-seven pounds ten shillings a year, to seven hundred and eighty-seven pounds ten shillings a year."

(4) The foregoing provisions of this section shall apply to any instalment of an increase of pension payable under the principal Act in respect of any period beginning on or after the first day of December, nineteen hundred and forty-six, irrespective of the date at which an increase of the pension was first granted under the principal Act; and any payment of such an instalment made before the passing of this Act shall be adjusted accordingly.

Minor  
amendments  
of principal  
Act.

2.—(1) Nothing in subsection (7) of section one of the principal Act (which requires a pensions authority to make increases of certain pensions) shall prevent a pensions authority making such reduction in the amount of any increase payable under the said section one to a pensioner as may be necessary to secure, where the pensioner is in receipt of a non-contributory pension under the Old Age Pensions Act, 1936, that he shall receive the greatest possible amount in respect of the increase and the non-contributory pension taken together.

26 Geo. 5 &  
1 Edw. 8. c. 31.

(2) In calculating the income of a pensioner for the purposes of section one of the principal Act and the Second Schedule thereto the amount of any service pension (as defined in that

Schedule) shall be taken into account, and accordingly in paragraph (a) of subsection (1) of section three of the principal Act (which provides for disregarding the first fifty-two pounds a year of income otherwise than in respect of a pension specified in the First Schedule to the principal Act) after the word " Act " there shall be inserted the words " or a service pension as defined in the Second Schedule thereto ".

(3) Nothing in subsection (1) of section five of the principal Act (which provides that expenditure in respect of certain increases shall be defrayed out of moneys provided by Parliament) shall affect the operation, in relation to increases of pensions under the principal Act, of the provisions of section fourteen of the Police Act, 1890, and section ten of the Police Pensions Act, 1921, as to the payment of pensions partly out of the police fund and partly out of moneys provided by Parliament.

53 & 54 Vict.  
c. 45-  
11 & 12 Geo. 5.  
c. 31.

(4) Where a person is in receipt of any pension not specified in the First Schedule to the principal Act, and an increase of the pension is payable under any scheme (wherever in force and whether or not authorised by or under any enactment), being a scheme determined by the Treasury for the purposes of this subsection to be similar to the provisions of the principal Act, then for the purposes of any increase of a pension specified in the First Schedule to the principal Act authorised by section one of that Act the provisions of that Act shall apply in relation to the said person as if the first-mentioned pension were a pension specified in that Schedule of an amount equal to so much thereof as does not consist of any increase made under the said scheme, and as if that increase were an increase thereof authorised as aforesaid.

3.—(1) The principal Act, as amended by the foregoing provisions of this Act, shall subject to the provisions of this section continue in force notwithstanding anything in subsection (5) of section eight or subsection (2) of section ten of the principal Act as to the expiry thereof; and accordingly the said subsections are hereby repealed.

Continuance in  
force of  
principal Act.

(2) Where the amount of a 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 emoluments received over a period of service beginning on or after the first day of April, nineteen hundred and forty-six, no increase of the pension shall be payable under the principal Act.

(3) Where the amount of a pension is determined by reference to an average rate of emoluments received over a period of service (in this subsection referred to as " the relevant

service ") part of which was served before the last mentioned date—

- (a) for the purposes of calculating the amount of any increase under the principal Act the pension shall be deemed to be of the like amount as the pension which could have been granted if it had fallen to be determined by reference to the average rate of emoluments received over so many years of the relevant service as were begun before the first day of April, nineteen hundred and forty-six;
- (b) the amount of the increase which could be granted apart from this paragraph shall be reduced in the proportion which the relevant service less the years begun as aforesaid bears to the whole of the relevant service.

Increase of  
limits of  
income under  
Act of 1920.  
10 & 11 Geo. 5.  
c. 36.

4.—(1) The limits of one hundred and fifty pounds and two hundred pounds specified in paragraph (3) of section two of the Pensions (Increase) Act, 1920 (which makes it a condition for the increase of a pension under that Act that the means of the pensioner are less than one hundred and fifty pounds a year if unmarried, or two hundred pounds a year if married) and in proviso (ii) to paragraph 1 of the Schedule to that Act (under which no pension may be increased by an amount greater than is sufficient to bring the means of the pensioner up to the said limits) shall be increased to two hundred pounds and two hundred and seventy-five pounds respectively.

(2) In proviso (i) to paragraph 1 of the First Schedule to the said Act of 1920 (which provides that if the amount to which a pension may be increased under the scale set out in that paragraph is less than the amount to which a smaller pension might be increased, it may be increased to the latter amount) after the words " might be increased " there shall be inserted the words " or if a pension greater than such as may be increased under the said scale is less than the amount to which a smaller pension might be increased."

(3) The foregoing provisions of this section shall apply to any instalment of an increase of pension payable under the Pensions (Increase) Acts, 1920 and 1924, in respect of any period beginning on or after the first day of December, nineteen hundred and forty-six, irrespective of the date at which an increase of the pension was first granted; and any payment of such an instalment made before the passing of this Act shall be adjusted accordingly.

(4) This section shall be construed as one with the Pensions (Increase) Acts, 1920 and 1924.

5.—(1) The Treasury may make regulations empowering any person or body of persons specified in the regulations to pay the like increases, of pensions payable by them or in respect of pensions otherwise payable by reference to service with them or to such service and other service, as would be payable if those pensions were pensions specified in the First Schedule to the principal Act. Payment of increases under schemes not falling within principal Act.

(2) Regulations under this section may provide for increases thereby authorised taking effect as from such date after the passing of this Act, but whether before or after the coming into operation of the regulations, as may be specified therein.

(3) Any regulations under this section shall be laid before Parliament immediately after being made, and if either House of Parliament within the period of forty days beginning with the day on which the regulations were laid before it resolves that an Address be presented to His Majesty praying that the regulations be annulled, no further proceedings shall be taken thereunder after the date of the resolution, and His Majesty may by Order in Council revoke the regulations, so, however, that any such resolution and revocation shall be without prejudice to the validity of anything previously done under the regulations or to the making of new regulations.

In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.

(4) Notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, regulations made under subsection (1) of this section shall not be deemed to be statutory rules to which that section applies. 56 & 57 Vict. c. 66.

6.—(1) This Act may be cited as the Pensions (Increase) Act, 1947, and, except in so far as it is directed to be construed with the Pensions (Increase) Acts, 1920 and 1924, shall be construed as one with the principal Act; and that Act and this Act, except as aforesaid, may be cited as the Pensions (Increase) Acts, 1944 and 1947. Short title, construction, citation and interpretation.

(2) References in this Act to any enactment shall be construed, except where the context otherwise requires, as references to that enactment as amended by any other enactment, including this Act.



## CHAPTER 8.

### *Road Traffic (Driving Licences) Act, 1947.*

#### ARRANGEMENT OF SECTIONS.

Section.

1. Revocation of emergency provision as to provisional licences.
2. Rights of persons who have held provisional licences under emergency provision on subsequent applications for licences.
3. Amendment as to destination of fees in respect of driving tests.
4. Short title, construction and extent.

---

An Act to revoke certain emergency provision as to licences to drive motor vehicles, and make provision with respect to the grant of such licences to persons who have held such licences under the emergency provision; and to amend the law as to the destination of fees in respect of driving tests. [18th February 1947.]

**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:—

Revocation of emergency provision as to provisional licences.

1. Paragraph (6) of Regulation seventy-two of the Defence (General) Regulations, 1939 (which regulates the granting of provisional licences during the continuance in force of that paragraph) is hereby revoked:

Provided that the revocation of the said paragraph shall not affect the operation or continuance in force of a provisional licence in force at the commencement of this Act.

Rights of persons who have held provisional licences under emergency provision on subsequent applications for licences.

20 & 21 Geo. 5.  
c. 43.  
24 & 25 Geo. 5.  
c. 50.

2.—(1) Where a person has been the holder for any continuous period of twelve months elapsing before the commencement of this Act of a provisional licence granted on or after the eighteenth day of October, nineteen hundred and forty, and he has duly made an application for a licence within the twelve months beginning with the commencement of this Act, the provisions of the Road Traffic Act, 1930, and the Road Traffic Act, 1934, as to the grant of licences shall have effect as respects that application, and any subsequent application of his for a licence, as if he had passed the test of competence to drive prescribed for the purposes of section six of the Road Traffic Act, 1934:

Provided that this subsection shall not apply to a person who has been convicted, in respect of any act or omission done



or occurring whilst he was the holder of a provisional licence granted as aforesaid, of—

- (a) manslaughter, or culpable homicide, in connection with the driving of a motor vehicle ;
- (b) causing any bodily harm to any person in connection with the driving of a motor vehicle ;
- (c) an offence under section eleven of the Road Traffic Act, 1930 (which relates to reckless or dangerous driving) ;
- (d) an offence under section twelve of that Act (which relates to careless driving) ; or
- (e) an offence under section fifteen of that Act (which relates to driving when under the influence of drink or drugs) ;

as respects any application made after the conviction.

(2) The preceding subsection shall apply only to the driving of vehicles of the class or description or classes or descriptions comprising such vehicle or vehicles as the person in question satisfies the licensing authority that he was in the habit of driving before the commencement of this Act whilst he was the holder of a provisional licence granted as aforesaid and in accordance with the terms of his provisional licence, and accordingly—

- (a) references in the preceding subsection to an application for a licence shall be construed as excluding references to an application for a licence which would authorise the applicant to drive vehicles of any other class or description ; and
- (b) a licence granted by virtue of the preceding subsection shall be limited to the driving of vehicles of that class or description or of those classes or descriptions, and that restriction shall be specified in the prescribed manner on the licence and the holder thereof shall be deemed not to be the holder of a licence to drive motor vehicles of any other class or description.

3.—(1) Fees in respect of tests of competence to drive for the purposes of section six of the Road Traffic Act, 1934, payable by virtue of regulations made under subsection (5) of that section shall be paid to such person as may be prescribed by regulations so made, and any such fees received by a person so prescribed (other than any as to which the regulations provide that they are to be paid to the person conducting the test and retained by him as remuneration) shall be paid into the Exchequer. Amendment  
as to  
destination  
of fees in  
respect of  
driving tests.

(2) In accordance with the preceding subsection the words “ to the person conducting the test ” in paragraph (b) of the said subsection (5) are hereby repealed.

Short title,  
construction  
and extent.

4.—(1) This Act may be cited as the Road Traffic (Driving Licences) Act, 1947, and this Act and the Road Traffic Acts, 1930 to 1937, may be cited together as the Road Traffic Acts, 1930 to 1947.

(2) In this Act the expression “licence” means a licence to drive a motor vehicle granted under Part I of the Road Traffic Act, 1930, and this Act shall be construed as one with the said Part I and with Part I of the Road Traffic Act, 1934.

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

---

## CHAPTER 9.

An Act to assist the government of Malta to meet their liabilities for war damage and other expenses, and for purposes connected therewith. [18th February 1947.]

**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:—

Grant of  
£20,000,000  
out of  
Consolidated  
Fund to  
Malta.

1.—(1) A sum of twenty million pounds shall be charged on and issued out of the Consolidated Fund of the United Kingdom or the growing produce thereof towards the expenses incurred or to be incurred by the government of the Island of Malta and its dependencies (in this Act referred to as “Malta”)—

- (a) in making good war damage;
- (b) in making payments in respect of war damage;
- (c) in carrying out other works incidental to the making good of war damage;
- (d) in carrying out works in connection with general reconstruction and planning.

(2) In this Act the expressions “making good” and “war damage” have the meaning assigned to them by the enactments in force in Malta relating to war damage, whether enacted before or after the passing of this Act.

(3) Expenses incurred by the government of Malta in making good war damage to property owned by that government or otherwise owned by the Crown (other than property owned by the naval, military or air force authority), or in carrying out works incidental to the making good of that war damage, shall, notwithstanding anything in any such enactment as aforesaid be included among the expenses to which subsection (1) of this section refers.

(4) The grant in aid amounting to ten million pounds, made in the year nineteen hundred and forty-three for the restoration of war damage and other post-war expenditure in Malta, may, notwithstanding any instrument relating to that grant, be applied for the same purposes and in the same manner as the said sum of twenty million pounds; and no payment shall be made under this Act until the said grant, and the produce thereof, have been expended.

2.—(1) The government of Malta shall submit annually to a Secretary of State accounts and estimates of the expenses incurred or to be incurred by them in each financial year, being expenses towards which the said sum of twenty million pounds is payable under this Act; and no payment shall be made under this Act except in respect of the expenses to which those accounts and estimates, or any estimates submitted by the said government revising or supplementing those estimates, relate.

Accounts,  
estimates  
and pay-  
ments.

(2) The government of Malta shall submit annually to the Secretary of State accounts showing the manner in which any sums received by them under this Act have been expended; and the Secretary of State shall lay those accounts before Parliament.

(3) All accounts and estimates required or authorised by this section to be submitted to the Secretary of State shall be in such form, and all such accounts shall be subject to such audit, as the Secretary of State may with the concurrence of the Treasury require.

(4) Subject to the provisions of this Act, the sums payable under this Act shall be paid at such times and in accordance with such arrangements as the Secretary of State may, after consultation with the said government and with the concurrence of the Treasury, determine.

3. Section one of the Colonial Development and Welfare Act, 1940, which, as amended by the Colonial Development and Welfare Act, 1945, authorises the Secretary of State to make payments for the purpose of the development of a colony not possessing responsible government, shall apply to Malta notwithstanding its possession at any time of responsible government.

Benefits  
under the  
Colonial  
Development  
and Welfare  
Acts.  
3 & 4 Geo. 6.  
c. 40.  
8 & 9 Geo. 6.  
c. 20.

4. This Act may be cited as the Malta (Reconstruction) Act, 1947.

Short title.

## CHAPTER 10.

An Act to relax the rules set out in the Third Schedule to the House of Commons (Redistribution of Seats) Act, 1944, so far as they relate to the application of the electoral quota and, in consequence thereof, to postpone the enumeration date for the purposes of the initial report under section three of that Act.

[18th February 1947.]

**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  
7 & 8 Geo. 6.  
c. 41.

1.—(1) In the rules set out in the Third Schedule to the House of Commons (Redistribution of Seats) Act, 1944, (hereafter in this Act referred to as "the principal Act"), the following provisions shall cease to have effect, that is to say—

- (a) rule 4 (which limits the electorate of a constituency to not more than a quarter above or below the electoral quota and to which rule 5 as to conformity with local government boundaries is subject); and
- (b) in rule 3, paragraph (1) (which requires a two-member constituency to be divided or return a single member, if its electorate is not within the limits laid down by that paragraph for such a constituency) and subparagraph (i) of paragraph (3) (which is supplemental to the said paragraph (1)).

(2) In lieu thereof, the following rule shall be inserted immediately after rule 5 of the said rules, that is to say,—

" 5A.—(1) The electorate of any constituency shall be as near the electoral quota as is practicable having regard to the foregoing rules; and a Boundary Commission may depart from the strict application of the last foregoing rule if it appears to them that a departure is desirable to avoid an excessive disparity between the electorate of any constituency and the electoral quota, or between the electorate thereof and that of neighbouring constituencies in the part of the United Kingdom with which they are concerned.

(2) For the purposes of this rule a constituency returning two members shall be treated as two constituencies."

and paragraph (2) of the said rule 3 shall have effect with the substitution for the words " Any other two-member constituency

shall be divided as aforesaid" of the words "Any two-member constituency shall be divided into or among two or more other constituencies, or shall be required to return a single member," and with the addition at the end thereof of the words "and, having regard to the two next following rules, that it is undesirable to require it to return a single member".

(3) Accordingly the rules set out in the said Third Schedule shall have effect, with the amendments made by section thirty-three of the Representation of the People Act, 1945, and by this Act, as set out in the Schedule to this Act. 8 & 9 Geo. 6.  
c. 5.

(4) The amendments made by this section shall apply for the purposes of the initial report of the Boundary Commissions under section three of the principal Act, as well as to their subsequent reports under section four thereof; and accordingly the enumeration date for the purposes of the initial report shall be the fifteenth day of October, nineteen hundred and forty-six, instead of the fifteenth day of October, nineteen hundred and forty-five (being the day appointed by the Secretary of State under subsection (2) of section thirty-three of the Representation of the People Act, 1945).

(5) Any increase occasioned by the passing of the last foregoing subsection in the expenses of the Commissions which, under paragraph 3 of Part II of the First Schedule to the principal Act, are to be defrayed out of moneys provided by Parliament shall also be so defrayed.

2. This Act may be cited as the House of Commons Short title and (Redistribution of Seats) Act, 1947, and this Act and the principal citation. Act as amended by the Representation of the People Act, 1945, may be cited together as the House of Commons (Redistribution of Seats) Acts, 1944 and 1947.

---

## SCHEDULE.

---

Section 1.

### THE THIRD SCHEDULE TO THE PRINCIPAL ACT, AS AMENDED.

#### RULES FOR DISTRIBUTION OF SEATS.

1. The number of constituencies in the several parts of the United Kingdom set out in the first column of the following table shall be as stated respectively in the second column of that table—

<i>Part of the United Kingdom.</i>	<i>No. of Constituencies.</i>
Great Britain ...	Not substantially greater or less than 591.
Scotland... ..	Not less than 71.
Wales ... ..	Not less than 35.
Northern Ireland ...	12.

2.—(1) A two-member constituency within the meaning of the next following rule which is not divided or required to return a single member as therein provided shall, subject to any adjustment of its boundaries made in accordance with that rule, continue to return two members.

(2) Every other constituency shall return a single member.

3.—(2) Any two-member constituency shall be divided into or among two or more other constituencies, or shall be required to return a single member, unless the Boundary Commission concerned, after causing a local inquiry to be held, are satisfied, having regard to any particular circumstances affecting the constituency, that it is undesirable so to divide it and, having regard to the two next following rules, that it is undesirable to require it to return a single member.

(3) Where the boundaries of a borough as last defined for the purpose of ascertaining the boundaries of a two-member constituency—

(a) do not include an area which is included within the boundaries of the borough as defined for local government purposes on the enumeration date ; or

(b) include an area which is not included within the boundaries of the borough as so defined for local government purposes ; then if it is determined under paragraph (2) of this rule that the constituency shall not be divided as aforesaid, the boundaries of the borough shall be redefined, for the purpose of ascertaining the boundaries of the constituency, so as to include or exclude that area, as the case may be.

(4) In the last foregoing paragraph, for references to a borough there shall be substituted, in its application to Scotland, references to a county of a city and, in its application to Northern Ireland, references to a county.

(5) In this rule the expression " two-member constituency " means a constituency returning two members on the enumeration date.

5.—(1) So far as is practicable having regard to the foregoing rules—

(a) in England and Wales,—

(i) no county or any part thereof shall be included in a constituency which includes the whole or part of any other county or the whole or part of a county borough or metropolitan borough ;

(ii) no county borough or any part thereof shall be included in a constituency which includes the whole or part of any other county borough or the whole or part of a metropolitan borough ;

(iii) no metropolitan borough or any part thereof shall be included in a constituency which includes the whole or part of any other metropolitan borough ;

(iv) no county district shall be included partly in one constituency and partly in another ;

(b) in Scotland,—

(i) no county or burgh shall be included partly in one parliamentary county and partly in another, or partly in a parliamentary county and partly in a parliamentary borough ;

(ii) no burgh other than a county of a city shall be included partly in one constituency and partly in another ;

(c) in Northern Ireland, no county district shall be included partly in one constituency and partly in another.

(2) In paragraph (1) of this rule the following expressions have the following meanings, that is to say :—

“ county ” means, in sub-paragraph (a), an administrative county other than the county of London, and, in sub-paragraph (b), a county exclusive of any burgh situate therein ;

“ county borough ” has the same meaning as in the Local Government Act, 1933 ; 23 & 24 Geo. 5.  
c. 51.

“ county district ” has, in sub-paragraph (a), the same meaning as in the Local Government Act, 1933, and, in sub-paragraph (c), the same meaning as in the Local Government (Ireland) Act, 1898. 61 & 62 Vict.  
c. 37.

5A.—(1) The electorate of any constituency shall be as near the electoral quota as is practicable having regard to the foregoing rules ; and a Boundary Commission may depart from the strict application of the last foregoing rule if it appears to them that a departure is desirable to avoid an excessive disparity between the electorate of any constituency and the electoral quota, or between the electorate thereof and that of neighbouring constituencies in the part of the United Kingdom with which they are concerned.

(2) For the purposes of this rule a constituency returning two members shall be treated as two constituencies.

6. A Boundary Commission may depart from the strict application of the last two foregoing rules if special geographical considerations, including in particular the size, shape and accessibility of a constituency, appear to them to render a departure desirable.

7. Nothing in rules 2 to 6 of these rules shall apply to the City of London, but that City as constituted at the commencement of this Act shall continue to be a separate constituency, and shall return either two members or a single member as may be provided by the Act giving effect (whether with or without modifications) to the recommendations contained in the reports submitted by the Boundary Commissions under section three of this Act.

8.—(1) For the purpose of these rules—

(a) the expression “ electoral quota ” means—

(i) in the application of these rules to a constituency in Great Britain, a number obtained by dividing the electorate for Great Britain by the number of constituencies in Great Britain existing on the enumeration date, or, in applying these rules for the purpose of section three of this Act, by the number of such constituencies existing at the commencement of this Act, namely five hundred and ninety-one ; and

(ii) in the application of these rules to a constituency in Northern Ireland, a number obtained by dividing the electorate for Northern Ireland by the number of constituencies in Northern Ireland existing on the enumeration date ;

(b) the expression " electorate " means—

(i) in relation to a constituency or any part thereof, the number of persons whose names appear on the parliamentary register of electors in force on the enumeration date under the Representation of the People Acts for the constituency or that part thereof, or, if no such register is then so in force, the last such register which was so in force ; and

(ii) in relation to Great Britain or Northern Ireland, the aggregate electorate as hereinbefore defined of all the constituencies therein.

(2) In reckoning for the purposes of these rules the number of constituencies in any part of the United Kingdom, a constituency returning two members shall be reckoned as two constituencies.

---

## CHAPTER 11.

An Act to authorise the appointment of additional Lords  
of Appeal in Ordinary. [11th March 1947.]

**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) Subject as hereinafter provided, the number of Lords of Appeal in Ordinary who may be appointed by His Majesty by virtue of the Appellate Jurisdiction Act, 1876, as amended by the Appellate Jurisdiction Act, 1913, and the Appellate Jurisdiction Act, 1929, shall be increased from seven to nine :

Provided that, except in the event of the number of the Lords of Appeal in Ordinary being at any time less than seven, His Majesty shall not be advised to make an appointment to fill any vacancy among them unless the Lord Chancellor, with the concurrence of the Treasury, is satisfied that the state of business requires that the vacancy should be filled.

(2) Any amount by which the sums charged on the Consolidated Fund of the United Kingdom under the Appellate Jurisdiction Act, 1876, are increased by reason of the provisions of this Act shall be charged on and paid out of that Fund.

2. This Act may be cited as the Appellate Jurisdiction Act, 1947.

---

Additional  
Lords of  
Appeal.  
39 & 40 Vict.  
c. 59.  
3 & 4 Geo. 5.  
c. 21.  
19 & 20 Geo. 5.  
c. 8.

Short title.



**CHAPTER 12.**

An Act to provide for an additional type of birth certificate. [11th March 1947.]

**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) Any person shall, on payment of a fee of sixpence and on furnishing the prescribed particulars, be entitled to obtain from the Registrar General, a superintendent registrar or a registrar a certificate in the prescribed form of the birth of any person compiled from the records and registers in the custody of the Registrar General, or from the registers in the custody of that superintendent registrar or registrar, as the case may be. Shortened form of birth certificate.

(2) The power conferred by section forty-four of the Births and Deaths Registration Act, 1874, on the Minister of Health, or the Registrar General with the consent of the Minister of Health, to make regulations shall include power to make regulations prescribing the forms of certificate to be issued under this section, the particulars to be furnished by applicants for certificates thereunder, the manner in which those certificates are to be compiled, and the particulars which are to be contained therein, so, however, that no certificate issued under this section shall include any particulars except the name, surname, sex and date of birth and such other particulars, if any, as may be prescribed, not being particulars relating to parentage or adoption. 37 & 38 Vict. c. 88.

2.—(1) This Act may be cited as the Births and Deaths Registration Act, 1947, and shall be construed as one with the Births and Deaths Registration Acts, 1836 to 1929, and those Acts and this Act may be cited together as the Births and Deaths Registration Acts, 1836 to 1947. Short title, citation, construction, commencement and extent.

(2) This Act shall come into force on the first day of January, nineteen hundred and forty-eight, or such earlier date as His Majesty may by Order in Council appoint.

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

## CHAPTER 13.

An Act to alter the maximum annual subscription which county councils may pay to the County Councils Association. [11th March 1947.]

**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:—

Maximum  
annual  
subscription  
53 & 54 Vict.  
c. 3.  
1 Edw. 8 &  
1 Geo. 6. c. 27.

1.—(1) Section one of the County Councils Association Expenses Act, 1890, which, as amended by the County Councils Association Expenses (Amendment) Act, 1937, empowers the council of an administrative county to pay any sum not exceeding one hundred and fifty-seven pounds and ten shillings in any one year as a subscription to the funds of the County Councils Association, shall have effect as if the sum of two hundred and sixty-two pounds and ten shillings were therein substituted for the sum of one hundred and fifty-seven pounds and ten shillings.

(2) His Majesty may by Order in Council substitute for the said sum of two hundred and sixty-two pounds and ten shillings such other sum as to His Majesty may seem proper.

(3) A copy of any such Order in Council as aforesaid shall be laid before each House of Parliament after it has been made; and if either House, within the period of forty days beginning with the day on which a copy of the Order is laid before it, resolves that an Address be presented to His Majesty praying that the Order be revoked, no further action shall be taken thereunder after the date of the resolution, and His Majesty may by Order in Council revoke the Order; but the resolution and revocation shall be without prejudice to anything previously done under the Order or to the making of a new Order.

In reckoning the said period of forty days, no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

56 & 57 Vict.  
c. 66.

(4) Section one of the Rules Publication Act, 1893, shall not apply to an Order in Council made under this Act.

(5) Any such Order in Council as aforesaid may be varied or revoked by a subsequent Order in Council made in like manner.

Citation and  
extent.

2.—(1) This Act may be cited as the County Councils Association Expenses (Amendment) Act, 1947; and the County Councils Association Expenses Acts, 1890 and 1937, and this Act may be cited together as the County Councils Association Expenses Acts, 1890 to 1947.

(2) This Act shall not extend to Scotland or Northern Ireland.

**CHAPTER 14.***Exchange Control Act, 1947.*

## ARRANGEMENT OF SECTIONS.

## PART I.

## GOLD AND FOREIGN CURRENCY.

## Section:

1. Dealings in gold and foreign currency.
2. Surrender of gold and foreign currency.
3. Bailees of gold and foreign currency.
4. Travellers' cheques, etc.

## PART II.

## PAYMENTS.

5. Payments in the United Kingdom.
6. Payments outside the United Kingdom.
7. Compensation deals.

## PART III.

## SECURITIES.

8. Issue of securities.
9. Transfer of securities and coupons.
10. Issue of bearer certificates and coupons.
11. Substitution of securities and certificates outside United Kingdom.
12. Payment of capital moneys outside the United Kingdom.
13. Duties of persons keeping registers.
14. Additional provisions as to nominee holdings.
15. Deposit of certificates of title.
16. Additional provisions as to deposited certificates.
17. Special provisions as to dealings in certain securities.
18. Validation of certain transfers.
19. Application of Part III to secondary securities.
20. Interpretation of Part III.

## PART IV.

## IMPORT AND EXPORT.

21. Restrictions on import.
22. General restrictions on export.
23. Payment for exports.

## PART V.

## MISCELLANEOUS.

24. Duty to collect certain debts.
25. Duty not to delay sale or importation of goods.
26. Property obtained by infringement of Act.
27. Provisions supplemental to preceding provisions of Part V.
28. Transfer of annuities, policies, etc.
29. Settlements.
30. Companies.

PART VI.  
SUPPLEMENTAL.

## Section.

31. Exemptions.
32. Blocked accounts.
33. Contracts, legal proceedings, etc.
34. Enforcement and administration.
35. Application to Crown.
36. Treasury orders.
37. Other powers of Treasury.
38. Financial provisions.
39. Branches.
40. Persons leaving the scheduled territories.
41. Determination of residence.
42. General provisions as to interpretation.
43. Extent.
44. Short title, commencement and repeal.

## SCHEDULES :

First Schedule.—The Scheduled Territories.

Second Schedule.—Foreign Companies.

Third Schedule.—Blocked Accounts.

Fourth Schedule.—Legal Proceedings, etc.

Fifth Schedule.—Enforcement.

Part I.—General provisions as to evidence and information.

Part II.—General provisions as to offences.

Part III.—Import and export.

Sixth Schedule.—Orders not required to be laid before Parliament.

- An Act to confer powers, and impose duties and restrictions, in relation to gold, currency, payments, securities, debts, and the import, export, transfer and settlement of property, and for purposes connected with the matters aforesaid. [11th March 1947.]

**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.

## GOLD AND FOREIGN CURRENCY.

Dealings in  
gold and  
foreign  
currency.

1.—(1) Except with the permission of the Treasury, no person, other than an authorised dealer, shall, in the United Kingdom, and no person resident in the United Kingdom, other than an authorised dealer, shall, outside the United Kingdom, buy or borrow any gold or foreign currency from, or sell or lend any gold or foreign currency to, any person other than an authorised dealer.

(2) Where a person buys or borrows any gold or foreign currency in the United Kingdom or, being a person resident in the United Kingdom, buys or borrows gold or foreign currency outside the United Kingdom, he shall comply with such conditions as to the use to which it may be put or the period

for which it may be retained as may from time to time be notified to him by the Treasury.

PART I.  
—cont

(3) In this Act—

- (a) the expression “ foreign currency ” does not include any currency or notes issued by the Government or under the law of any part of the scheduled territories but, save as aforesaid, includes any currency other than sterling and any notes of a class which are or have at any time been legal tender in any territory outside the United Kingdom, and any reference to foreign currency, except so far as the context otherwise requires, includes a reference to any right to receive foreign currency in respect of any credit or balance at a bank; and
- (b) the expression “ the scheduled territories ” means the territories specified in the First Schedule to this Act, so, however, that the Treasury may at any time by order amend the said Schedule, either by the addition or exclusion of territories or otherwise, and the said expression shall be construed accordingly.

2.—(1) Every person in or resident in the United Kingdom who is entitled to sell, or to procure the sale of, any gold, or any foreign currency to which this section applies, and is not an authorised dealer, shall offer it, or cause it to be offered, for sale to an authorised dealer, unless the Treasury consent to his retention and use thereof or he disposes thereof to any other person with the permission of the Treasury.

Surrender of  
gold and  
foreign  
currency.

The foreign currency to which this section applies is such foreign currency (hereafter in this Act referred to as “ specified currency ”) as may from time to time be specified by order of the Treasury.

(2) If a person who has obtained the consent of the Treasury to his retention and use of any gold or specified currency, and has stated in an application for the consent that he requires it for a particular purpose, no longer requires the gold or currency for that purpose, the preceding subsection shall thereupon apply to him in relation to that gold or currency as if the Treasury had revoked their consent to his retention and use thereof.

(3) A person who acquires any gold or specified currency from an authorised dealer shall be treated for the purposes of this section as if the Treasury had consented to the retention and use by him of that gold or currency (subject, however, to any conditions notified to him in accordance with subsection (2) of the preceding section), and as if any statement made by him in an application for that gold or currency as to

PART I.  
—cont.

the purpose for which he requires it had been made by him in an application for the Treasury's consent to his retention and use thereof.

(4) Where a person has become bound under this section to offer or cause to be offered any gold or specified currency for sale to an authorised dealer, he shall not be deemed to comply with that obligation by any offer made or caused to be made by him, if the offer is an offer to sell at a price exceeding that authorised by the Treasury, or without payment of any usual and proper charges of the authorised dealer, or otherwise on any unusual terms.

(5) Where a person has become bound under this section to offer or cause to be offered any gold or specified currency for sale to an authorised dealer and has not complied with that obligation, the Treasury may direct that that gold or currency shall vest in the Treasury, and it shall vest in the Treasury accordingly free from any mortgage, pledge or charge, and the Treasury may deal with it as they think fit, but the Treasury shall pay to the person who would but for the direction be entitled to the gold or currency such sum as he would have received therefor if he had sold it to an authorised dealer in pursuance of an offer made under this section at the time when the vesting occurred.

(6) In any proceedings in respect of a failure to comply with the provisions of this section, it shall be presumed, until the contrary is shown, that the gold or currency in question has not been offered for sale to an authorised dealer.

Bailees of gold  
and foreign  
currency.

3.—(1) Every person in the United Kingdom by whom or to whose order (whether directly or indirectly) any gold or any specified currency in the form of notes is held in the United Kingdom but who is not entitled to sell it or procure its sale shall notify the Bank of England in writing that he so holds that gold or currency.

(2) The Treasury may direct any person in the United Kingdom by whom or to whose order (whether directly or indirectly) any gold or any specified currency in the form of notes is held in the United Kingdom, whether or not he is entitled to sell it or procure its sale, to cause that gold or currency to be kept at all times in the custody of such banker as may be specified in the direction.

Travellers'  
cheques, etc.

4.—(1) This section applies to any document of a kind intended to enable the person to whom the document is issued to obtain foreign currency from some other person on the credit of the person issuing it, and in particular to any traveller's cheque or other draft or letter of credit so intended.

(2) For the purposes of this Act, the person issuing a document to which this section applies, and the person to whom

it is issued, shall be deemed respectively to sell and buy foreign currency and where foreign currency is obtained by means of the document to sell and buy that foreign currency.

PART I.  
—cont.

(3) Any such document not expressed in terms of sterling shall, if it is of a kind intended to enable the person to whom it is issued to obtain any specified currency, be treated also for the purposes of this Act as itself being specified currency.

(4) Every person in or resident in the United Kingdom who holds or to whose order there is held any document to which this section applies, being a document expressed in terms of sterling, shall encash it or cause it to be encashed in the scheduled territories with the person issuing it or with a banker, unless the Treasury consent to his retention and use thereof and, where in his application for that consent he has stated that he requires it for a particular purpose, unless also he still requires it for that purpose.

(5) A person who acquires any document to which the last preceding subsection applies from an authorised dealer shall be treated for the purposes of that subsection as if the Treasury had consented to the retention and use by him of that document (subject, however, to any conditions notified to him in accordance with subsection (2) of section one of this Act), and as if any statement made by him in an application for that document as to the purpose for which he requires it had been made by him in an application for the Treasury's consent to his retention and use thereof.

## PART II. PAYMENTS.

5. Except with the permission of the Treasury, no person shall do any of the following things in the United Kingdom, that is to say—

Payments in  
the United  
Kingdom.

- (a) make any payment to or for the credit of a person resident outside the scheduled territories; or
- (b) make any payment to or for the credit of a person resident in the scheduled territories by order or on behalf of a person resident outside the scheduled territories; or
- (c) place any sum to the credit of any person resident outside the scheduled territories:

Provided that where a person resident outside the scheduled territories has paid a sum in or towards the satisfaction of a debt due from him, paragraph (c) of this section shall not prohibit the acknowledgement or recording of the payment.

6.—(1) Except with the permission of the Treasury, no person resident in the United Kingdom shall, subject to the provisions of this section, make any payment outside the United Kingdom to or for the credit of a person resident outside the scheduled territories.

Payments  
outside the  
United  
Kingdom.

PART II.  
—cont.

(2) Nothing in this section shall prohibit the doing of anything otherwise lawful by any person with any foreign currency obtained by him in accordance with the provisions of Part I of this Act or retained by him in pursuance of a consent of the Treasury.

Compensation  
deals.

7.—(1) Except with the permission of the Treasury, no person shall in the United Kingdom, and no person resident in the United Kingdom shall outside the United Kingdom, make any payment to or for the credit of a person resident in the scheduled territories as consideration for or in association with—

- (a) the receipt by any person of a payment made outside the scheduled territories, or the acquisition by any person of property which is outside the scheduled territories; or
- (b) the transfer to any person, or the creation in favour of any person, of a right (whether present or future, and whether vested or contingent) to receive a payment outside the scheduled territories or to acquire property which is outside the scheduled territories.

(2) Nothing in this section shall prohibit the making of any payment in accordance with the terms of a permission or consent granted under this Act.

## PART III.

## SECURITIES.

Issue of  
securities.

8.—(1) Except with the permission of the Treasury, no person shall in the United Kingdom issue any security or, whether in the United Kingdom or elsewhere, issue any security which is registered or to be registered in the United Kingdom, unless the following requirements are fulfilled, that is to say—

- (a) neither the person to whom the security is to be issued nor the person, if any, for whom he is to be a nominee is resident outside the scheduled territories; and
- (b) the prescribed evidence is produced to the person issuing the security as to the residence of the person to whom it is to be issued and that of the person, if any, for whom he is to be a nominee.

(2) The subscription of the memorandum of association of a company to be formed under the Companies Act, 1929, or the corresponding Act in force in Northern Ireland, by a person resident outside the scheduled territories, or by a nominee for another person so resident, shall, unless he

19 & 20 Geo. 5.  
c. 23.



subscribes the memorandum with the permission of the Treasury, be invalid in so far as it would on registration of the memorandum have the effect of making him a member of or shareholder in the company, so, however, that this provision shall not render invalid the incorporation of the company; and if by virtue of this subsection the number of the subscribers of the memorandum who on its registration become members of the company is less than the minimum number required to subscribe the memorandum, the provisions of the said Acts relating to the carrying on of business of a company the number of whose members is reduced below the legal minimum shall apply to the company as if the number of its members had been so reduced.

PART III.  
—cont.

9.—(1) Except with the permission of the Treasury, a security registered in the United Kingdom shall not be transferred, and a security not so registered shall not be transferred in the United Kingdom, unless, in either case, the following requirements are fulfilled, that is to say—

Transfer of  
securities  
and coupons.

- (a) neither the transferor nor the person, if any, for whom he is a nominee is resident outside the scheduled territories; and
- (b) the transferor delivers to the transferee at or before the time of the transfer the prescribed declarations as to his residence and that of the person, if any, for whom he is a nominee; and
- (c) neither the transferee nor the person, if any, for whom he is to be a nominee is resident outside the scheduled territories; and
- (d) except where the security is registered in the United Kingdom otherwise than in a subsidiary register, the Treasury are satisfied that the requirements of paragraph (c) of this subsection are fulfilled:

Provided that—

- (i) neither the transferee nor his agent shall be deemed to have committed an offence by reason only that the requirements of paragraph (a) of this subsection were not fulfilled unless the transferee or, as the case may be, his agent, knew or had reason to believe that those requirements were not fulfilled; and
- (ii) neither the transferor nor his agent shall be deemed to have committed an offence by reason only that any of the requirements of paragraphs (c) and (d) of this subsection have not been fulfilled unless, in the case of a non-fulfilment of the requirements of the said paragraph (c), the transferor or, as the case may be, his agent, knew or had reason to believe that those requirements were not fulfilled.

PART III.  
—cont.

(2) Except with the permission of the Treasury, a security not registered in the United Kingdom shall not be transferred outside the United Kingdom if either the transferor or the transferee, or the person, if any, for whom the transferor or transferee is or is to be a nominee, is resident in the United Kingdom.

(3) Except with the permission of the Treasury, no coupon shall be transferred—

(a) in the United Kingdom, if either the transferee or the person, if any, for whom he is to be a nominee is resident outside the scheduled territories;

(b) outside the United Kingdom, if either the transferor or the transferee, or the person, if any, for whom the transferor or transferee is or is to be a nominee, is resident in the United Kingdom.

Issue of  
bearer  
certificates  
and coupons.

10. Except with the permission of the Treasury, no person shall, in the United Kingdom, and no person resident in the United Kingdom shall, outside the United Kingdom, issue any bearer certificate or coupon or so alter any document that it becomes a bearer certificate or coupon.

Substitution of  
securities and  
certificates  
outside United  
Kingdom.

11. Except with the permission of the Treasury, no person in or resident in the United Kingdom shall do any act with intent to secure—

(a) that a security which is—

(i) registered in the United Kingdom; or

(ii) transferable by means of a bearer certificate in the United Kingdom,

becomes, or is replaced by, a security registered outside the United Kingdom or a security transferable by means of a bearer certificate outside the United Kingdom; or

(b) that a certificate of title to any other security, is issued outside the United Kingdom in substitution for or in addition to a certificate of title thereto which is in, or is or has been lost or destroyed in, the United Kingdom.

Payment of  
capital moneys  
outside  
the United  
Kingdom.

12. Except with the permission of the Treasury, no person resident in the United Kingdom shall do any act with intent to secure that capital moneys payable on a security registered in the United Kingdom are paid outside the United Kingdom, or that, where the certificate of title to a security is in the United Kingdom, capital moneys payable on the security are paid outside the United Kingdom without production of the certificate to the person making the payment.

13. Except with the permission of the Treasury, no person concerned with the keeping of any register in the United Kingdom shall—

PART III.  
—cont.

Duties of  
persons  
keeping  
registers.

- (a) enter in the register the name of any person in relation to any security unless there has been produced to him the prescribed evidence that the entry does not form part of a transaction which involves the doing of anything prohibited by this Act; or
- (b) enter in the register, in respect of any security, an address outside the scheduled territories, except for the purpose of any transaction for which the permission of the Treasury has been granted with the knowledge that it involved the entry of that address; or
- (c) do any act in relation to the register which recognises or gives effect to any act appearing to him to have been done with such intent as is mentioned in the two last preceding sections, whether done by a person in or resident in the United Kingdom or not.

14.—(1) Where—

- (a) the holder of a security is a nominee and the person for whom he is a nominee is resident outside the scheduled territories; or
- (b) the holder of a security is not a nominee and is resident outside the scheduled territories,

Additional  
provisions as  
to nominee  
holdings.

then, except with the permission of the Treasury, no person resident in the United Kingdom shall do any act whereby the holder becomes his nominee in respect of the security.

(2) Except with the permission of the Treasury, a person resident in the United Kingdom for whom the holder of a security is a nominee shall not do any act whereby—

- (a) the holder, being a person resident outside the scheduled territories, holds the security otherwise than as his nominee; or
- (b) the holder, not being a person resident outside the scheduled territories, holds the security as nominee for a person resident outside the scheduled territories.

(3) Where the holder of a security is a nominee, then, except with the permission of the Treasury, neither he, if he is resident in the United Kingdom, nor any person resident in the United Kingdom through whose agency the exercise of all or any of the holder's rights in respect of the security are controlled, shall—

- (a) do any act whereby he recognises or gives effect to the substitution of another person as the person

PART III.  
—cont.

from whom he directly receives his instructions unless both the person previously instructing him and the person substituted for that person were, immediately before the substitution, resident in the scheduled territories and not elsewhere; or

- (b) do any act whereby he ceases to be a person bound to give effect to the instructions of another person in relation to the security, unless the person who theretofore instructed him is resident in the scheduled territories and not elsewhere.

(4) Where the holder of a security is not a nominee and is resident in the United Kingdom, then, except with the permission of the Treasury, he shall not do any act whereby he becomes the nominee of another person in respect of the security, unless that other person is resident in the scheduled territories and not elsewhere.

Deposit of  
certificates  
of title.

**15.—(1)** This and the next following section apply to any security except—

- (a) a security which is registered in the United Kingdom otherwise than in a subsidiary register, and on which none of the dividends or interest is payable on presentment of a coupon; and

- (b) any such other securities as may be prescribed,

and in the following provisions of this section and in the next following section the expressions “security”, “certificate of title” and “coupon” mean respectively a security to which the said sections apply, a certificate of title to such a security, and a coupon representing dividends or interest on such a security.

(2) It shall be the duty of every person by whom or to whose order (whether directly or indirectly) a certificate of title is held in the United Kingdom, and of every person resident in the United Kingdom by whom or to whose order (whether directly or indirectly) a certificate of title is held outside the United Kingdom, to cause the certificate of title to be kept at all times, except with the permission of the Treasury, in the custody of an authorised depositary, and nothing in this Part of this Act shall prohibit the doing of anything for the purpose of complying with the requirements of this subsection.

(3) Except with the permission of the Treasury, an authorised depositary shall not part with any certificate of title or coupon required under this section to be in the custody of an authorised depositary:

Provided that this subsection shall not prohibit an authorised depositary—

PART III.  
—cont.

- (a) from parting with a certificate of title or coupon to or to the order of another authorised depositary, where the person from whom the other authorised depositary is to receive instructions in relation thereto is to be the same as the person from whom he receives instructions;
- (b) from parting with a certificate of title, for the purpose of obtaining payment of capital moneys payable on the security, to the person entrusted with payment thereof;
- (c) from parting with a coupon in the ordinary course for collection.

(4) Except with the permission of the Treasury, no capital moneys, interest or dividends shall be paid in the United Kingdom on any security except to or to the order of an authorised depositary having the custody of the certificate of title to that security, so, however, that this subsection shall not be taken as restricting the manner in which any sums lawfully paid on account of the capital moneys, interest or dividends may be dealt with by the person receiving them.

(5) Except with the permission of the Treasury, an authorised depositary shall not do any act whereby he recognises or gives effect to the substitution of one person for another as the person from whom he receives instructions in relation to a certificate of title or coupon, unless there is produced to him the prescribed evidence that he is not by so doing giving effect to any transaction which is prohibited by this Act.

(6) Where a certificate of title which under this section should for the time being be in the custody of an authorised depositary is not in the custody of an authorised depositary, then, except with the permission of the Treasury, no person shall in the United Kingdom, and no person resident in the United Kingdom shall outside the United Kingdom, buy, sell, transfer, or do anything which affects his rights or powers in relation to, the security.

(7) Except with the permission of the Treasury, no person in or resident in the United Kingdom shall, in the case of a certificate of title with coupons (whether attached or on separate coupon sheets), detach any of the coupons otherwise than in the ordinary course for collection.

16.—(1) Where a certificate of title to a security is by the last preceding section required to be and is in the custody of an authorised depositary, the provisions of this section shall, Additional provisions as to deposited certificates.

PART III.  
—cont.

except so far as the Treasury otherwise direct, have effect in relation thereto until—

- (a) there are delivered to him the prescribed declarations as to the ownership of the security and the residence of the owners thereof; and
- (b) in the case of a certificate of title which—
  - (i) would ordinarily be accompanied by coupons (whether attached or on separate coupon sheets); but
  - (ii) when it comes into the custody of the authorised depositary wants, in order to render it complete, any coupons which would not in the ordinary course have been detached for collection, there have also been deposited with him the coupons so wanting at the time when the certificate of title comes into his custody:

Provided that where the said declarations have been delivered to an authorised depositary and he has parted with the certificate of title, paragraph (a) of this subsection shall not again apply on the certificate coming into the custody of another authorised depositary or again coming into his own custody.

(2) Except with the permission of the Treasury, the authorised depositary shall not part with or destroy the certificate of title or any coupons belonging thereto, otherwise than as mentioned in paragraphs (b) and (c) of the proviso to subsection (3) of the last preceding section, or do any act whereby he recognises or gives effect to the substitution of one person for another as the person from whom he receives instructions in relation thereto:

Provided that, where the person from whom an authorised depositary receives instructions in relation to any certificate of title becomes bankrupt in the United Kingdom or dies, this subsection shall not prohibit the authorised depositary from recognising the trustee in bankruptcy or personal representative as the person entitled to give instructions in relation to the certificate of title.

(3) The authorised depositary shall place any capital moneys, dividends or interest on the security received by him to the credit of the person by virtue of whose authority he received them, but shall not permit any part of the sums received to be dealt with except with the permission of the Treasury.

17.—(1) The Treasury may, if in their opinion there are circumstances rendering it necessary or expedient so to do, by order direct that this section shall apply to such securities as may be prescribed, being securities on which capital moneys, dividends or interest are payable in a specified

Special provisions as to dealings in certain securities.

currency or as respects which the holder has an option to require payment of any capital moneys, dividends or interest thereon in a specified currency.

PART III.  
—cont.

(2) Except with the permission of the Treasury, no person shall, in the United Kingdom, and no person resident in the United Kingdom shall, outside the United Kingdom, transfer, or do anything which affects his rights or powers in relation to, any security to which this section applies.

18.—(1) The title of any person to a security for which he has given value on a transfer thereof, and the title of all persons claiming through or under him, shall, notwithstanding that the transfer, or any previous transfer, or the issue of the security, was by reason of the residence of any person concerned other than the first-mentioned person prohibited by the provisions of this Act relating to the transfer or issue of securities, be valid unless the first-mentioned person had notice of the facts by reason of which it was prohibited.

Validation  
of certain  
transfers.

(2) Without prejudice to the provisions of subsection (1) of this section, the Treasury may issue a certificate declaring, in relation to a security, that any acts done before the issue of the certificate purporting to effect the issue or transfer of the security, being acts which were prohibited by this Act, are to be, and are always to have been, as valid as if they had been done with the permission of the Treasury, and the said acts shall have effect accordingly.

(3) Nothing in this section shall affect the liability of any person to prosecution for any offence against this Act.

19.—(1) This Part of this Act shall apply, with such modifications (if any) as may be prescribed, in relation to any such document as is mentioned in the following subsection, as if the document created, and were the certificate of title to, a security (hereafter in this Act referred to as a "secondary security").

Application of  
Part III to  
secondary  
securities.

(2) The documents referred to in the preceding subsection are any letter of allotment which may be renounced, any letter of rights, any warrant conferring an option to acquire a security, any deposit certificate in respect of securities (but not including a receipt by an authorised depositary for any certificate of title deposited in pursuance of this Part of this Act), and such other documents conferring, or containing evidence of, rights as may be prescribed.

20.—(1) In this Part of this Act—

- (a) the expression "registered" includes inscribed;
- (b) the expressions "registered in the United Kingdom" and "registered outside the United Kingdom" mean respectively, registered in a register in, and registered in a register outside, the United Kingdom;

Interpretation  
of Part III.

2.—(1) A two-member constituency within the meaning of the next following rule which is not divided or required to return a single member as therein provided shall, subject to any adjustment of its boundaries made in accordance with that rule, continue to return two members.

(2) Every other constituency shall return a single member.

3.—(2) Any two-member constituency shall be divided into or among two or more other constituencies, or shall be required to return a single member, unless the Boundary Commission concerned, after causing a local inquiry to be held, are satisfied, having regard to any particular circumstances affecting the constituency, that it is undesirable so to divide it and, having regard to the two next following rules, that it is undesirable to require it to return a single member.

(3) Where the boundaries of a borough as last defined for the purpose of ascertaining the boundaries of a two-member constituency—

(a) do not include an area which is included within the boundaries of the borough as defined for local government purposes on the enumeration date ; or

(b) include an area which is not included within the boundaries of the borough as so defined for local government purposes ; then if it is determined under paragraph (2) of this rule that the constituency shall not be divided as aforesaid, the boundaries of the borough shall be redefined, for the purpose of ascertaining the boundaries of the constituency, so as to include or exclude that area, as the case may be.

(4) In the last foregoing paragraph, for references to a borough there shall be substituted, in its application to Scotland, references to a county of a city and, in its application to Northern Ireland, references to a county.

(5) In this rule the expression " two-member constituency " means a constituency returning two members on the enumeration date.

5.—(1) So far as is practicable having regard to the foregoing—

(a) in England and Wales,—

(i) no county or any part thereof shall be included in a constituency which includes any part of any other county or the whole or any part of any metropolitan borough ;

(ii) no county or any part thereof shall be included in a constituency which includes the whole or any part of any metropolitan borough ;

(iii) no county or any part thereof shall be included in a constituency which includes the whole or any part of any metropolitan borough ;

(iv) no county or any part thereof shall be included in a constituency which includes the whole or any part of any metropolitan borough ;



(b) in Scotland,—

(i) no county or burgh shall be included partly in one parliamentary county and partly in another, or partly in a parliamentary county and partly in a parliamentary borough ;

(ii) no burgh other than a county of a city shall be included partly in one constituency and partly in another ;

(c) in Northern Ireland, no county district shall be included partly in one constituency and partly in another.

(2) In paragraph (1) of this rule the following expressions have the following meanings, that is to say :—

“ county ” means, in sub-paragraph (a), an administrative county other than the county of London, and, in sub-paragraph (b), a county exclusive of any burgh situate therein ;

“ county borough ” has the same meaning as in the Local Government Act, 1933 ; 23 & 24 Geo. 5.  
c. 51.

“ county district ” has, in sub-paragraph (a), the same meaning as in the Local Government Act, 1933, and, in sub-paragraph (c), the same meaning as in the Local Government (Ireland) Act, 1898. 61 & 62 Vict.  
c. 37.

5A.—(1) The electorate of any constituency shall be as near the electoral quota as is practicable having regard to the foregoing rules ; and a Boundary Commission may depart from the strict application of the last foregoing rule if it appears to them that a departure is desirable to avoid an excessive disparity between the electorate of any constituency and the electoral quota, or between the electorate thereof and that of neighbouring constituencies in the part of the United Kingdom with which they are concerned.

(2) For the purposes of this rule a constituency returning two members shall be treated as two constituencies.

6. A Boundary Commission may depart from the strict application of the last two foregoing rules if special geographical considerations, such as the size, shape and accessibility of a constituency, appear to render a departure desirable.

6 of the rules shall apply to the City of London, but the provisions of these rules shall not apply to the City of London until the commencement of this Act, and shall return a separate constituency, and shall return two members a single constituency may be provided by the giving of a separate constituency (without modifications) to the members named in the schedule submitted by the Boundary Commission in accordance with the Act.

8.—(1) For the purposes of these rules—  
(a) “ electoral quota ” means—

the application of these rules to a constituency in Great Britain shall be determined by dividing the electorate of that constituency by the number of constituencies in Great Britain on the date of the commencement of this Act, or, in applying the provisions of section three of this Act, by the number of constituencies existing at the commencement of this Act, namely five hundred and ninety—

PART III.  
—cont.

(c) the expression " security which is registered in the United Kingdom otherwise than in a subsidiary register " means a security which either—

(i) is registered in the United Kingdom and is not and cannot without the necessity for an entry in the register in the United Kingdom become, registered outside; or

(ii) is registered both in the United Kingdom and outside but on a transfer cannot, without the necessity for an entry in the register in the United Kingdom, become registered outside in the name of the transferee; and

(d) the expression " a register " includes any book, file or index in which securities are registered.

(2) For the purposes of any provision of this Part of this Act prohibiting the transfer of securities, a person shall be deemed to transfer a security if he executes any instrument of transfer thereof, whether effective or not, and shall be deemed to transfer it at the place where he executes the instrument.

(3) References in this Part of this Act to the person holding a certificate of title or coupon shall be construed as references to the person having physical custody of the certificate of title or coupon :

Provided that where the certificate of title or coupon is deposited with any person in a locked or sealed receptacle from which he is not entitled to remove it without the authority of some other person, that other person shall be deemed for the purposes of this provision to have the physical custody thereof.

(4) In this Part of this Act, the expression " holder "—

(a) in relation to a security transferable by means of a bearer certificate or to a coupon, includes the person holding the certificate or coupon; and

(b) in relation to a security which is registered in the name of a deceased person, or of any person who, by reason of bankruptcy, unsoundness of mind or any other disability is incapable of transferring the security, means the personal representative, trustee in bankruptcy or other person entitled to transfer the security.

(5) The holder of a security or coupon shall be deemed for the purposes of this Part of this Act to be a nominee in respect thereof if, as respects the exercise of any rights in respect thereof, he is not entitled to exercise those rights except in accordance with instructions given by some other

person, and references in this Part of this Act to the person for whom the holder of a security or coupon is a nominee shall be construed as references to the person who is entitled to give instructions, either directly or through the agency of one or more persons, as to the exercise of any rights in respect of the security or coupon and is not in so doing himself under a duty to comply with instructions given by some other person:

PART III.  
—cont.

Provided that—

- (a) a person shall not by reason only that he has a controlling interest in a body corporate be deemed for the purposes of this subsection to be entitled to give instructions to that body corporate as to the exercise of rights in respect of any security or coupon of which it is the holder; and
  - (b) a person shall not be deemed to hold a security or coupon as a nominee by reason only that he holds it as trustee if he is entitled to transfer the security or coupon without permission from any other person.
- (6) A certificate of title shall not for the purposes of this Part of this Act be treated as in the custody of an authorised depositary if either—
- (a) the depositary has no notice of the nature of the certificate; or
  - (b) the certificate is deposited with him in a locked or sealed receptacle from which he is not entitled to remove it without the authority of some other person.
- (7) Where a certificate of title outside the United Kingdom is by this Part of this Act required to be kept in the custody of an authorised depositary, it shall be deemed to be in the custody of an authorised depositary if—
- (a) by his direction or with his assent it is in the custody of some other person who holds it on behalf of and to the order of the authorised depositary; and
  - (b) the certificate is not deposited with that other person in a locked or sealed receptacle from which he is not entitled to remove it without the authority of a person other than himself;

and where a certificate of title is by virtue of this subsection deemed to be in the custody of an authorised depositary, references in this Part of this Act to the depositary parting with the certificate or a coupon belonging thereto shall be construed as references to his permitting the person having the actual custody thereof to part with it otherwise than to the depositary, and references to his destroying the certificate or such a coupon shall be construed as references to his permitting it to be destroyed.

## PART IV.

## IMPORT AND EXPORT.

Restrictions  
on import.

21.—(1) The importation into the United Kingdom of—

- (a) any notes of a class which are or have at any time been legal tender in the United Kingdom or any part of the United Kingdom; and
- (b) any such other notes as may be specified by order of the Treasury, being notes issued by a bank or notes of a class which are or have at any time been legal tender in any territory; and
- (c) any Treasury bills; and
- (d) any certificate of title to any security, including any such certificate which has been cancelled, and any document certifying the destruction, loss or cancellation of any certificate of title to a security,

is hereby prohibited except with the permission of the Treasury.

(2) In this section the expression "note" includes part of a note and the expression "security" includes a secondary security.

General  
restrictions  
on export.

22.—(1) The exportation from the United Kingdom of—

- (a) any notes of a class which are or have at any time been legal tender in the United Kingdom or any part of the United Kingdom or in any other territory; and
- (b) any Treasury bills; and
- (c) any postal orders; and
- (d) any gold; and
- (e) any of the following documents (including any such document which has been cancelled), that is to say—

(i) any certificate of title to a security and any coupon; and

(ii) any policy of assurance; and

(iii) any bill of exchange or promissory note expressed in terms of a currency other than sterling; and

(iv) any document to which section four of this Act applies not issued by an authorised dealer or in pursuance of a permission granted by the Treasury;

and any document certifying the destruction, loss or cancellation of any of the documents aforesaid; and

(f) any such articles exported on the person of a traveller or in a traveller's baggage as may be prescribed, is hereby prohibited except with the permission of the Treasury.

(2) In this section, the expression "note" includes part of a note, the expression "security" includes a secondary security and the expression "coupon" shall be construed in accordance with the meaning of "security".

PART IV.  
—cont.

23.—(1) The exportation of goods of any class or description from the United Kingdom to a destination in any such territory as may be prescribed is hereby prohibited except with the permission of the Treasury, unless the Commissioners of Customs and Excise are satisfied—

Payment for  
exports.

- (a) that payment for the goods has been made to a person resident in the United Kingdom in such manner as may be prescribed in relation to goods of that class or description exported to a destination in that territory, or is to be so made not later than six months after the date of exportation; and
- (b) that the amount of the payment that has been made or is to be made is such as to represent a return for the goods which is in all the circumstances satisfactory in the national interest:

Provided that the Treasury may direct that, in cases to which the direction applies, paragraph (a) of this subsection shall have effect as if for the reference to six months there were substituted a reference to such longer or shorter period as may be specified in the direction, or as if the words "or is to be so made not later than six months after the date of exportation" were omitted.

(2) For the purpose of satisfying themselves in the case of any goods as to the matters specified in subsection (1) of this section, the Commissioners of Customs and Excise may require the person making entry of the goods for export to deliver to the collector or other proper officer together with the entry such declarations signed by such persons as the Commissioners may require, and where any such declaration has been so required the goods shall not be exported until it has been delivered as aforesaid.

(3) Where the Commissioners of Customs and Excise are not satisfied in the case of any goods as to the matters specified in paragraph (b) of the said subsection (1), they shall give their reasons to the person making entry of the goods for export and shall take into consideration any representations made by him.

(4) Any reference in this section to the destination of any goods includes a reference to the ultimate destination thereof.

## PART V.

### MISCELLANEOUS.

24.—(1) Except with the permission of the Treasury, no person resident in the United Kingdom who has a right (whether present or future and whether vested or contingent) Duty to collect certain debts.

PART V.  
—cont.

to receive any specified currency, or to receive from a person resident outside the scheduled territories a payment in sterling, shall do, or refrain from doing, any act with intent to secure—

- (a) that the receipt by him of the whole or part of that currency or, as the case may be, of that payment in sterling, is delayed ; or
- (b) that the currency or payment ceases, in whole or in part, to be receivable by him :

Provided that nothing in this subsection—

- (i) shall, unless the Treasury otherwise direct, impose on any person any obligation, in relation to any debt arising in the carrying on of any trade or business, to procure the payment thereof at an earlier time than is customary in the course of that trade or business ; or
- (ii) shall, unless the Treasury otherwise direct, prohibit any transfer to a person resident in the United Kingdom and not elsewhere of any right to receive any specified currency or payment in sterling.

(2) Where a person has contravened the provisions of subsection (1) of this section in relation to any specified currency or payment in sterling, the Treasury may give to him or to any other person who appears to the Treasury to be in a position to give effect thereto (being a person in or resident in the United Kingdom) such directions as appear to the Treasury to be expedient for the purpose of obtaining or expediting the receipt of the currency or payment in question, and, without prejudice to the generality of the preceding provisions of this subsection, may direct that there shall be assigned to the Treasury, or to such person as may be specified in the directions, the right to receive the currency or payment or enforce any security for the receipt thereof.

Duty not to  
delay sale or  
importation of  
goods.

25.—(1) Where—

- (a) any permission or consent has been granted under this Act, or under any corresponding provision of the law in force in any territory comprised in the scheduled territories, subject to a condition providing that, or on the faith of an application stating an intention that, any goods should be sold outside the scheduled territories ; or
- (b) any statement or declaration has been made under any provision of this Act or any such corresponding provision as aforesaid that any goods are to be sold outside the scheduled territories ; or

- (c) any currency has been obtained in, or by any person resident in, the scheduled territories on the faith of an application stating an intention that any goods should be sold outside the scheduled territories,

then, except with the permission of the Treasury, no person resident in the United Kingdom who is entitled to sell or procure the sale of the said goods shall do, or refrain from doing, any act with intent to secure—

- (i) that the said sale is delayed to an extent which is unreasonable having regard to the ordinary course of trade; or
- (ii) that, on the said sale, any payment made for the goods is not made in the manner indicated by the condition, statement, or declaration, as the case may be.

(2) Where—

- (a) any permission or consent has been granted under this Act, or under any corresponding provisions of the law in force in any territory comprised in the scheduled territories, subject to a condition providing that, or on the faith of an application stating an intention that, any goods should be imported from outside the scheduled territories into any part of the scheduled territories; or
- (b) any currency has been obtained in, or by any person resident in, the scheduled territories on the faith of an application stating an intention that any goods should be so imported,

then, except with the permission of the Treasury, no person resident in the United Kingdom who is entitled to procure the importation of the said goods shall do, or refrain from doing, any act with intent to secure that the importation thereof is delayed to an extent which is unreasonable having regard to the ordinary course of trade.

(3) Where in any such case as is specified in paragraph (a), (b) or (c) of subsection (1), or paragraph (a) or (b) of subsection (2), of this section—

- (a) the goods have not been sold or imported as indicated by the condition, statement or declaration within the time thereby indicated or, if no time is thereby indicated, a reasonable time, or (in either case) within such further time as may be allowed by the Treasury; or
- (b) it appears to the Treasury that the goods cannot be sold or imported as indicated by the condition, statement or declaration.

PART V.  
—cont.

the Treasury may give to any person resident in the United Kingdom who appears to the Treasury to be in a position to give effect thereto such directions as appear to them to be expedient as to the manner in which the goods are to be dealt with.

(4) Without prejudice to the generality of the provisions of the last preceding subsection, the power conferred thereby on the Treasury to give directions shall extend to the giving of directions that the goods shall be assigned to the Treasury or to a person specified in the directions.

(5) The powers conferred by the two last preceding subsections in relation to any goods shall extend to the giving of directions with respect to any goods produced or manufactured therefrom, and, where goods to be sold outside the scheduled territories or to be imported were to be produced or manufactured from other goods, to the giving of directions with respect to those other goods and any goods produced or manufactured from those other goods.

Property  
obtained by  
infringement  
of Act.

26.—(1) Where a person—

(a) has made any payment which is prohibited by this Act; or

(b) being bound under this Act to offer or cause to be offered any specified currency to an authorised dealer, has otherwise disposed of that currency,

the Treasury may direct him to sell or procure the sale of any property which he is entitled to sell or of which he is entitled to procure the sale, being property which represents, whether directly or indirectly, that payment or that specified currency, as the case may be, and may by the same or a subsequent direction specify the manner in which, the persons to whom and the terms on which the property is to be sold.

(2) Without prejudice to the generality of the provisions of subsection (1) of this section, the power conferred thereby on the Treasury to give directions shall extend to the giving of directions that the property shall be assigned to the Treasury or to a person specified in the directions.

Provisions  
supplemental  
to preceding  
provisions of  
Part V.

27.—(1) Where, under the preceding provisions of this Part of this Act, the Treasury have power to give directions that any right to receive any currency or payment in sterling or to enforce any security for the receipt thereof, any goods, or any other property shall be assigned to the Treasury, the Treasury shall also have power to direct that the right, goods or property shall vest in the Treasury, and it or they shall vest in the Treasury accordingly free from any mortgage, pledge or charge, and the Treasury may deal with it or them as they think fit.



(2) Where, in pursuance of directions under the said provisions, any right, goods or property is or are assigned to the Treasury or to a person specified in the directions, or any right, goods or property vests or vest in the Treasury in pursuance of directions given under subsection (1) of this section, the Treasury shall pay the net sum recovered by them in respect of the right, goods or property to the person making the assignment or, in the case of any right, goods or property vested in the Treasury under subsection (1) of this section, to the person who, but for the directions, would be entitled to the right, goods or property.

28.—(1) Except with the permission of the Treasury, no person resident in the United Kingdom shall transfer to a person resident outside the scheduled territories, or who is to be a nominee for a person resident outside the scheduled territories, any right to the sums assured by any policy of assurance, so, however, that where the person liable for the sums so assured makes any payment thereof to a person resident in the scheduled territories and not elsewhere, or makes, with the permission of the Treasury, any payment thereof to any other person,—

Transfer of  
annuities,  
policies, etc.

- (a) he shall not be bound to inquire as to the residence of any person other than the person to whom, and (if it is not the same person) the person to whose order, the payment is made; and
- (b) the payment shall, to the extent of the sums paid, discharge him from his liability under the policy, notwithstanding that the payment is made to or to the order of a person who was not entitled thereto otherwise than by virtue of a transfer prohibited by this subsection.

(2) The preceding subsection shall apply to rights in any annuity or insurance granted under the Government Annuities Act, 1929, or to which either Part I or Part II of that Act applies as if they were rights to sums assured by a policy of assurance.

(3) Subsections (2) and (3) of section eighteen of this Act shall apply in relation to any transfer prohibited by this section as they apply in relation to a transfer prohibited by this Act of a security.

(4) In this section, the expression “nominee” has, in relation to any policy, annuity or insurance, the same meaning as the said expression has in Part III of this Act in relation to a security.

29.—(1) Except with the permission of the Treasury, no person resident in the United Kingdom shall settle any property, otherwise than by will, so as to confer an interest in

Settlements.

PART V.  
—cont.

the property on a person who, at the time of the settlement, is resident outside the scheduled territories, or shall exercise, otherwise than by will, any power of appointment, whether created by will or otherwise, in favour of a person who, at the time of the exercise of the power, is resident outside the scheduled territories.

(2) A settlement or exercise of a power of appointment shall not be invalid by reason that it is prohibited by this section, except so far as it purports to confer any interest on any person who, at the time of the settlement or the exercise of the power, is resident outside the scheduled territories.

(3) Subsections (2) and (3) of section eighteen of this Act shall apply in relation to a settlement or the exercise of a power of appointment prohibited by this section as they apply in relation to a transfer prohibited by this Act of a security.

(4) For the purpose of this section—

- (a) any reference to settling property includes a reference to the making of any disposition, covenant, agreement or arrangement whereby the property becomes subject to a trust, or (in the case of a resettlement) to a different trust; and
- (b) a person shall be deemed to have an interest in property if he has any beneficial interest therein, whether present or future, and whether vested or contingent, or falls within a limited class of persons in whose favour a discretion or power in respect of the property is exercisable; and
- (c) the expression "will" includes any testamentary disposition.

Companies.

30.—(1) Where there is served on any person resident in the United Kingdom a notice in writing that the Treasury wish any such requirements as are hereinafter mentioned to be complied with by any such body corporate as is specified in the Second Schedule to this Act (hereafter in this subsection referred to as a "foreign company"), and that person can, by doing or refraining from doing any act,—

- (a) cause the foreign company to comply with any of the requirements; or
- (b) remove any obstacle to the foreign company complying with any of the requirements; or
- (c) render it in any respect more probable that the foreign company will comply with any of the requirements,

then, except so far as permission to the contrary may be given by the Treasury, that person shall do, or, as the case may be, refrain from doing, that act.

The requirements with respect to which such a notice may be given are as follows, that is to say, that the foreign company shall—

PART V.  
—cont.

- (i) furnish to the Treasury such particulars as to its assets and business as may be mentioned in the notice;
- (ii) sell or procure the sale to an authorised dealer of any gold or specified currency mentioned in the notice, being gold or specified currency which it is entitled to sell or of which it is entitled to procure the sale;
- (iii) declare and pay such dividend as may be mentioned in the notice;
- (iv) realise any of its assets mentioned in the notice in such manner as may be so mentioned;
- (v) refrain from selling, transferring, or doing anything which affects its rights or powers in relation to, any such Treasury bills or securities as may be mentioned in the notice.

(2) Except with the permission of the Treasury, no person resident in the United Kingdom shall do any act whereby a body corporate which is by any means controlled (whether directly or indirectly) by persons resident in the United Kingdom ceases to be controlled by persons resident in the United Kingdom:

Provided that this subsection shall not prohibit any person from selling any securities authorised to be dealt in on any recognised stock exchange in the United Kingdom if the sale takes place in pursuance of an agreement entered into in the ordinary course of business on that exchange.

(3) Except with the permission of the Treasury, no person resident in the United Kingdom shall lend any money, Treasury bills or securities to any body corporate resident in the scheduled territories which is by any means controlled (whether directly or indirectly) by persons resident outside the scheduled territories:

Provided that this subsection shall not apply where the lender after making such inquiries as are reasonable in the circumstances of the case does not know and has no reason to suspect that the body corporate is controlled as aforesaid.

(4) For the purposes of this section and of the Second Schedule to this Act, persons resident in the United Kingdom or outside the scheduled territories shall be deemed to control a body corporate notwithstanding that other persons are associated with them in the control thereof if they can together override those other persons.

(5) In this section the expression "security" includes a secondary security.

D

## PART VI.

## SUPPLEMENTAL.

Exemptions.

31. Any provision of this Act imposing any obligation or prohibition shall have effect subject to such exemptions as may be granted by order of the Treasury, and any such exemption may be either absolute or conditional.

Blocked  
accounts.

32. Where—

- (a) under any provision contained in Part II of this Act, the permission of the Treasury is required for the making of a payment or the placing of any sum to the credit of any person resident outside the scheduled territories; or
- (b) any payment falls to be made by an authorised dealer on the sale of any gold or specified currency by any foreign company within the meaning of subsection (1) of the concluding section of Part V of this Act, being a sale made to comply with any requirement notified under that subsection,

the Treasury may direct that the sum payable or to be credited shall be paid or credited to a blocked account only, and, where such a direction is given, the provisions of the Third Schedule to this Act shall have effect in relation to the payment or crediting of the sum.

Contracts,  
legal pro-  
ceedings, etc.

33.—(1) It shall be an implied condition in any contract that, where, by virtue of this Act, the permission or consent of the Treasury is at the time of the contract required for the performance of any term thereof, that term shall not be performed except in so far as the permission or consent is given or is not required:

Provided that this subsection shall not apply in so far as it is shown to be inconsistent with the intention of the parties that it should apply, whether by reason of their having contemplated the performance of that term in despite of the provisions of this Act or for any other reason.

45 & 46 Vict.  
c. 61.

(2) Notwithstanding anything in the Bills of Exchange Act, 1882, neither the provisions of this Act, nor any condition, whether express or to be implied having regard to those provisions, that any payment shall not be made without the permission of the Treasury under this Act, shall be deemed to prevent any instrument being a bill of exchange or promissory note.

(3) The provisions of the Fourth Schedule to this Act shall have effect with respect to legal proceedings, arbitrations, bankruptcy proceedings, the administration of the estates of deceased persons, the winding up of companies, and proceedings under deeds of arrangement or trust deeds for behoof of creditors.

34.—(1) The provisions of the Fifth Schedule to this Act shall have effect for the purpose of the enforcement of this Act.

PART VI.  
—cont.  
Enforcement  
and adminis-  
tration.

(2) Persons belonging to the following classes, that is to say—

- (a) bankers, authorised dealers, authorised depositaries;
- (b) persons to whom any powers of the Treasury under this Act are delegated;
- (c) persons who with the permission of the Treasury are in possession of documents which would, but for the permission, have to be in the custody of an authorised depositary;
- (d) persons concerned with the keeping of any register in the United Kingdom; and
- (e) persons entrusted with the payment of capital moneys, dividends or interest in the United Kingdom,

shall comply with such directions as may be given to them respectively by the Treasury, being—

- (i) in the case of any such persons, directions as respects the exercise of any functions exercisable by them by virtue of, or by virtue of anything done under, any provision of this Act; or
- (ii) in the case of authorised dealers, such directions as aforesaid or directions as to the terms on which they are to accept gold or foreign currency or directions requiring them to offer their gold or specified currency for sale to the Bank of England on such terms as may be specified in any such directions.

35.—(1) This Act shall bind the Crown and shall apply to transactions by a Government department or other person acting on behalf of the Crown, and the Treasury shall not, by virtue of any contract made by them or on their behalf in relation to any securities, be under any obligation to grant any permission under Part III of this Act or any exemption from the provisions of the said Part III.

Application  
to Crown.

(2) In this section the reference to a Government department or person acting on behalf of the Crown includes a reference to any department of, or person acting on behalf of, the Government of Northern Ireland or any of His Majesty's Governments outside the United Kingdom.

36.—(1) The Treasury may by order make such transitional provisions as appear to them necessary or expedient in consequence of the exercise by them of any other power to make orders under this Act.

Treasury  
orders.

(2) Any order made by the Treasury under this Act (other than an order made only for any of the purposes specified in the Sixth Schedule to this Act) shall be laid before both Houses of Parliament immediately after it is made, and if

PART VI.  
—cont.

either House of Parliament, within the period of forty days beginning with the day on which any such order as aforesaid is laid before it, resolves that the order be annulled, it shall thereupon become void, without prejudice, however, to the validity of anything previously done thereunder, or to the making of a new order.

(3) In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.

56 & 57 Vict.  
c. 66.

(4) Notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, an order made under this Act shall be deemed not to be, or to contain, a statutory rule to which that section applies.

(5) An order made under this Act may be revoked or varied by a subsequent order.

Other powers  
of Treasury

37.—(1) Any permission, consent or authority granted by the Treasury under this Act—

- (a) may be either general or special; and
- (b) may be revoked by the Treasury; and
- (c) may be absolute or conditional; and
- (d) may be limited so as to expire on a specified date, unless renewed; and
- (e) shall be published in such a way as, in the opinion of the Treasury, to give any person entitled to the benefit of it an adequate opportunity of getting to know of it, unless in their opinion publication is not necessary for that purpose.

(2) Any directions given by the Treasury under any provision of this Act—

- (a) may be either general or special; and
- (b) may be revoked or varied by subsequent directions; and
- (c) shall be given to such persons and in such manner as the Treasury think appropriate, and if so given shall be valid for all purposes.

(3) Notwithstanding paragraph (c) of the last preceding subsection, a person shall not by virtue of any direction given by the Treasury under this Act, not being a direction printed and sold under the Rules Publication Act, 1893, or the Statutory Instruments Act, 1946, be convicted of an offence against this Act, unless the direction was served on him or he knew, or avoided getting to know, of the giving thereof:

9 & 10 Geo. 6.  
c. 36.

Provided that where reasonable steps were taken for the purpose of bringing the purport of the direction to his notice, it shall be for him to show that he neither knew nor avoided getting to know of the giving thereof.

(4) The Treasury may, to such extent and subject to such restrictions and conditions as they may think proper, delegate or authorise the delegation of any of their powers (other than any power to make orders or to give authority to apply for a search warrant) to any person, or class or description of persons, approved by them, and references in this Act to the Treasury shall be construed accordingly.

PART VI.  
—cont.

(5) Any document stating that any permission, consent, authority or direction is given under any of the provisions of this Act by the Treasury, and purporting to be signed on their behalf, shall be evidence of the facts stated in the document.

38. Any expenses incurred under or by virtue of this Act by any Government department shall be paid out of moneys provided by Parliament, and any sums received under or by virtue of this Act by any Government department shall be paid into the Exchequer, except in so far as they are properly paid out of or into the Exchange Equalisation Account established under section twenty-four of the Finance Act, 1932.

Financial  
provisions.

22 & 23 Geo. 5.  
c. 25.

39.—(1) The Treasury may by order or direction provide that, for such of the purposes of this Act as may be specified in the order or direction—

Branches.

- (a) any transaction with or by a branch of any business, whether carried on by a body corporate or otherwise, shall be treated in all respects as if the branch were a body corporate resident where the branch is situated; and
- (b) the making of any book entry or other statement recording a debit against a branch of any business in favour of any other branch of that business, shall be treated as a payment to that other branch; and
- (c) any property held by or on behalf of the person carrying on the business shall be deemed to be held by such of the branches of the business as may be determined in accordance with the order or direction,

and any such order or direction which makes, for any of the purposes of Part III of this Act, such provision as is mentioned in paragraph (c) of this subsection may contain provisions declaring the circumstances in which a branch is to be treated as nominee for any other branch.

(2) Any reference in subsection (1) of this section to a branch of a business shall be deemed to include a reference to the head office of that business.

(3) Subsections (1) and (2) of this section shall apply in relation to any body of persons (whether corporate or unincorporated) carrying on any activity, whether for the purpose of profit or not, as they apply in relation to a business.

PART VI.  
—cont.Persons  
leaving the  
scheduled  
territories.

40. Where a person resident in the United Kingdom leaves the scheduled territories, the Treasury may, before, at or after the time he leaves the scheduled territories, direct that, for such period as may be specified in the direction, payments by him or on his behalf and to him or to his credit and transactions in or in relation to Treasury bills, securities or secondary securities in which he is in any way concerned shall, whether or not he continues to be resident in the United Kingdom, be subject to such restrictions as may be specified in the direction.

Determina-  
tion of  
residence.

41.—(1) For the purposes of this Act, a personal representative of a deceased person shall, unless the Treasury otherwise direct, be treated as resident in the territory where the deceased person was resident for the purposes in question at the time of his death and as not resident elsewhere, so far as relates to any matters in which the personal representative is concerned solely in his capacity as such.

(2) The Treasury may give directions declaring that for all or any of the purposes of this Act a person is to be treated as resident or not resident in such territories as may be specified in the directions.

General provi-  
sions as to  
interpretation.

42.—(1) In this Act, except so far as the contrary is expressly provided or the context otherwise requires, the following expressions have the meanings hereby assigned to them, that is to say:—

“ authorised dealer ” means, in relation to gold or any foreign currency, a person for the time being authorised by an order of the Treasury to act for the purposes of this Act as an authorised dealer in relation to gold, or, as the case may be, that foreign currency;

“ authorised depositary ” means a person for the time being authorised by an order of the Treasury to act as an authorised depositary for the purposes of Part III of this Act;

“ bearer certificate ” means a certificate of title to securities by the delivery of which (with or without endorsement) the title to the securities is transferable;

“ certificate of title to securities ” means any document of title whereby a person recognises the title of another to securities issued or to be issued by the first-mentioned person, and in the case of any such document with coupons (whether attached or on separate coupon sheets) includes any coupons which have not been detached;



- “ coupon ” means a coupon representing dividends or interest on a security;
- “ foreign currency ” has the meaning ascribed to it by section one of this Act;
- “ gold ” means gold coin or gold bullion;
- “ policy of assurance ” means any policy securing the payment of a capital sum or annuity on the occurrence of a specified event which is certain to happen and includes—
- (a) any policy by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life; and
- (b) any policy securing the payment of an immediate annuity;
- and the reference in this definition to the occurrence of a specified event which is certain to happen shall include the occurrence, which is certain to happen, of one of specified events none of which by itself is certain to happen;
- “ prescribed ” means prescribed, for the purposes of the provision in question, by order of the Treasury;
- “ scheduled territories ” has the meaning ascribed to it by section one of this Act;
- “ secondary securities ” has the meaning ascribed to it by section nineteen of this Act;
- “ securities ” means shares, stock, bonds, notes (other than promissory notes), debentures, debenture stock, units under a unit trust scheme and shares in an oil royalty;
- “ specified currency ” has the meaning ascribed to it by section two of this Act as extended by section four thereof;
- “ unit trust scheme ” means any arrangements made for the purpose, or having the effect, of providing for persons having funds available for investment, facilities for the participation by them, as beneficiaries under a trust, in profits or income arising from the acquisition, holding, management or disposal of any property whatsoever;
- “ unit ” means, in relation to a unit trust scheme, a right or interest (whether described as a unit, as a sub-unit or otherwise) which may be acquired under the scheme.

PART VI.  
—cont.

(2) Any provision of this Act (however worded) the effect of which is to prohibit the doing of any act where a person to or by whom the act is to be done or who stands in a specified relation to any property possesses any specified attribute as to residence or otherwise shall, where the act is done to or by two or more persons or, as the case may be, where two or more persons stand jointly in that relation to the property, operate to prohibit the doing of that act if any of those persons possess that attribute; and any provision of this Act imposing an obligation on any person to do an act if he possesses any specified attribute as to residence or otherwise shall, in relation to any act which can only be done by two or more persons jointly—

- (a) where all those persons possess that attribute, operate to impose a joint obligation on all of them to do the act; and
- (b) where some only of them possess that attribute, operate to impose a separate obligation on each one of them who possesses that attribute to do all he can to secure the doing of the act.

(3) Any power conferred by this Act to prescribe the declarations which are to be furnished on any occasion shall include a power to require that the declarations shall be made by specified persons and shall be verified in a specified manner.

(4) Nothing in this Act shall be construed as requiring the Treasury to pay any sum otherwise than in sterling or otherwise than in the United Kingdom, and any provision of this Act requiring the Treasury to pay any sum to any person shall, where that sum is in a specified currency, be construed as a provision that the Treasury shall pay to that person the amount in sterling which he would have received for the specified currency if he had sold it to an authorised dealer in pursuance of an offer made under section two of this Act at the time when the said sum is paid.

(5) The obligations and prohibitions imposed by this Act shall, subject to the express limitations contained therein, apply to all persons, notwithstanding that they are not in the United Kingdom and are not British subjects.

## Extent.

43.—(1) It is hereby declared that this Act extends to Northern Ireland.

(2) This Act shall, with such modifications as His Majesty may specify by Order in Council, apply to the Isle of Man as if it were part of the United Kingdom and references in this Act to the United Kingdom shall be construed accordingly.



(3) His Majesty may by Order in Council direct that any of the provisions of this Act other than this section shall extend, with such modifications, if any, as may be specified in the Order, to any of the Channel Islands.

PART VI.  
—cont.

(4) Any Order in Council made under this section may be varied or revoked by a subsequent Order so made, and any such Order in Council as aforesaid may contain such transitional provisions as may appear to His Majesty to be necessary or expedient.

44.—(1) This Act may be cited as the Exchange Control Act, 1947.

Short title,  
commence-  
ment and  
repeal.

(2) This Act shall come into force on such day as the Treasury may by order appoint, and—

(a) different days may be appointed for different purposes and for different provisions thereof; and

(b) the power of the Treasury to make transitional provisions consequent on the making of an order under this Act shall extend to the revocation, in consequence of any order made under this subsection, of any of the provisions of the Defence (Finance) Regulations, 1939.

(3) Section eleven of the Currency and Bank Notes Act, 1928 (which empowers the Bank of England to require returns and sales of gold coin and bullion), is hereby repealed.

18 & 19 Geo. 5.  
c. 13.

## SCHEDULES.

Section 1.

### FIRST SCHEDULE.

#### THE SCHEDULED TERRITORIES.

1. The United Kingdom.
2. Any Dominion within the meaning of the Statute of Westminster, 1931, except Canada and Newfoundland.
3. Any part of His Majesty's dominions, not being a Dominion within the meaning of the Statute of Westminster, 1931, or a part of such a Dominion.
4. Any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty and is being exercised by His Majesty's Government in the United Kingdom or the Government of any Dominion.
5. Any British protectorate or British protected state.

1ST SCH.  
—cont.

6. Egypt.
7. The Anglo-Egyptian Sudan.
8. Iraq.
9. Transjordan.
10. Iceland.
11. The Faroe Islands.

Sections 30 & 32.

---

SECOND SCHEDULE.

---

FOREIGN COMPANIES.

1. The bodies corporate in question are bodies corporate not incorporated under the law of any part of the United Kingdom in the case of which any of the following conditions is fulfilled—

- (a) that the body corporate is by any means controlled (whether directly or indirectly) by persons resident in the United Kingdom ;
- (b) that more than one-half of the sums which, on a liquidation thereof, would be receivable by holders of share or loan capital would be receivable directly or indirectly by or for the benefit of persons resident in the United Kingdom ;
- (c) that more than one-half of the assets which, on a liquidation thereof, would be available for distribution after the payment of creditors would be receivable directly or indirectly by or for the benefit of persons resident in the United Kingdom ;  
or
- (d) that more than one-half—
  - (i) of the interest payable on its loans and loan capital, if any ; or
  - (ii) of the dividends payable on its preference share capital, if any ; or
  - (iii) of the dividends payable on its share capital, if any, not being preference share capital,  
is receivable, directly or indirectly, by or for the benefit of persons resident in the United Kingdom.

2. Where the identity of the persons by whom or for whose benefit any sum, assets, interest or dividends are directly or indirectly receivable depends on the exercise by a person resident in the United Kingdom of a power of appointment or similar power, the sum, assets, interest or dividends shall, for the purposes of this Schedule, be deemed to be receivable directly or indirectly by or for the benefit of persons resident in the United Kingdom.

---

## THIRD SCHEDULE.

Section 32.

## BLOCKED ACCOUNTS.

1. In this Schedule, the expression "a blocked account" means an account opened as a blocked account at an office or branch in the United Kingdom in favour of any person by a banker authorised by the Treasury to open blocked accounts, and the expression "the banker" means, in relation to any person, a banker who opens a blocked account in favour of that person.

2. Where a direction is given that a payment is to be made to a blocked account only, then, subject to the next following paragraph—

(a) the manner in which the payment may be made shall be either—

(i) to the banker, with a direction that it is to be credited to a blocked account of that person (which direction may, in the case of a payment by means of a cheque or warrant, be made by marking the cheque or warrant with the words "blocked account of" (naming the person in question) or words to the same effect); or

(ii) by a crossed cheque or warrant drawn in favour of that person, marked with the words "payable only to blocked account of payee" or words to the same effect; and

(b) the sum collected shall be credited by the banker to a blocked account of that person.

3. Where a direction is given that a sum is to be paid or credited to a blocked account only, then, notwithstanding the direction, the sum may, with the consent of the person to whom it is to be paid or credited, and subject to the requirements of Part III of this Act, be invested instead in the purchase for that person of any such investments as may be prescribed for the purposes of paragraph (a) of the proviso to the next following paragraph.

4. Any sum standing to the credit of a blocked account shall not be dealt with except with the permission of the Treasury:

Provided that, subject to compliance with the requirements of Part III of this Act—

(a) the whole or any part of any such sum may, at the request of the person in whose name the account stands, be invested through the banker in such investments as may be prescribed; and

(b) nothing in this Schedule shall be construed as restricting the manner in which the investments acquired may be dealt with.

5. Where a person in whose name a blocked account is standing becomes bankrupt in the United Kingdom or dies, the banker may, notwithstanding anything in paragraph 4 of this Schedule, transfer the account to the name of the trustee in bankruptcy or personal representative, but, save as aforesaid, no change shall, except with

3RD SCH.  
—cont.

the permission of the Treasury, be made in the name in which the account stands; and where any such change is made (whether or not the permission of the Treasury is necessary therefor) the account shall remain a blocked account notwithstanding the change, and the provisions of this Schedule shall apply accordingly.

6. Where—

- (a) a sum is due from any person to any other person but the Treasury direct that it shall be paid or credited to a blocked account only; and
- (b) the person to whom the sum is due nominates such an account to the person from whom the sum is due,

the last mentioned person is under a duty to the person to whom the sum is due to cause the sum to be paid or credited to that blocked account, and the crediting of any sum to a blocked account in pursuance of a direction of the Treasury shall, to the extent of the sum credited, be a good discharge to the person from whom the sum is due :

Provided that in the case of a sum due under a contract this paragraph shall not apply in so far as it is shown to be inconsistent with the intention of the parties that it should apply.

---

#### FOURTH SCHEDULE.

---

Section 33.

#### LEGAL PROCEEDINGS, &C.

1. The provisions of Part II of this Act shall apply to sums required to be paid by any judgment or order of any court or by any award as they apply in relation to other sums, and it shall be implied in any judgment or order of any court in the United Kingdom, and in any award given under the law of any part of the United Kingdom, that any sum required to be paid by the judgment, order or award (whether as a debt, as damages or otherwise) to which the said provisions apply shall not be paid except with the permission of the Treasury.

2. Nothing in this Act shall be construed as preventing the payment by any person of any sum into any court in the United Kingdom but the provisions of Part II of this Act shall apply to the payment of any sum out of court, whether under an order of the court or otherwise, to or for the credit of any person resident outside the scheduled territories.

3. Without prejudice to the provisions of any enactments relating to the making of rules of court, rules of court—

- (a) enabling any person who is required by any judgment, order or award to pay any sum, if he apprehends that the payment of that sum is unlawful under this Act except with the permission of the Treasury, to pay that sum into court; and
- (b) declaring that payment of a sum into court by virtue of the preceding sub-paragraph, together with the delivery to

the other party concerned of such evidence of the payment as may be prescribed by the rules, shall, to the extent of the payment, be a good discharge to the person making the payment; and

4TH SCH.  
—cont.

- (c) so regulating the process of execution which may issue in respect of any sum required to be paid by any judgment, order or award as to secure that, unless it is shown, in such manner as may be prescribed by the rules, that the permission of the Treasury for the payment of the sum is not required under this Act or has been given without conditions, the proceeds of the execution will be paid into court, and, so far as is necessary for that purpose, varying the form of any writ of execution or other similar document or the duties of the sheriff or other officer to whom any such writ or other similar document is directed,

may be made, as respects the High Court, under section ninety-nine of the Supreme Court of Judicature (Consolidation) Act, 1925, and, as respects county courts, under section ninety-nine of the County Courts Act, 1934, and, as respects any other court, by such authority as may be designated in that behalf by the Lord Chancellor :

15 & 16 Geo. 5.  
c. 49.  
24 & 25 Geo. 5.  
c. 53.

Provided that—

- (i) the form of any bankruptcy notice shall be such as may be prescribed by the Board of Trade; and
- (ii) nothing in this paragraph shall affect the provisions of section two hundred and six of the Supreme Court of Judicature (Consolidation) Act, 1925 (which requires rules of court for inferior courts to have the concurrence of the rule-making authority for the High Court).

4.—(1) In any proceedings in a prescribed court and in any arbitration proceedings, a claim for the recovery of any debt shall not be defeated by reason only of the debt not being payable without the permission of the Treasury and of that permission not having been given or having been revoked.

(2) No court shall be prescribed for the purpose of this paragraph unless the Treasury are satisfied that adequate provision has been made therefor by rules of court for the purposes specified under the last preceding paragraph.

5.—(1) In any bankruptcy, in the winding up of any company or in the administration of the estate of any deceased person (being a bankruptcy, winding up or administration carried on under the law of any part of the United Kingdom), a claim for a sum not payable without the permission of the Treasury shall, notwithstanding that the permission has not been given or has been revoked, be admitted to proof as if it had been given and had not been revoked :

Provided that nothing in this sub-paragraph shall be construed as affecting the application of the provisions of Part II of this Act to payments by any trustee, liquidator, personal representative or other person in any such bankruptcy, winding up or administration.

(2) The provisions of this Act restricting the making of settlements shall not apply to any deed of arrangement made for the benefit of

4TH SCH.  
—cont.

creditors generally, and the provisions of sub-paragraph (1) of this paragraph shall apply in relation to proceedings under any deed of arrangement as they apply in relation to proceedings in bankruptcy.

4 & 5 Geo. 5.  
c. 59.

6. A debt for the payment of which the permission of the Treasury is required under this Act shall, if in other respects it complies with the requirements of subsection (1) of section four of the Bankruptcy Act, 1914, be allowed to be a good petitioning creditor's debt, notwithstanding the said requirement, if and to the extent that the debt can be satisfied either by a payment into court or by a payment to a blocked account.

7.—(1) The provisions of this Schedule shall apply to Scotland subject to the modifications specified in this paragraph.

(2) For any reference to bankruptcy there shall be substituted a reference to sequestration, for any reference to a deed of arrangement there shall be substituted a reference to a trust deed for behoof of creditors, and any reference to a judgment shall be construed as including a reference to a decree.

(3) For paragraph 3 there shall be substituted the following paragraph—

“ 3. Without prejudice to the provisions of any enactments relating to the making of rules of court, rules of court may be made—

- (a) enabling any person who is required by any judgment, decree or order to pay any sum, if he apprehends that the payment of that sum is unlawful under this Act except with the permission of the Treasury, to pay that sum into court; and
- (b) declaring that payment of a sum into court by virtue of the preceding sub-paragraph, together with the delivery to the other party concerned of such evidence of the payment as may be prescribed by the rules, shall, to the extent of the payment, be a good discharge to the person making the payment; and
- (c) so regulating the doing of diligence for the purpose of enforcing payment of any sum required to be paid by any judgment, decree or order as to secure that, unless it is shown, in such manner as may be prescribed by the rules, that the permission of the Treasury for the payment of the sum is not required under this Act or has been given without conditions, any sum recovered by the diligence will be paid into court, and, so far as is necessary for that purpose, varying the form of any warrant or other document authorising the doing of diligence or the duties of the messenger-at-arms or sheriff officer to whom any such warrant or other document is directed.”

(4) In paragraph 6, for the words “ subsection (1) of section four of the Bankruptcy Act, 1914, be allowed to be a good petitioning creditor's debt ” there shall be substituted the words “ section twelve of the Bankruptcy (Scotland) Act, 1913, be a debt in respect of which a creditor may present a petition for sequestration ”.

3 & 4 Geo. 5.  
c. 20.



8.—(1) The provisions of this Schedule shall apply to Northern Ireland subject to the modifications specified in this paragraph.

4TH SCH.  
—cont.

(2) In paragraph 3, for the word “sheriff” there shall be substituted the word “under-sheriff” and for the words from “may be made” to the end of the paragraph there shall be substituted the words—

“ may be made—

- (i) as respects the High Court, under section sixty-one of the Supreme Court of Judicature (Ireland) Act, 1877, as amended by the Supreme Court of Judicature (Ireland) (No. 2) Act, 1897; 40 & 41 Vict.  
c. 57.  
60 & 61 Vict.  
c. 66.
- (ii) as respects the county courts, under sections seventy-nine and eighty-four of the County Officers and Courts (Ireland) Act, 1877, as amended by section ten of the County Officers and Courts Act (Northern Ireland), 1925, or under any enactment of the Parliament of Northern Ireland, whether passed before or after the commencement of this Act, repealing and re-enacting (with or without modification) those sections; and 40 & 41 Vict.  
c. 56.
- (iii) as respects courts of summary jurisdiction, by the Lord Chief Justice of Northern Ireland or such other authority as may be empowered by any enactment of the Parliament of Northern Ireland, whether passed before or after the commencement of this Act, to make rules regulating the procedure and practice in courts of summary jurisdiction in Northern Ireland.”

(3) In sub-paragraph (1) of paragraph 5 after the word “trustee” there shall be inserted the word “assignee”.

(4) In paragraph 6, for the reference to subsection (1) of section four of the Bankruptcy Act, 1914, there shall be substituted a reference to section twenty-one of the Bankruptcy (Ireland) (Amendment) Act, 1872, as amended by the Bankruptcy Amendment Act (Northern Ireland), 1929. 35 & 36 Vict.  
c. 58.

(5) References in this paragraph to enactments of the Parliament of the United Kingdom shall be construed as references to those enactments as they apply in Northern Ireland.

---

## FIFTH SCHEDULE.

Section 34.

### ENFORCEMENT.

#### PART I.

##### *General provisions as to evidence and information.*

1.—(1) Without prejudice to any other provisions of this Act, the Treasury may give to any person in or resident in the United Kingdom directions requiring him, within such time and in such manner as may be specified in the directions, to furnish to them, or to any person designated in the directions as a person authorised

5TH SCH.  
—cont.

to require it, any information in his possession or control which the Treasury or the person so authorised, as the case may be, may require for the purpose of securing compliance with or detecting evasion of this Act.

(2) A person required by any such directions as aforesaid to furnish information shall also produce such books, accounts or other documents (hereafter in this Part of this Schedule referred to as "documents") in his possession or control as may be required for the said purpose by the Treasury or by the person authorised to require the information, as the case may be.

(3) Nothing in the preceding provisions of this paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

(4) Where a person is convicted on indictment for failing to give information or produce documents when required so to do under this paragraph, the court may make an order requiring the offender, within such period as may be specified in the order, to comply with the requirement to give the information or produce the documents.

2.—(1) If a justice of the peace is satisfied by information on oath given by a person authorised by the Treasury to act for the purposes of this paragraph either—

- (a) that there is reasonable ground for suspecting that an offence against this Act has been or is being committed and that evidence of the commission of the offence is to be found at any premises specified in the information, or in any vehicle, vessel or aircraft so specified; or
- (b) that any documents which ought to have been produced under the preceding paragraph and have not been produced are to be found at any such premises or in any such vehicle, vessel or aircraft,

he may grant a search warrant authorising any constable, together with any other persons named in the warrant and any other constables, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, vessel or aircraft so specified may be, at any time within one month from the date of the warrant, and to search the premises, or, as the case may be, the vehicle, vessel or aircraft.

(2) A person authorised by any such warrant as aforesaid to search any premises or any vehicle, vessel or aircraft, may search every person who is found in, or whom he has reasonable ground to believe to have recently left or to be about to enter, those premises or that vehicle, vessel or aircraft, as the case may be, and may seize any article found in the premises or in the vehicle, vessel or aircraft which he has reasonable ground for believing to be evidence of the commission of any offence against this Act or any documents which he has reasonable ground for believing ought to have been produced under the preceding paragraph :

Provided that no female shall, in pursuance of any warrant issued under this paragraph, be searched except by a female.

(3) Where, by virtue of this paragraph, a person has any power to enter any premises, he may use such force as is reasonably necessary for the purpose of exercising that power.

(4) In this paragraph, the expression "a justice of the peace", in Scotland, includes the sheriff, and, in Northern Ireland, means a resident magistrate.

3.—(1) Any article coming into the possession of an executive authority (whether in consequence of the seizure of the article under or by virtue of this Act or otherwise) which the authority has reasonable ground for believing to be evidence of the commission of an offence against this Act may be retained for a period of three months or, if within that period there are commenced proceedings in respect of such an offence in which the article is, or can properly be, adduced in evidence, until the final determination of those proceedings.

(2) For the purposes of this paragraph, any person to whom any powers of the Treasury under this Act are delegated or on whom any functions are conferred by or by virtue of this Act, including any constable, shall be deemed to be an executive authority.

(3) For the purposes of this paragraph, any proceedings shall be deemed not to have been finally determined so long as there is pending any appeal in the matter of the proceedings, and an appeal in that matter shall be deemed to be pending during the ordinary time within which such an appeal may be lodged, and, if such an appeal is duly lodged, the appeal shall be deemed to be pending until it is decided or withdrawn.

(4) The powers conferred by this paragraph in relation to any article shall be in addition to, and not in derogation of, any powers otherwise exercisable in relation thereto.

4. No person in or resident in the United Kingdom shall—
- (a) with intent to evade the provisions of this Act, destroy, mutilate, deface, secrete or remove any documents ;
  - (b) in furnishing any information for any of the purposes of this Act, make any statement which he knows to be false in a material particular, or recklessly make any statement which is false in a material particular ;
  - (c) obstruct any person in the exercise of any powers conferred on him by virtue of this Part of this Schedule.

## PART II.

### *General provisions as to offences.*

1.—(1) Any person in or resident in the United Kingdom who contravenes any restriction or requirement imposed by or under this Act, and any such person who conspires or attempts, or aids, abets, counsels or procures any other person, to contravene any such restriction or requirement as aforesaid, shall be guilty of an offence punishable under this Part of this Schedule :

Provided that an offence punishable by virtue of Part III of this Schedule shall not be punishable under this Part of this Schedule.

(2) Where an offence punishable under this Part of this Schedule has been committed by a body corporate, any person who at the time

5TH SCH.  
—cont.

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 the contravention 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.

(3) Any person who commits an offence punishable under this Part of this Schedule shall be liable—

- (a) on summary conviction, to imprisonment for not more than three months or to a fine or to both;
- (b) on conviction on indictment, to imprisonment for not more than two years or to a fine or to both;

and where the offence is concerned with any currency, any security, any gold, any goods or any other property, the court may, if they think fit so to do, order the currency, security, gold, goods or property to be forfeited.

(4) Except in the case of a body corporate convicted on indictment, the maximum fine which may be imposed for an offence punishable under this Part of this Schedule shall be—

- (a) on summary conviction five hundred pounds; and
- (b) on conviction on indictment one thousand pounds;

so, however, that (in either case) where the offence is concerned with any currency, any security, any payment, any gold, any goods or any other property, and does not consist only of a failure to give information or produce books, accounts or other documents with respect thereto when required so to do under Part I of this Schedule, a larger fine may be imposed not exceeding three times the amount or value of the currency, security, payment, gold, goods or property.

(5) In the application of this paragraph 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.

14 & 15 Vict.  
c. 93.

2.—(1) No proceedings for an offence punishable under this Part of this Schedule shall be instituted, in England, except by or with the consent of the Director of Public Prosecutions, or, in Northern Ireland, except by or with the consent of the Attorney General for Northern Ireland:

Provided that this sub-paragraph shall not prevent the issue or execution of a warrant for the arrest of any person in respect of such an offence, or the remanding in custody or on bail of any person charged with such an offence.

(2) Proceedings against any person in respect of an offence punishable under this Part of this Schedule may be taken before the appropriate court in the United Kingdom having jurisdiction in the place where that person is for the time being.

(3) Any proceedings under the Summary Jurisdiction Acts, or the Summary Jurisdiction Acts (Northern Ireland), as for the time being in force in Northern Ireland, which may be taken against

any person in respect of any offence punishable under this Part of this Schedule may, notwithstanding anything to the contrary in those Acts, be taken at any time within twelve months from the date of the commission of the offence or within three months from the date on which evidence sufficient in the opinion of the Treasury to justify the proceedings comes to the knowledge of the Treasury, whichever period last expires, or, where the person in question was outside the United Kingdom at the date last mentioned, within twelve months from the date on which he first lands in the United Kingdom thereafter.

(4) For the purposes of this paragraph—

- (a) a certificate of the Treasury as to the date on which such evidence as aforesaid came to the knowledge of the Treasury shall be conclusive evidence thereof; and
- (b) a person entering Northern Ireland by land shall be deemed thereby to land in the United Kingdom.

(5) This paragraph shall, in its application to Scotland, have effect as if for the references to evidence sufficient to justify proceedings there were substituted references to evidence sufficient to justify a report to the Lord Advocate with a view to consideration of the question of proceedings.

3.—(1) The maximum period of imprisonment that may be imposed by a court of summary jurisdiction in England—

- (a) in respect of the non-payment of a sum adjudged to be paid by a conviction for an offence punishable under this Part of this Schedule; or
- (b) in respect of the default of a sufficient distress to satisfy any such sum,

shall, in cases where the sum exceeds twenty pounds, be increased in accordance with the following scale, that is to say,—

*Where the amount of the sum adjudged to be paid by the conviction, as ascertained by the conviction,—*      *The said period shall not exceed,—*

Exceeds twenty pounds but does not exceed one hundred pounds	... ..	Four months.
Exceeds one hundred pounds but does not exceed five hundred pounds	... ..	Six months.
Exceeds five hundred pounds	... ..	Twelve months.

(2) Where a person summarily convicted in England for an offence or offences punishable under this Part of this Schedule has been sentenced to a fine, or has on the same occasion been sentenced to two or more fines, and the sum adjudged to be paid by the conviction or convictions exceeds five hundred pounds, any moneys recovered in respect of the said sum shall be applied as follows:—

- (a) they shall be applied, first, in payment to the person entitled thereto of any costs adjudged to be paid by the conviction or convictions, the amount of which is ascertained by the conviction or convictions;

5TH SCH.  
—cont.  
4 & 5 Geo. 5.  
c. 58.

(b) if the balance remaining after payment of the said costs does not exceed five hundred pounds, it shall be applied in accordance with the provisions of section five of the Criminal Justice Administration Act, 1914 ;

(c) if the balance so remaining exceeds five hundred pounds, so much thereof as is equal to five hundred pounds shall be applied in accordance with the provisions of the said section five, and the remainder shall be paid into the Exchequer.

(3) In this paragraph, any reference to a sum adjudged to be paid by a conviction includes any costs thereby adjudged to be paid of which the amount is ascertained by the conviction.

4. The maximum period of imprisonment that may be imposed by the sheriff in Scotland in respect of the non-payment of a sum imposed as a penalty on any person summarily convicted of an offence punishable under this Part of this Schedule shall, in cases where the sum exceeds twenty pounds, be increased in accordance with the following scale, that is to say—

<i>Where the amount adjudged to be paid exceeds—</i>	<i>The said period shall not exceed—</i>
Twenty pounds but does not exceed one hundred pounds ... ..	Four months.
One hundred pounds but does not exceed five hundred pounds ... ..	Six months.
Five hundred pounds ... ..	Twelve months.

PART III.

*Import and export.*

1.—(1) The enactments relating to customs shall, subject to such modifications, if any, as may be prescribed to adapt them to this Act, apply in relation to anything prohibited to be imported or exported by any of the provisions of Part IV of this Act except with the permission of the Treasury as they apply in relation to goods prohibited to be imported or exported by or under any of the said enactments, and any reference in the said enactments to goods shall be construed as including a reference to anything prohibited to be imported or exported by any of the provisions of the said Part IV except with the permission of the Treasury.

(2) References in this paragraph to the enactments relating to customs shall be taken as including references to section fourteen of the Post Office (Parcels) Act, 1882 (which applies the said enactments to goods contained in foreign parcels and provides that goods may be examined, seized and forfeited accordingly) ; and, without prejudice to the provisions of section three of the Post Office (Amendment) Act, 1935 (which authorises the extension of the said section fourteen to such postal packets as may be specified by regulations made thereunder), in the said section fourteen and in any regulations made or to be made thereunder references to foreign parcels shall, for the purposes of the said Part IV, include references to all foreign postal packets (including letters and letter packets).

45 & 46 Vict.  
c. 74.

25 & 26 Geo. 5.  
c. 15.

2. Any declaration required to be given under Part IV of this Act shall, for the purposes of section one hundred and sixty-eight of the Customs Consolidation Act, 1876 (under which making false declarations in matters relating to customs is an offence), be deemed to be a declaration in a matter relating to customs. 511 Sch.  
—cont.  
39 & 40 Vict.  
c. 36.

3. If anything prohibited to be exported by any provision of the said Part IV is exported in contravention thereof, or is brought to a quay or other place, or water-borne, for the purpose of being so exported, the exporter or his agent shall be liable to the same penalty as that to which a person is liable for an offence to which section one hundred and eighty-six of the Customs Consolidation Act, 1876, (which relates among other things to illegally importing prohibited goods) applies.

4. Without prejudice to any of the preceding provisions of this Part of this Schedule, any person who, on any occasion, is about to leave the United Kingdom or arrives in the United Kingdom (which person is hereafter in this paragraph referred to as "the traveller") shall, if on that occasion he is required so to do by an officer of Customs or an immigration officer—

- (a) declare whether or not he has with him anything prohibited to be imported or exported by any of the provisions of the said Part IV except with the permission of the Treasury; and
- (b) produce any such thing as aforesaid which he has with him,

and the officer may examine or search any article which the traveller has with him for the purpose of ascertaining whether he is conveying or has in his possession any such thing, and, if the officer has reasonable grounds for suspecting that the traveller has about his person any such thing, search him, and may seize anything produced as aforesaid or found upon such examination or search as aforesaid as to which the officer has reasonable ground for suspecting that it is prohibited to be imported or exported by any of the provisions of the said Part IV except with permission of the Treasury:

Provided that no female shall be searched in pursuance of this paragraph except by a female.

5. Sub-paragraph (2) of paragraph 1 of Part II of this Schedule shall apply also to offences punishable by virtue of this Part of this Schedule.

---

## SIXTH SCHEDULE.

Section 36.

---

### ORDERS NOT REQUIRED TO BE LAID BEFORE PARLIAMENT.

1. Any order excepting securities from the provisions of this Act relating to the deposit of certificates of title.

2. Any order prescribing documents for the purpose of the provisions of this Act applying Part III thereof in relation to secondary securities.

6TH SCH.  
--cont.

3. Any order specifying persons who are to be authorised dealers or authorised depositaries.
4. Any order prescribing the declarations or evidence to be delivered or produced under this Act.
5. Any order revoking or varying any provision made by a previous order for any of the purposes referred to in this Schedule.
6. Any order making transitional provisions consequent on the exercise of the power to make orders for any of the purposes referred to in this Schedule.

---

## CHAPTER 15.

### *Agricultural Wages (Regulation) Act, 1947.*

#### ARRANGEMENT OF SECTIONS.

##### Section.

1. Transfer to Agricultural Wages Board of power to fix, cancel or vary minimum rates of agricultural wages.
2. Benefits and advantages to be reckoned as payment of wages, and employment to be treated as overtime employment.
3. Provisions as to learners.
4. Minimum time rates of wages for agricultural workers employed on piece work.
5. Revocation and variation of permits under s. 2 (3) of principal Act.
6. Exercise of functions of Agricultural Wages Board and agricultural wages committees.
7. Removal of restrictions on granting holidays with pay.
8. Extension of definition of "agriculture".
9. Expenses.
10. Application to Scotland.
11. Scottish Agricultural Wages Board and Wages Committees.
12. Short title, construction, citation, repeal and savings.

##### SCHEDULES :

First Schedule.—Orders of Agricultural Wages Board.

Second Schedule.—

Part I.—Provisions of s. 7 of principal Act applied for purposes of s. 3 of this Act.

Part II.—Provisions of s. 7 of the Agricultural Wages (Regulation) (Scotland) Act, 1937, applied for purposes of s. 3 of this Act.

Third Schedule.—Enactments repealed.

---



An Act to transfer functions of agricultural wages committees to the Agricultural Wages Board and to the Scottish Agricultural Wages Board ; to make further provision as to the fixing, cancelling and varying of minimum rates of agricultural wages, as to learners employed in agriculture, and as to agricultural workers disabled from earning the minimum rate of wages ; to remove restrictions on the holidays which may be granted to agricultural workers under the Holidays with Pay Act, 1938 ; to extend the definition of " agriculture " in the enactments relating to the regulation of agricultural wages ; and for purposes connected with the matters aforesaid. [11th March 1947.]

**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 powers conferred by section two of the Agricultural Wages (Regulation) Act, 1924 (hereinafter referred to as " the principal Act ") to fix, cancel or vary minimum rates of wages for workers employed in agriculture shall, in lieu of being exercised by the agricultural wages committee for each county for which such a committee is established under the principal Act, be exercised for each such county by the Agricultural Wages Board so established. Transfer to Agricultural Wages Board of power to fix, cancel or vary minimum rates of agricultural wages.
- (2) In fixing, cancelling or varying any minimum rate the Agricultural Wages Board shall not be limited to the consideration of any particular matters, and accordingly subsection (4) of the said section two (which prescribes certain considerations to which an agricultural wages committee is to have regard in fixing minimum rates) shall cease to have effect. 14 & 15 Geo. 5. c. 37.
- (3) Nothing in the principal Act or this Act shall be construed as preventing the Agricultural Wages 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.
- (4) The powers conferred on the Agricultural Wages Board by this section shall be exercised by order made in accordance with the provisions of the First Schedule to this Act.
- (5) In accordance with the foregoing provisions of this section—
- (a) for references in subsections (1), (2) and (5) of section two of the principal Act and in the Holidays with Pay Act, 1938, to agricultural wages committees and to such a committee and to the county for which such a 1 & 2 Geo. 6. c. 70.

committee act there shall be substituted references to the Agricultural Wages Board and to the county to which the minimum rate in question relates, respectively ; and

- (b) in paragraph (b) of subsection (1) of section three of the Holidays with Pay Act, 1938 (which provides for applying the procedure under the principal Act to the giving, cancelling, varying or amending of directions under the said Act of 1938), for the reference to the principal Act there shall be substituted a reference to the First Schedule to this Act and in subsection (2) of the said section three (which provides for applying provisions of the principal Act for the purposes of the said Act of 1938) the references to provisions of the principal Act shall be construed as including references to the provisions of this Act.

3 & 4 Geo. 6.  
c. 17.

(6) The Agricultural Wages (Regulation) Amendment Act, 1940 (which provides for a national minimum wage) and Regulation twenty-three of the Defence (Agriculture and Fisheries) Regulations, 1939 (which makes temporary provision for the transfer of functions from agricultural wages committees to the Agricultural Wages Board) shall cease to have effect.

Benefits and advantages to be reckoned as payment of wages, and employment to be treated as overtime employment.

2.—(1) The Agricultural Wages Board shall have power, for each county for which an agricultural wages committee is established under the principal Act, by order made in accordance with the provisions of the First Schedule to this Act—

- (a) to define the benefits or advantages (not being benefits or advantages prohibited by law) which for the purposes of any minimum rate of wages fixed under the principal 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 ;
- (d) to define, for the purposes of any differential rate of wages for overtime fixed under the principal Act, the employment which is to be treated as overtime employment.

(2) If an agricultural wages committee are satisfied, on an application in that behalf made by a worker employed in agriculture in their county or by his employer, that the value determined by an order or direction under this section for any 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 Agricultural Wages Board by order made in accordance with the provisions of the First Schedule to this Act, direct that the value of the house or part of a house is to be reckoned for the purposes of any minimum rate of wages fixed under the principal Act at such different amount as may be specified in the direction.

(3) Paragraphs (a) to (d) of subsection (1) of section eight of the principal Act (which authorise the making of regulations conferring functions corresponding with the functions conferred by this section on the Agricultural Wages Board) shall cease to have effect.

3.—(1) Where a minimum rate of wages has been fixed under the principal Act for any 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 county in which the worker is employed that they approve the terms of his employment. Provisions as to learners.

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 any 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 any condition imposed under the last foregoing subsection.

(4) Before revoking any certificate or varying any 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.

Any 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 any county for which an agricultural wages committee is established under the principal Act to receive directly or indirectly from the worker, or on his behalf or on his account, any 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 any payment received in contravention of this subsection shall be recoverable by the person by whom the payment was made.

(6) If any employer acts in contravention of the last foregoing 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 foregoing subsection.

(7) The provisions of subsections (5) to (7) of section seven of the principal Act relating to the punishment of offences in respect of the payment of wages at less than the minimum rate applicable and to the recovery of sums due on account of such payment shall, as set out with the necessary modifications in Part I of the Second Schedule to this Act, apply for the purposes of the two last foregoing subsections.

(8) Nothing in the provisions of the two last foregoing subsections or the Second Schedule to this Act shall be taken to exclude the bringing otherwise than in accordance with those provisions of proceedings for the recovery of an amount due under subsection (5) of this section.

(9) The Agricultural Wages Board may by order made in accordance with the provisions of the First 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.

Minimum  
time rates of  
wages for  
agricultural  
workers  
employed on  
piece work.

4.—(1) The power conferred by subsection (1) of section two of the principal Act to fix minimum rates of wages for workers employed in agriculture for piece work shall include power to fix minimum time rates to apply in the case of workers employed on piece work for the purpose of securing to such workers a minimum rate of remuneration on a time work basis :

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 the principal Act.

(2) Any minimum time rate for piece work may (without prejudice to the powers of fixing special rates conferred by subsection (2) of the said section two of the said Act) 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 the said Act.

(3) In subsection (3) of section two of the principal Act (which empowers an agricultural wages committee to fix an individual rate of wages lower than the minimum for a worker employed on time work who is affected by injury or other infirmity), after the words "employed on time work to which a minimum rate fixed under this Act is applicable" there shall be inserted the words "or on piece work to which a minimum time rate so fixed is applicable."

(4) Section four of the principal Act (which empowers an agricultural wages committee to require the payment of extra wages to a worker who is employed on piece work for which no minimum piece rate has been fixed and who complains that his wages are too little by comparison with the minimum rate for time work) shall not apply in the case of a worker employed on piece work for which a minimum time rate has been fixed under this section.

5.—(1) Where an agricultural wages committee have granted a permit under subsection (3) of section two of the principal Act (which empowers such a committee to grant to workers suffering from incapacity permits exempting their employment from the provisions of the principal Act requiring wages to be paid at not less than the minimum rate), 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 (3) as to be incapable of earning the minimum rate in question, the committee shall revoke the permit.

Revocation  
and variation  
of permits  
under s. 2 (3)  
of principal  
Act.

(2) 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.

(3) Before revoking any permit or varying any condition under the foregoing provisions of this section, an agricultural wages committee shall serve 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, 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. Any notice under this subsection shall be duly served on a person if sent to him by post in a registered letter.

Exercise of functions of Agricultural Wages Board and agricultural wages committees.

6.—(1) In the exercise of their functions under the principal Act and this Act in relation to any county, the Agricultural Wages Board shall, without prejudice to any other provision of this Act, have regard to representations made to them by the agricultural wages committee for the county.

(2) The functions of agricultural wages committees under the principal Act and this Act shall, subject to the provisions of the principal Act and of this Act and any order made thereunder, be exercised in accordance with any directions in that behalf given by the Agricultural Wages Board.

Removal of restrictions on granting holidays with pay.

7. The proviso to subsection (2) of section one of the Holidays with Pay Act, 1938 (which prevents the granting under that Act of holidays for agricultural workers of more than a week a year or more than three consecutive days) shall cease to have effect.

Extension of definition of "agriculture."

8.—(1) The expression "agriculture," in the principal Act and in this Act, shall include 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.

(2) In this section the expression "consumable produce" means produce grown for consumption or for other use after severance from the land on which it is grown.

Expenses.

9.—(1) So much of section eleven of the principal Act as limits the expenses to be defrayed under that section out of moneys provided by Parliament to the amount of seventy thousand pounds in any one year shall cease to have effect.

(2) The Minister may pay to persons attending as parties or witnesses before agricultural wages committees and sub-committees 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.

(3) Any increase attributable to the provisions of this Act in the sums payable out of moneys provided by Parliament under the said section eleven shall be defrayed out of moneys so provided.

**10.** This Act shall apply to Scotland subject to the following modifications :— Application to  
Scotland.

- (a) for references (except in subsection (2) of section twelve or in the Third Schedule) to the Agricultural Wages (Regulation) Act, 1924 and to the following provisions of that Act, that is to say section two, subsections (1) (2) (3) (4) and (5) of that section, section four, section seven, subsections (5) to (7) of that section and section eleven, there shall be respectively substituted references to the Agricultural Wages (Regulation) (Scotland) Act, 1937 and to the following provisions of that Act, that is to say section two, subsections (1) (2) (6) (7) and (8) of that section, section four, section seven, subsections (5) to (7) of that section and section eleven ; 1 Edw. 8 and  
1 Geo. 6. c. 53.
- (b) for references to the Minister and to the Agricultural Wages Board there shall be substituted references respectively to the Secretary of State and to the Scottish Agricultural Wages Board, and for the expression " county " there shall be substituted the expression " district " ;
- (c) for subsection (6) of section one there shall be substituted the following subsection :—  
 “ (6) Regulation twenty-five of the Defence (Agriculture and Fisheries) Regulations 1939 (which makes temporary provision for the transfer of functions from agricultural wages committees to the Scottish Agricultural Wages Board) shall cease to have effect.” ;
- (d) in subsection (7) of section three for the reference to Part I of the Second Schedule there shall be substituted a reference to Part II of the Second Schedule ;
- (e) subsection (3) of section two and subsection (1) of section nine shall not apply.

**11.—(1)** The number of appointed members of the Scottish Agricultural Wages Board shall be five, and paragraph 7 of the Schedule to the Agricultural Wages (Regulation) (Scotland) Act, 1937 shall have effect accordingly. Scottish  
Agricultural  
Wages Board  
and Wages  
Committees.

(2) The power of appointing the chairman or the vice-chairman of a committee shall be vested in the representative members thereof, and paragraph 3 of the aforesaid Schedule shall have effect accordingly.

Short title,  
construction,  
citation,  
repeal and  
savings.

12.—(1) This Act may be cited as the Agricultural Wages (Regulation) Act, 1947.

(2) This Act, except in its application to Scotland, shall be construed as one with the principal Act, and the principal Act, and this Act except as aforesaid may be cited together as the Agricultural Wages (Regulation) Acts, 1924 to 1947.

(3) This Act in its application to Scotland shall be construed as one with the Agricultural Wages (Regulation) (Scotland) Act, 1937, and that Act and this Act as it applies to Scotland may be cited together as the Agricultural Wages (Regulation) (Scotland) Acts, 1937 to 1947.

(4) References in this Act to the principal Act shall, except where the context otherwise requires, be construed as references to that Act as amended by any other enactment, including this Act.

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

(6) Any minimum rate of wages under the principal Act in force immediately before the commencement of this Act, any direction under the Holidays with Pay Act, 1938, in force as aforesaid, and any order under the principal Act making any such definition, determination, limitation or prohibition as could be made by order of the Agricultural Wages Board under subsection (1) of section two of this Act, shall continue in force notwithstanding the repeals effected by this Act, and may be cancelled, varied or revoked as if made in accordance therewith.

Sections 1, 2, 3

---

## SCHEDULES.

---

### FIRST SCHEDULE.

---

#### ORDERS OF AGRICULTURAL WAGES BOARD.

1. Where the Agricultural Wages 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 county 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 :

1ST SCH.  
—cont.

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 county to which the order relates.

5. An order of the Board under any provision of this Act may apply either universally to all workers employed in agriculture in the county to which the order relates or to any special class of workers so employed, or to any special area in that county or to any special class in such a special area, subject in each case to any exceptions prescribed by the order ; and an order of the Board fixing or varying a minimum rate of wages as mentioned in subsection (3) of section one of this Act 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 the principal Act and of this Act as to the cancellation and variation of minimum rates of wages, 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.

---

## SECOND SCHEDULE.

Sections 3, 10.

### PART I.

#### PROVISIONS OF S. 7 OF PRINCIPAL ACT APPLIED FOR PURPOSES OF S. 3 OF THIS ACT.

1. Where an offence for which under subsection (6) of section three of this Act an employer is 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

2ND SCH.  
—cont.

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.

2. Where an employer is charged with an offence punishable under the said subsection (6) and proves to the satisfaction of the court that he has used due diligence to secure compliance with the provisions of this Act regulating the receipt of payments by way of premium, 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.

3.—(1) Where it appears to any officer appointed by the Minister under the principal Act that a sum is due from an employer on account of the receipt of a payment by way of premium in contravention of subsection (5) of section three of this Act, the officer (if he is authorised in that behalf by special or general directions of the Minister) may institute, on behalf of or in the name of the worker, civil proceedings before any court of competent jurisdiction for the recovery of the said sum.

(2) In any such civil proceedings instituted by the officer the court shall, if the officer is not a party to the proceedings, have the same power to make an order for the payment of costs by the officer as if he were a party to the proceedings.

## PART II.

### PROVISIONS OF S. 7 OF THE AGRICULTURAL WAGES (REGULATION) (SCOTLAND) ACT, 1937 APPLIED FOR PURPOSES OF S. 3 OF THIS ACT.

1. Where an offence for which an employer is liable under subsection (6) of section three of this Act 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 the employer, or before or after the employer is proceeded against, and shall be liable on conviction to the same punishment as that to which the employer is liable.

2. It shall be a defence for an employer who is charged with an offence under the said subsection (6) to prove that he has used due diligence to secure compliance with the provisions of this Act regulating the receipt of payments by way of premium, and that the offence was in fact committed by his agent or some other person without his knowledge, consent or connivance.

3.—(1) Where it appears to the Secretary of State that a sum is due from an employer on account of the receipt of a payment by way of premium in contravention of subsection (5) of section three of this Act, the Secretary of State may institute, on behalf of or in the name of the worker, civil proceedings before any court of competent jurisdiction for the recovery of the said sum.

(2) In any such civil proceedings instituted by the Secretary of State, the court shall 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.

## THIRD SCHEDULE.

Section 12.

## ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
14 & 15 Geo. 5. c. 37.	The Agricultural Wages (Regulation) Act, 1924.	In section two, in subsection (2) the words from "so as to apply" to "and" and subsections (4) and (6); section three; section five; section six; in section eight, in subsection (1), paragraphs (a) to (d) and (f); in section eleven, the words from "but" to "year"; in the First Schedule, in paragraph 6, the words from "other" to "wages."
1 Edw. 8. & 1 Geo. 6. c. 53.	The Agricultural Wages (Regulation) (Scotland) Act, 1937.	In section two, in subsection (2) the words from "so as to apply" to "and" and subsections (3) to (5) and (7) and (9); section three; section five; in section eight, in subsection (1) paragraphs (a) and (c); in the Schedule, in paragraph 6, the words from "other" to "wages".
1 & 2 Geo. 6. c. 70.	The Holidays with Pay Act, 1938.	In section one, in subsection (2), the proviso, so far as still in force.
3 & 4 Geo. 6. c. 17.	The Agricultural Wages (Regulation) Amend- ment Act, 1940.	The whole Act.
3 & 4 Geo. 6. c. 27.	The Agricultural Wages (Regulation) (Scotland) Act, 1940.	The whole Act.
7 & 8 Geo. 6. c. 28.	The Agriculture (Miscel- laneous Provisions) Act, 1944.	Section three; in section eight, paragraph (c).

## CHAPTER 16.

An Act to amend the Summer Time Acts, 1922 and 1925.  
[11th March 1947.]

**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 :—

Summer time  
and double  
summer time  
for 1947  
and  
subsequent  
years.

1.—(1) In relation to the year nineteen hundred and forty-seven, the Summer Time Acts, 1922 and 1925, shall have effect subject to the following modifications :—

- (a) the period of summer time for the purposes of those Acts shall begin on the sixteenth day of March instead of the twentieth day of April, and shall end on the second day of November instead of the fifth day of October ; and
- (b) during the period beginning at one o'clock, Greenwich mean time, in the morning of the thirteenth day of April and ending at one o'clock Greenwich mean time, in the morning of the tenth day of August, the time for general purposes of Great Britain shall be two hours instead of one hour in advance of Greenwich mean time.

(2) In relation to any year after the year nineteen hundred and forty-seven His Majesty may by Order in Council direct—

- (a) that the period of summer time for the purposes of the Summer Time Acts, 1922 and 1925, shall be such period as may be specified in the Order instead of the period prescribed by those Acts ;
- (b) that the time for general purposes in Great Britain shall, during any part of the period of summer time, be two hours instead of one hour in advance of Greenwich mean time,

and the said Acts shall have effect subject to the provisions of any such Order in Council.

(3) Nothing in this section or in any Order in Council made thereunder shall affect the meaning of " the period of summer time " in subsection (4) of section one of the Road Transport Lighting Act, 1927 (which defines the hours of darkness for the purposes of that section).

17 & 18 Geo. 5.  
c. 37.

Provisions as  
to Orders in  
Council  
under s. 1.

2.—(1) Any power to make an Order in Council conferred by this Act shall include power to revoke or vary any such Order by a subsequent Order in Council.

(2) No Order in Council shall be made under this Act unless, after copies of the draft thereof have been laid before Parliament, each House presents an Address to His Majesty praying that the Order be made.

3.—(1) This Act shall, in its application to Northern Ireland, have effect as if for the references to section one of the Road Transport Lighting Act, 1927, and to subsection (4) of that section, there were substituted references to section thirty of the Motor Vehicles and Road Traffic Act (Northern Ireland), 1934, and to subsection (4) of that section; and for the purposes of section six of the Government of Ireland Act, 1920, this Act in its application to Northern Ireland shall be deemed to be an Act passed before the appointed day.

Application  
to Northern  
Ireland,  
Channel  
Islands and  
Isle of Man.

10 & 11 Geo. 5.  
c. 67.

(2) This Act shall apply to the Channel Islands and the Isle of Man in like manner as it applies to Great Britain :

Provided that any Order in Council made under subsection (2) of section one of this Act may make different provision with respect to Great Britain and with respect to the said islands or any of them.

4. This Act may be cited as the Summer Time Act, 1947, and this Act shall be construed as one with the Summer Time Acts, 1922 and 1925; and those Acts and this Act may be cited together as the Summer Time Acts, 1922 to 1947.

Citation and  
construction.

---

## CHAPTER 17.

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-six, one thousand nine hundred and forty-seven and one thousand nine hundred and forty-eight.

[27th March 1947.]

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 :—

Issue of  
£212,402,991 3s.  
out of the Con-  
solidated Fund  
for the service of  
the years ending  
31st March, 1946  
and 1947.

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-six and one thousand nine hundred and forty-seven, the sum of two hundred and twelve million, four hundred and two thousand, nine hundred and ninety-one pounds three shillings.

Issue of  
£11,253,662,000  
out of the Con-  
solidated Fund  
for the service  
of the year ending  
31st March, 1948.

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 forty-eight, the sum of one thousand two hundred and fifty-three million, six hundred and sixty-two thousand pounds.

Power for  
the Treasury  
to borrow.

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 four hundred and sixty-six million, sixty-four thousand, nine hundred and ninety-one pounds three shillings.

40 & 41 Vict.  
c. 2.

(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 forty-eight, and section six of the Treasury Bills Act, 1877 (which relates to the renewal of bills) shall not apply with respect to those bills.

(3) Any money borrowed otherwise than on Treasury Bills shall be repaid, with interest not exceeding three pounds per centum 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.

Short title.

4. This Act may be cited as the Consolidated Fund (No. 1) Act, 1947.

## CHAPTER 18.

*Air Navigation Act, 1947.*

## ARRANGEMENT OF SECTIONS.

## Section.

1. Power to give effect to Chicago Convention and regulate air navigation.
  2. Nuisance caused by aircraft on aerodromes.
  3. Exemption of aircraft and parts thereof from seizure on patent claims.
  4. Extra-territorial operation of laws of Newfoundland and Southern Rhodesia.
  5. Financial provisions.
  6. Construction of existing Acts and this Act.
  7. Commencement, and interim and transitional provisions.
  8. Short title, citation, extent and repeal.
- Schedule.—Enactments Repealed.

An Act to provide for giving effect to a Convention on International Civil Aviation signed at Chicago on the seventh day of December, nineteen hundred and forty-four, and to make further provision for the regulation of air navigation; to provide for giving effect to certain provisions of an Interim Agreement on International Civil Aviation so signed; and for purposes connected with the matters aforesaid.

[27th March 1947.]

**W**HEREAS a Convention (hereinafter referred to as "the Paris Convention") for determining by a common agreement certain uniform rules with respect to international air navigation was signed on behalf of His Majesty in Paris on the thirteenth day of October, nineteen hundred and nineteen, and by the Air Navigation Act, 1920, provision was made for enabling His Majesty to give effect to the Paris Convention and for the general control and regulation of air navigation :

And whereas on the seventh day of December, nineteen hundred and forty-four, at the International Civil Aviation Conference held at Chicago, there were signed on behalf of the Government of the United Kingdom a Convention on International Civil Aviation (hereinafter referred to as "the Chicago Convention") intended to supersede the Paris Convention, and an Interim Agreement on International Civil Aviation (hereinafter referred to as "the Interim Agreement") to have effect until the coming into force of the Chicago Convention :

And whereas a copy of the final Act of the said Conference including (amongst other things) the texts of the Chicago Convention and the Interim Agreement was, on the fourth day of April, nineteen hundred and forty-five, presented to Parliament by command of His Majesty :

And whereas it is expedient to provide for giving effect to the Chicago Convention, and to section three of Article XIII of the Interim Agreement (which relates to the application of aviation practices), and to make further provision for the regulation of air navigation :

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 to  
give effect  
to Chicago  
Convention  
and regulate  
air navigation.

1.—(1) His Majesty may by Order in Council make such provision as appears to Him to be requisite or expedient—

(a) for carrying out the Chicago Convention, any Annex thereto relating to international standards and recommended practices (being an Annex adopted in accordance with the Convention) and any amendment of the Convention or any such Annex made in accordance with the Convention ; or

(b) generally for regulating air navigation.

(2) Without prejudice to the generality of the powers conferred by the preceding subsection and without prejudice to any of the provisions of the Air Navigation Acts, 1920 and 1936, His Majesty may by Order in Council make provision—

(a) as to the registration of aircraft in the United Kingdom ;

(b) for prohibiting aircraft from flying unless certificates of airworthiness issued or validated under the Order are in force with respect to them and except upon compliance with such conditions as to maintenance or repair as may be specified in the Order ;

(c) for the licensing, inspection and regulation of aerodromes, for access to aerodromes and places where aircraft have landed, for access to aircraft factories for the purpose of inspecting work therein carried on in relation to aircraft or parts thereof and for prohibiting or regulating the use of unlicensed aerodromes ;

(d) for prohibiting persons from engaging in, or being employed in or (except in the maintenance at unlicensed aerodromes of aircraft not used for or in connection with commercial, industrial or other gainful purposes) in connection with, air navigation in such capacities as may be specified in the Order except in accordance with provisions in that behalf contained in the Order, and for the licensing of those employed at aerodromes licensed under the Order in the inspection or supervision of aircraft ;

(e) as to the conditions under which, and in particular the aerodromes to or from which, aircraft entering or leaving the United Kingdom may fly, and as to the conditions



under which aircraft may fly from one part of the United Kingdom to another ;

- (f) as to the conditions under which passengers and goods may be carried by air and under which aircraft may be used for other commercial, industrial or gainful purposes and for prohibiting the carriage by air of goods of such classes as may be specified in the Order ;
- (g) for minimizing or preventing interference with the use or effectiveness of apparatus used in connection with air navigation, and for prohibiting or regulating the use of such apparatus as aforesaid and the display of signs and lights liable to endanger aircraft ;
- (h) generally for securing the safety, efficiency and regularity of air navigation and the safety of aircraft and of persons and property carried therein, for preventing aircraft endangering other persons and property and, in particular, for the detention of aircraft for any of the purposes specified in this paragraph ;
- (i) for requiring persons engaged in, or employed in or in connection with, air navigation to supply meteorological information for the purposes of air navigation ;
- (j) for regulating the making of signals and other communications by or to aircraft and persons carried therein ;
- (k) for regulating the use of the civil air ensign and any other ensign established by His Majesty in Council for purposes connected with air navigation ;
- (l) for prohibiting aircraft from flying over such areas in the United Kingdom as may be specified in the Order ;
- (m) for applying, adapting or modifying the enactments relating to customs in relation to aerodromes and to aircraft and to persons and property carried therein and for preventing smuggling by air, and for permitting in connection with air navigation, subject to such conditions as appear to His Majesty in Council to be requisite or expedient for the protection of the revenue, the importation of goods into the United Kingdom without payment of duty ;
- (n) as to the manner and conditions of the issue, validation, renewal, extension or variation of any certificate, licence or other document required by the Order (including the examinations and tests to be undergone), and as to the form, custody, production, cancellation, suspension, endorsement and surrender of any such document ;
- (o) for regulating the charges that may be made for the use of aerodromes licensed under the Order and for services provided at such aerodromes ;

- (p) for prescribing, subject to the consent of the Treasury, the fees to be paid in respect of the issue, validation, renewal, extension or variation of any certificate, licence or other document or the undergoing of any examination or test required by the Order and in respect of any other matters in respect of which it appears to His Majesty in Council to be expedient for the purpose of the Order to charge fees ;
- (q) for exempting from the provisions of the Order or any of them any aircraft or persons or classes of aircraft or persons.

(3) An Order in Council under this section may make different provision with respect to different classes of aircraft, aerodromes, persons or property and with respect to different circumstances and with respect to different parts of the United Kingdom but shall, so far as practicable, be so framed as not to discriminate in like circumstances between aircraft registered in the United Kingdom operated on charter terms by one air transport undertaking and such aircraft so operated by another such undertaking.

(4) An Order in Council under this section may, for the purpose of securing compliance with the provisions thereof, provide for the imposition of penalties not exceeding a fine of two hundred pounds and imprisonment for a term of six months, and, in the case of any provision having effect by virtue of paragraph (l) of subsection (2) of this section, may also for that purpose provide for the taking of such steps (including firing on aircraft) as may be specified in the Order.

(5) This section shall have effect in lieu of sections one, two and three of the Air Navigation Act, 1920, and accordingly for subsection (2) of section seven of that Act (which provides by reference to section three thereof for the enforcement of orders under the said section seven) there shall be substituted the following subsection :—

“(2) An order under this section may make, for the purposes of the order, such provision as an Order in Council under section one of the Air Navigation Act, 1947, may make for the purpose of securing compliance with provisions thereof having effect by virtue of paragraph (l) of subsection (2) of that section.”

Nuisance  
caused by  
aircraft on  
aerodromes.

2.—(1) An Order in Council under section one of this Act may provide for regulating the conditions under which noise and vibration may be caused by aircraft on aerodromes and may provide that subsection (2) of this section shall apply to any aerodrome as respects which provision as to noise and vibration caused by aircraft is so made.

(2) No action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft on an aerodrome

to which this subsection applies by virtue of an Order in Council under section one of this Act, so long as the provisions of any such Order in Council are duly complied with.

3.—(1) Any lawful entry into the United Kingdom or any lawful transit across the United Kingdom, with or without landings, of an aircraft to which this section applies shall not entail any seizure or detention of the aircraft or any proceedings being brought against the owner or operator thereof or any other interference therewith by or on behalf of any person in the United Kingdom, on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is or are an infringement of any patent, design or model.

Exemption of aircraft and parts thereof from seizure on patent claims.

(2) The importation into, and storage in, the United Kingdom of spare parts and spare equipment for an aircraft to which this section applies and the use and installation thereof in the repair of such an aircraft shall not entail any seizure or detention of the aircraft or of the spare parts or spare equipment or any proceedings being brought against the owner or operator of the aircraft or the owner of the spare parts or spare equipment or any other interference with the aircraft by or on behalf of any person in the United Kingdom on the ground that the spare parts or spare equipment or their installation are or is an infringement of any patent, design or model :

Provided that this subsection shall not apply in relation to any spare parts or spare equipment which are sold or distributed in the United Kingdom or are exported from the United Kingdom for sale or distribution.

(3) This section applies to an aircraft, other than an aircraft used in military, customs or police services, registered in any country or territory in the case of which there is for the time being in force a declaration made by His Majesty by Order in Council, with a view to the fulfilment of the provisions of the Chicago Convention to which this section relates, that the benefits of those provisions apply to that country or territory, and to such other aircraft as His Majesty may by Order in Council specify.

(4) Section thirteen of the Air Navigation Act, 1920 (which provides that the passage of a foreign aircraft shall not be interfered with on the ground that it infringes a patent if the owner of the aircraft deposits or secures a sum in respect of the infringement) shall not apply to or in relation to an aircraft to which this section applies.

4. If and so far as the provisions of any law made by the legislature of Newfoundland or Southern Rhodesia for the purpose of giving effect to the Chicago Convention, any Annex thereto, or an amendment of the Convention or any Annex thereto, or for any other purposes similar to any of the purposes of the Air Navigation

Extra-territorial operation of laws of Newfoundland and Southern Rhodesia.

Acts, 1920 and 1936, or of this Act purport to have extra-territorial operation in relation to aircraft registered in Newfoundland or Southern Rhodesia, as the case may be, the said provisions shall be deemed to have such operation.

Financial  
provisions.

5.—(1) There shall be paid out of moneys provided by Parliament—

- (a) any sums payable by His Majesty's Government in the United Kingdom by way of contribution to the expenses of the International Civil Aviation Organization under the Chicago Convention ;
- (b) such expenses of any delegate, representative or nominee of His Majesty's Government in the United Kingdom appointed for any purposes connected with the Chicago Convention as may be approved by the Treasury ;
- (c) any expenses incurred by His Majesty's Government in the United Kingdom for the purposes of Chapter XV of the Chicago Convention (which relates to the provision of airports and other air navigation facilities) ; and
- (d) any other expenses incurred by a Government Department by reason of this Act.

(2) There shall be paid into the Exchequer—

- (a) all sums received by His Majesty's Government in the United Kingdom by way of repayment of expenses incurred for the purposes of the said Chapter XV ; and
- (b) all sums received by way of fees paid under an Order in Council under section one of this Act other than fees which, under an order made under section two of the Air Navigation Act, 1936 (which authorises the delegation of certain functions of the Minister of Civil Aviation to certain bodies) are paid to any of those bodies.

26 Geo. 5. &  
1 Edw 8. c. 44.

Construction  
of existing  
Acts and  
this Act.

6.—(1) The Air Navigation Acts, 1920 and 1936, and any other enactment that refers to the Air Navigation Act, 1920, shall, as from the coming into force of sections one, two and three of this Act, have effect as if those sections (except subsection (5) of the said section one) were included in the said Act of 1920 and, in the case of the said section one, were included in Part I thereof.

(2) Any 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 and any reference in the Air Navigation Acts, 1920 and 1936, or in this Act to the provisions of an Order in Council includes, and shall be deemed always to have included, a reference to the provisions of any regulations made, or directions given, under the Order in Council.

(3) In this Act, and (except where the context otherwise requires) in the Air Navigation Acts, 1920 and 1936, the expression " aerodrome " means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft.

7.—(1) Sections one, two and three of this Act shall come into force on such day as His Majesty by Order in Council certifies to be the day on which the Chicago Convention comes into force for the United Kingdom.

Commence-  
ment, and  
interim and  
transitional  
provisions

(2) Until the coming into force of the said sections of this Act, the powers conferred by sections one to three of the Air Navigation Act, 1920, on His Majesty in Council shall include power to make by Order in Council such provision as appears to His Majesty in Council to be requisite or expedient for giving effect to section three of Article XIII of the Interim Agreement.

(3) The coming into force of the said sections of this Act shall not affect any Order in Council made in pursuance of Part I of the Air Navigation Act, 1920, before the coming into force of the said sections and whether before or after the commencement of the Air Navigation Act, 1936, or any regulations or directions made or issued before the coming into force of the said sections under such an Order, but any such Order, regulations or directions shall, if and so far as in force immediately before the coming into force of the said sections, continue in force, subject, however, to any Order in Council, regulations or direction made after the coming into force of the said sections.

(4) The power to make Orders in Council conferred by section one of this Act shall include power to make provision for applying any Order so made to or in relation to any certificate, licence or other document issued or validated under an Order in Council made before the coming into force of that section under Part I of the Air Navigation Act, 1920, as it applies to a certificate, licence or other document issued under the Order made under the said section one.

8.—(1) This Act may be cited as the Air Navigation Act, 1947, and the Air Navigation Acts, 1920 to 1938, and this Act may be cited together as the Air Navigation Acts, 1920 to 1947.

Short title,  
citation,  
extent and  
repeal.

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

(3) The enactments set out in the Schedule to this Act are hereby repealed, as from the coming into force of sections one, two and three of this Act, to the extent specified in the third column of that Schedule.

## Section 8.

## SCHEDULE.

## ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
10 & 11 Geo. 5. c. 80.	The Air Navigation Act, 1920.	Sections one, two and three.
26 Geo. 5. & 1 Edw. 8. c. 44.	The Air Navigation Act, 1936.	In section five, subsection (4), in section six, the words from "and, in the case of an Order" to "unfit to fly", and in the Fifth Schedule, the provisions amending sections one, two and three of the Air Navigation Act, 1920, and, in the provision amending section seven of that Act, the words from "for subsection (2)" to "section three of this Act".

## CHAPTER 19.

*Polish Resettlement Act, 1947.*

## ARRANGEMENT OF SECTIONS.

## Section.

1. Power to apply Royal Warrant as to pensions, etc., to certain Polish forces.
2. Allowances from the Assistance Board.
3. Provision by the Assistance Board of accommodation in camps.
4. Provision by the Minister of Health of health services.
5. Temporary registration of medical practitioners and of pharmacists.
6. Provision by the Minister of Education of educational services.
7. Arrangements by the Minister of Labour and National Service for emigration.
8. Provisions as to service in the forces.
9. Provisions as to discipline and internal administration of certain Polish forces.
10. Interpretation.
11. Application to Scotland.
12. Application to Northern Ireland.
13. Short title.

SCHEDULE.—Subsidiary provisions as to allowances from the Assistance Board, and as to charges for accommodation, etc., provided by them.

An Act to provide for the application of the Royal Warrant as to pensions, etc., for the military forces to certain Polish forces, to enable the Assistance Board to meet the needs of, and to provide accommodation in camps or other establishments for, certain Poles and others associated with Polish forces, to provide for their requirements as respects health and educational services, to provide for making arrangements and meeting expenses in connection with their emigration, to modify as respects the Polish resettlement forces and past members of certain Polish forces provisions relating to the service of aliens in the forces of the Crown, to provide for the discipline and internal administration of certain Polish forces and to affirm the operation up to the passing of this Act of provision previously made therefor, and for purposes connected therewith and consequential thereon. [27th March 1947.]

**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 Minister of Pensions may, with the consent of the Treasury, make a scheme for applying, in relation to the disablement or death, in consequence of service under British command, of members of—

Power to apply Royal Warrant as to pensions etc. to certain Polish forces.

(a) the Polish naval detachment mentioned in the agreement made between His Majesty's Government in the United Kingdom and the Government of Poland on the eighteenth day of November, nineteen hundred and thirty-nine,

(b) the Polish armed forces organised and employed under British command in pursuance of the agreement made as aforesaid on the fifth day of August, nineteen hundred and forty,

(c) the Polish resettlement forces,

provisions of His Majesty's Royal Warrant of the twelfth day of April, nineteen hundred and forty-six, concerning retired pay, pensions and other grants for members of the military forces and of the nursing and auxiliary services thereof disabled, and for the widows, children, parents and other dependants of such members deceased, in consequence of service during the 1939 world war

Provided that payments under a scheme made under this section shall be limited to such as fall due for payment before the expiration of five years from the passing of this Act, or such

extended period, if any, as the Minister of Pensions, with the consent of the Treasury, may from time to time by order specify (but without prejudice to any provision which may be made by the scheme for the drawing thereafter of any such payments not drawn during that period, or the completion thereafter of pending proceedings on a claim which will, if successful, confer a title to payments which would have fallen due during that period had the claim been then accepted), and any such order may provide that the extension shall apply only to cases of any class or classes therein specified.

(2) The scheme may also include provision, as regards cases in which periodical payments in respect of the disablement or death of members of Polish forces not falling within paragraph (a), (b) or (c) of the preceding subsection are being made out of moneys provided by Parliament at the date of the coming into operation of that provision, for the continuance of any of those payments during a period not longer than one year from that date.

(3) Provisions of the said Royal Warrant applied by the scheme may be applied with modifications, or subject to conditions, limitations or exceptions, and the scheme shall contain provision for securing that no payment shall be made thereunder to or in respect of any person as to whom the Minister of Pensions is satisfied that he is resident in Poland.

(4) The scheme, or any substituted scheme made under this subsection, may be amended by an order made by the Minister of Pensions with the consent of the Treasury, and, if it appears to him to be expedient, having regard to amendments made or to be made in any such scheme, that a new scheme should be substituted therefor, he may, with the consent of the Treasury, make a substituted scheme and thereby revoke the former scheme.

(5) The scheme, or any substituted scheme or order made under the last preceding subsection, may provide that it shall come into operation, or shall be deemed to have come into operation, on such date as may be specified therein, whether before or after the passing of this Act, and different dates may be specified as respects different purposes or different provisions of the scheme or order.

56 & 57 Vict.  
c. 66. (6) A scheme or order made under this section shall, for the purpose of section three of the Rules Publication Act, 1893 (which relates to the printing of statutory rules), be deemed to be statutory rules within the meaning of that Act.

(7) Payments under a scheme made under this section shall be made out of moneys provided by Parliament.



2.—(1) An allowance may be granted by the Assistance Board (in this and the next succeeding section referred to as "the Board") to a person in the United Kingdom of any of the categories specified in subsection (2) of this section, being a person who has attained the age of sixteen years, if he proves in accordance with rules made under the Unemployment Assistance Act, 1934,—

Allowances  
from the  
Assistance  
Board.

24 & 25 Geo. 5.  
c. 29.

- (a) that he is in need of an allowance ;
- (b) that he has no work, or only such part-time or intermittent work as not to enable him to earn sufficient for his needs ; and
- (c) that he is, if required by the Board so to be, registered for employment in the prescribed manner ;

and if he has made application for an allowance in the prescribed manner.

(2) The said categories are—

- (a) Poles whose registration under the Aliens Order, 1920, took place on or after the first day of September, nineteen hundred and thirty-nine, and who have been permitted to enter, or to remain in, the United Kingdom in view of circumstances attributable to war, as to which, in case of doubt, a certificate of the Secretary of State shall be conclusive ;
- (b) former members of any of the forces mentioned in subsection (1) of section one of this Act (including the naval detachment therein mentioned), and members of any of those forces relegated from service therewith ;
- (c) wives of men of categories (a) and (b), and any woman who, having been the wife of a man of either of those categories, has ceased so to be, and has not re-married ;
- (d) persons who have been permitted to enter the United Kingdom on or after the first day of September, nineteen hundred and thirty-nine, as being followers of a body of Polish forces entering the United Kingdom and dependent thereon or on members thereof, as to which, in case of doubt, a certificate of the Secretary of State shall be conclusive.

(3) This section shall be construed with, and treated for all purposes as forming part of, the Unemployment Assistance Act, 1934, and the enactments therein contained shall apply accordingly, subject to the modifications set out in Part I of the Schedule to this Act, and the provisions of any rules or regulations for the time being in force under that Act shall apply accordingly.

(4) There shall be defrayed out of moneys provided by Parliament any increase attributable to the passing of this section in the sums payable out of such moneys under section

4 & 5 Geo. 6.  
c. 11.

forty-seven of the Unemployment Assistance Act, 1934, or section six of the Determination of Needs Act, 1941 and any sums received by the Board under the Unemployment Assistance Act, 1934, as applied for the purposes of this section shall be paid into the Exchequer.

Provision by  
the  
Assistance  
Board of  
accommoda-  
tion in  
camps.

3.—(1) The Board may provide accommodation in camps, hostels or other establishments for persons in Great Britain being of any of the categories specified in subsection (2) of the last preceding section, or dependants of persons of any of those categories or of members of any of the Polish resettlement forces serving therewith, or persons formerly dependent on a person who was of any of those categories, or was such a member of any of those forces, at that former time.

(2) The Board may make provision for meeting the needs (other than medical needs as defined in the Unemployment Assistance Act, 1934, or needs as to education), and for promoting the welfare, of persons for whom accommodation is provided under this section, and may make such provision in such manner as appears to them most convenient, whether by themselves providing goods or services, by making payments to others for the provision thereof, by making payments to persons for whom accommodation is provided, or partly in one of those ways and partly in another.

(3) The Board may make arrangements with any government department or other authority or person for the provision of benefits under this section, on behalf and at the expense of the Board, by that authority or person.

(4) The Board may make rules for the well-ordering of camps, hostels or other establishments in which accommodation is provided under this section, and any person who contravenes or fails to comply with a rule so made shall be liable on summary conviction to a fine not exceeding twenty-five pounds or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

(5) The provision of benefits under this section for any person shall be at the discretion of the Board, and, without prejudice to the generality of this subsection, the Board may render the provision of any benefits thereunder for a person conditional on his being registered for employment in the manner prescribed by rules made under the Unemployment Assistance Act, 1934, if required by the Board so to be, and may render the provision for a person of accommodation, or of accommodation in any particular camp or other establishment, conditional on his observing rules made under the last preceding subsection.

(6) The Board may from time to time fix for benefits provided under this section such scales of charges applicable in different circumstances as may appear to the Board, with the approval

of the Treasury, to be appropriate, and may from time to time require payments for such benefits to be made in accordance with the provisions of Part II of the Schedule to this Act.

(7) Section forty-eight of the Unemployment Assistance Act, 1934 (which provides for the prosecution of persons obtaining allowances fraudulently and for the recovery of sums procured by non-disclosure or misrepresentation by way of allowance in excess of allowance that would otherwise have been made) shall apply as respects benefits under this section with the substitution, for references in the said section forty-eight to such allowances and to the amount of any such excess of allowance, of references to such benefits and to the amount or value of any excess of benefit over what would have been provided but for the non-disclosure or misrepresentation.

(8) The Board shall have, in relation to a person for whom they have power to provide accommodation under this section the like right to complain to a petty sessional court as is conferred by section nineteen of the Poor Law Act, 1930, on a council therein mentioned in relation to a married woman requiring relief and a person whose relief would be chargeable to the council, and the powers of the court under that section shall be exercisable on such complaint. 20 & 21 Geo. 5. c. 17.

(9) The provisions of subsection (3) of section forty-eight of the Unemployment Assistance Act, 1934, as to proceedings on behalf of the Board shall apply to any such proceedings under this section or under Part II of the Schedule to this Act.

(10) In proceedings under subsection (4) of this section prima facie evidence of rules therein mentioned may be given by production of a document certified by an officer of the Board to be a true copy thereof and a document purporting to be so certified shall be deemed to be such a document unless the contrary is proved.

(11) There shall be defrayed out of moneys provided by Parliament any increase attributable to the passing of this section in the sums payable out of such moneys under section forty-seven of the Unemployment Assistance Act, 1934, or section six of the Determination of Needs Act, 1941, and any sums received by the Board under this section or under section forty-eight of the Unemployment Assistance Act, 1934, as applied by this section, shall be paid into the Exchequer.

4.—(1) The Minister of Health may provide such services and do such things as appear to him to be requisite for meeting the medical needs as defined in the Unemployment Assistance Act, 1934, or other needs as to mental or bodily health, of persons of any description for whom the Assistance Board have power to provide accommodation under section three of this Act, including any such services and things as are specified in the National Provision by the Minister of Health of health services. 9 & 10 Geo. 6. c. 81.

Health Service Act, 1946, as services or things which, on or after the appointed day for the purposes of that Act, the Minister of Health, local health authorities, executive councils or other persons is or are authorised or required to provide or do, or may be authorised or required to provide or do, by or under that Act, and any services and things the provision or doing of which is within the duties of local health authorities under the Lunacy and Mental Treatment Acts, 1890 to 1930, or the Mental Deficiency Acts, 1913 to 1938.

(2) The Minister of Health may make arrangements with any other government department or other authority or person for the provision of services or the doing of things under this section, on his behalf and at his expense, by that authority or person.

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

Temporary  
registration  
of medical  
practitioners  
and of  
pharmacists.

5.—(1) The General Medical Council may give a direction for the registration in the medical register, as a foreign practitioner, of a person to whom this subsection applies who satisfies the Council that he holds a diploma or diplomas recognised for the time being by them as affording a sufficient guarantee of his possessing knowledge and skill requisite for the efficient practice of medicine, surgery and midwifery, and, on the direction being given, he shall be registered accordingly, and the provisions of the Medical Act, 1858, relating to persons registered under that Act and to the medical register and offences in respect thereof shall, so far as may be, apply in relation to him in the same way as they apply in the case of persons registered thereunder and of the register as kept thereunder.

21 & 22 Vict.  
c. 90.

15 & 16 Vict.  
c. 56.

31 & 32 Vict.  
c. 121.

(2) The power of the Council of the Pharmaceutical Society of Great Britain to make byelaws under section two of the Pharmacy Act, 1852, shall include power to make byelaws providing for the registration as a pharmaceutical chemist or as a chemist and druggist under the Pharmacy Act, 1852, and the Pharmacy Act, 1868 (subject to such conditions, and to payment of such fee, as may be prescribed by byelaws made by virtue of this subsection) of a person to whom this subsection applies who—

(a) satisfies the persons for the time being appointed to conduct examinations under the Pharmacy Act, 1852, as to his knowledge of the law relating to, and his skill in dispensing, drugs, medicines and poisons; and

(b) either is by law entitled to carry on business as a pharmacist in a foreign country, or, though not so entitled, holds or has held a diploma as a pharmacist granted in a foreign country or has passed the examinations necessary for obtaining such a diploma;

and the names of any persons registered by virtue of this subsection shall be entered in a separate part of the register of

pharmaceutical chemists, or of the register of chemists and druggists, as the case may be.

(3) Subsections (1) and (2) of this section shall apply to a person being either—

- (a) a member of any of the Polish resettlement forces, or
- (b) a person of any of the categories specified in subsection (2) of section two of this Act who is registered under the Aliens Order, 1920, and whose registration thereunder took place on or after the twenty-fourth day of February, nineteen hundred and forty-six,

if he satisfies the following conditions, that is to say—

- (i) as regards the application of the said subsection (1), that he is employed, or has been selected for employment, in a medical capacity for the care solely or mainly of persons being members of any of the Polish resettlement forces or persons of any description for whom the Assistance Board have power to provide accommodation under section three of this Act, or, in the case of a person as to whom the Minister of Health or the Secretary of State is satisfied that he is not required for employment as aforesaid, that he is employed, or has been selected for employment, in a medical capacity approved by the Minister of Health or the Secretary of State for the purposes of this subsection, and that he satisfies the General Medical Council as to his being of good character; or
- (ii) as respects the application of the said subsection (2), the like conditions as are specified in the preceding paragraph, with the substitution for the references therein to a medical capacity, to the care of such persons as are therein mentioned and to the General Medical Council, of references respectively to the capacity of a pharmacist, to the provision or dispensing of drugs, medicines and poisons for such persons and to the Council of the Pharmaceutical Society of Great Britain.

(4) This section shall continue in force until the thirty-first day of December, nineteen hundred and forty-seven, and shall then expire, and—

- (a) without prejudice to the provisions of the Medical Acts, or of the Pharmacy and Poisons Acts, 1852 to 1941, relating to the removal and erasure of names from the registers mentioned in this section, a person registered by virtue of this section shall cease to be registered on its expiry; and
- (b) subsection (2) of section thirty-eight of the Interpretation Act, 1889, shall apply upon the expiry of this section in like manner as if it were then repealed by an Act of Parliament.

Provision by  
the Minister of  
Education  
of educational  
services.

6.—(1) The Minister of Education may, for meeting the educational needs of persons being of any description for whom the Assistance Board have power to provide accommodation under section three of this Act or members of any of the Polish resettlement forces, provide any such services and do any such things as a local education authority or the Minister of Education are or is authorised or required to provide or do, or may be authorised or required to provide or do, by or under the Education Acts, 1944 and 1946.

(2) The Minister of Education may make arrangements with any other government department or other authority or person for the provision of services or the doing of things under this section, on his behalf and at his expense, by that authority or person.

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

Arrangements  
by the Minister  
of Labour and  
National  
Service for  
emigration.

7.—(1) The Minister of Labour and National Service may, in accordance with a scheme made by him with the approval of the Treasury, make arrangements, in connection with the emigration of persons of any description for whom the Assistance Board have power to provide accommodation under section three of this Act, for facilitating the removal of such persons and their belongings to their destinations and making payments in or towards defraying the expenses of providing facilities therefor :

Provided that arrangements made under this subsection shall not extend to members of any of the Polish resettlement forces relegated from service therewith, to former members of any of those forces emigrating immediately on their discharge therefrom, or to dependants of any such members or former members.

(2) A scheme under this section may be varied by a subsequent scheme made thereunder or may be revoked by order of the Minister of Labour and National Service.

(3) The expenses of the Minister of Labour and National Service under this section shall be defrayed out of moneys provided by Parliament.

Provisions  
as to service  
in the forces.

8.—(1) The limit imposed by section ninety-five of the Army Act and of the Air Force Act on the number of aliens who may serve together at any one time in any corps or unit shall not apply to any of the Polish resettlement forces, and, for the purposes of the application of that limit to any other corps or unit of the Army or of the Royal Air Force at any time during the period of five years from the passing of this Act or such extended period, if any, as the Secretary of State may from time to time by order specify, aliens serving therein being former members of any of the Polish resettlement forces shall be disregarded.

(2) A commission to serve as an officer may be held by an alien who is for the time being a member of any of the Polish resettlement forces, and may be held at any time within the period mentioned in the preceding subsection or any extension thereof provided for under that subsection by an alien being a former member of any of the Polish resettlement forces who for the time being is a member of any other corps or unit of the Army or of the Royal Air Force or is in His Majesty's Navy.

9.—(1) The Polish forces mentioned in paragraphs (a) and (b) of subsection (1) of section one of this Act shall be under the command of a person of British nationality appointed by the Secretary of State, being a person holding or having held a rank not below that of Major-General in the Army or a corresponding rank in another of the Armed Forces of the Crown, who shall be called the Administrator of Polish forces under British command and is in this section referred to as "the Administrator."

Provisions as to discipline and internal administration of certain Polish forces.

(2) Members of the said forces shall be under obligation to observe, in matters concerning their discipline and internal administration, the rules in force as to those matters under the law of Poland on the first day of January, nineteen hundred and forty-five, and a member of any of the said forces who contravenes or fails to observe any of the said rules in relation to which a punishment is thereby prescribed shall be guilty of an offence against this section and shall, on conviction thereof in accordance with the provisions of this section, be liable, subject to the provisions of this section, to the punishment prescribed by those rules :

Provided that no person shall be liable by virtue of this section to the punishment of death.

(3) Jurisdiction to try members of the said forces alleged to be guilty of such contravention or failure as aforesaid, and to award sentence on conviction thereof, shall be vested in the Administrator and shall be exercisable by him in accordance with such procedure and in such manner as he may determine, and he shall have power for the purposes of his jurisdiction under this subsection to administer oaths.

(4) The Administrator may exercise in relation to members of the said forces all such powers as are conferred by the said rules on naval, military and air force courts and authorities.

(5) The Administrator may delegate, generally or in particular cases, to such person or persons as he may think fit, being an officer or officers serving or having served in the said forces or in any of the Armed Forces of the Crown, power to do things that are within his jurisdiction or power under the two last preceding subsections, and any such delegation may limit the exercise of a jurisdiction or power so delegated as

respects the measure of punishment that may be awarded thereunder or in any other respect, or make it subject to confirmation or review by another such person or persons or by himself or to any other conditions, and may include power to sub-delegate :

Provided that no person shall be imprisoned, or shall be held in detention for any period longer than three months, pursuant to any sentence of imprisonment or detention awarded in exercise of any jurisdiction or power delegated as aforesaid unless the sentence is confirmed by the Administrator.

23 & 24 Geo. 5.  
c. 6.

(6) His Majesty may by Order in Council provide for the application to the said forces, subject to such adaptations, modifications and exceptions as may be provided by the Order, of subsections (2) to (5) of section one, section two and subsections (2) and (4) of section three of the Visiting Forces (British Commonwealth) Act, 1933, and any Order made under this subsection may be varied or revoked by a subsequent Order in Council.

(7) In the case of any act or omission constituting an offence against this section which also constitutes an offence apart from this section, nothing in the preceding provisions of this section or done thereunder shall affect any jurisdiction to try a member of the said forces for the offence apart from this section in respect of such an act or omission, and when a member of the said forces has been convicted or acquitted on such trial there shall be no jurisdiction to try him under this section in respect of the same act or omission.

3 & 4 Geo 6.  
c. 51.

(8) As respects any period between the first day of January, nineteen hundred and forty-five and the passing of this Act, the powers conferred by subsection (1) of section one of the Allied Forces Act, 1940, shall be deemed to have been exercisable in relation to the said forces by reference to the law of Poland in force on that day and as if the said forces had not ceased to be recognised by the Government of Poland, and any Order in Council made under or by virtue of that Act shall be deemed to have had effect accordingly.

**Interpretation.** 10.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say,—

“ Pole ” means a person registered under the Aliens Order, 1920, as being a Pole ;

“ Polish resettlement forces ” means the Polish Re-Settlement Corps, the Polish Re-Settlement Corps (Royal Air Force), the Polish Re-Settlement Section of the Auxiliary Territorial Service, and the Polish Re-Settlement Section of the Women’s Auxiliary Air Force ;



“ the General Medical Council ” means the Council established under section three of the Medical Act, 1858.

(2) References in this Act to any other enactment shall, unless the context requires, be construed as references to that enactment as amended by or under any other enactment, and references in this Act to the Royal Warrant mentioned in section one thereof and to the Aliens Order, 1920, shall be construed respectively as references to that Warrant or Order as for the time being in force and to any Royal Warrant or Order substituted therefor.

11.—(1) The provisions of this section shall have effect for the purpose of the application of this Act to Scotland. Application to  
Scotland.

- (2) Subsections (8) and (9) of section three shall not apply.
- (3) Section four shall have effect as if there were substituted—
- (a) for any reference to the Minister of Health a reference to the Secretary of State ; and
- (b) in subsection (1) for the reference to the National Health Service Act, 1946, a reference to any corresponding Act applying to Scotland ; for the reference to the Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1938, a reference to the Lunacy (Scotland) Acts, 1857 to 1919, and the Mental Deficiency (Scotland) Acts, 1913 and 1940 ; and for the reference to “ local health authorities ” a reference to “ local authorities ”.
- (4) Section six shall have effect as if there were substituted—
- (a) for any reference to the Minister of Education a reference to the Secretary of State ;
- (b) for any reference to “ a local education authority ” a reference to “ an education authority ” ; and
- (c) for any reference to the Education Acts, 1944 and 1946, <sup>9 & 10 Geo. 6</sup> a reference to the Education (Scotland) Act, 1946. <sub>c. 72.</sub>
- (5) In the application of the Schedule to Scotland—
- (a) paragraph 3 shall have effect as if the Poor Law Act, 1930, extended to Scotland ;
- (b) paragraph 5 shall have effect as if the word “ summarily ” were omitted, and the reference to a time limit of one year for the institution of proceedings for recovery shall not apply.

12.—(1) The provisions of this section shall have effect for the purpose of the application of this Act to Northern Ireland. Application to  
Northern  
Ireland.

(2) Section two and the Schedule shall apply as if the Unemployment Assistance Act, 1934, extended to Northern Ireland :

Provided that, in the application of that Act by virtue of this subsection, there shall be substituted, for references in that Act to the appeal tribunal constituted thereunder, to the chairman thereof and to rules relating thereto, references to the appeal tribunal constituted under the Unemployment Assistance Act (Northern Ireland) 1934, to the chairman thereof and to rules relating thereto, respectively.

(3) References in sections four to seven of this Act to persons of any description for whom the Assistance Board have power to provide accommodation under section three thereof shall include references to persons in Northern Ireland of any description for whom the Assistance Board would have power so to provide if those persons were in Great Britain.

Short title.

13. This Act may be cited as the Polish Resettlement Act, 1947.

Sections 2 and 3.

## SCHEDULE.

SUBSIDIARY PROVISIONS AS TO ALLOWANCES FROM THE ASSISTANCE BOARD, AND AS TO CHARGES FOR ACCOMMODATION, ETC., PROVIDED BY THEM.

### PART I.

*Modifications of the Unemployment Assistance Act, 1934, in its application by virtue of section two of this Act.*

1.—(1) Persons falling within subsection (1) of section two of this Act shall be included in the class of persons to whom the Unemployment Assistance Act, 1934 (in this Schedule referred to as "the Act of 1934"), applies, notwithstanding that the qualifications set out in subsection (1) of section thirty-six of that Act are not fulfilled.

(2) Any question whether a person is or is not a person to whom the Act of 1934 applies by virtue of this paragraph shall be determined in accordance with the provisions of section thirty-six of that Act, with the substitution, for references therein to the qualifications set out in subsection (1) thereof, of references to a person's falling within subsection (1) of section two of this Act, and without regard to the provisions of subsection (2) of the said section thirty-six or to the proviso to subsection (3) thereof (which relate only to the qualifications set out in subsection (1) thereof).

2. On an application for the grant of an allowance by virtue of section two of this Act, subsection (1) thereof shall apply in substitution for subsection (1) of section thirty-eight of the Act of 1934 (which specifies matters to be proved as conditions for the grant of allowances).

## PART II.

*Provisions as to charges for accommodation etc. provided under  
section three of this Act.*1ST SCH.  
—cont.

3. Payments for benefits provided for any person under section three of this Act may be required under subsection (6) of that section from that person, or, in the case of a married person, from his wife or her husband, or, in the case of a person who is under the age of sixteen years and has parents or a parent living (including in that expression the step-father of such a person who is deemed to be part of the step-father's family for the purposes of the Poor Law Act, 1930), from the parents or either of them.

4. The amounts of the payments which may be required shall be such amounts, not exceeding what appears to the Assistance Board (in this Part of this Schedule referred to as "the Board") to be the appropriate scale charge fixed under the said subsection (6), as may appear to the Board to be reasonable having regard to all the circumstances affecting the person on whom the requirement is made :

Provided that the appeal tribunal constituted under the Act of 1934 shall have power, on reference to them of such a requirement in the manner and within the time prescribed for appeals under subsection (5) of section thirty-nine of the Act of 1934, to determine what scale charge is appropriate and whether the amounts required to be paid are reasonable having regard to the circumstances aforesaid, and if they think fit, to vary those amounts.

5. Sums required to be paid in accordance with the preceding provisions of this Part of this Schedule shall, without prejudice to any other remedy be recoverable summarily as a civil debt, and proceedings for such recovery may, notwithstanding anything in any Act to the contrary, be brought at any time within one year from the time when the matter complained of arose.

6. In any proceedings for recovery of sums required to be paid as aforesaid a document signed by an officer of the Board stating the making and particulars of the requirement, whether there was any reference to the appeal tribunal duly made and, if there was, the determination of the tribunal, shall be evidence of the facts stated, and a document which purports to be so signed shall, unless the contrary is proved, be deemed to be so signed.

7. Any person who, in connection with the ascertainment of amounts which he may be reasonably required to pay under subsection (6) of section three of this Act, knowingly makes any false statement or false representation as to the circumstances affecting him shall be liable on summary conviction to imprisonment for a term not exceeding three months.

8. If it is found at any time that a person required to pay amounts under subsection (6) of section three of this Act, has, whether fraudulently or otherwise, procured by the non-disclosure or misrepresentation of a material fact that the amounts required to be paid should be less than they would otherwise have been, a further requirement may be made upon him under the said subsection in respect of the benefits in question, and the preceding provisions of this Part of this Schedule shall apply thereto with requisite modifications.

## CHAPTER 20.

### *Dog Racecourse Betting (Temporary Provisions) Act, 1947.*

#### ARRANGEMENT OF SECTIONS.

Section.

1. Temporary limitation of dog racecourse betting to Saturdays and certain other days, and variation of restrictions for those days.
2. Temporary limitation of dog racecourse betting on Saturdays to after 1.0 p.m.
3. Application to Scotland.
4. Expiry of this Act, and power to relax its operation in particular localities.
5. Short title, construction and extent.

An Act to make temporary provision for limiting betting on licensed dog racecourses to Saturdays and certain other days, for varying for those days the restrictions on the number of races on which and the time during which such betting may take place, and for purposes connected therewith. [27th March 1947.]

**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:—

Temporary limitation of dog racecourse betting to Saturdays and certain other days, and variation of restrictions for those days.

24 & 25 Geo. 5. c. 58.

1.—(1) During the continuance in force of this Act the Betting and Lotteries Act, 1934 (in this Act referred to as "the principal Act"), so far as it relates to betting, whether by way of bookmaking or by means of a totalisator, on licensed tracks being dog racecourses, shall have effect as if every Saturday and Bank Holiday, and no other days, had been fixed by every licensing authority as the days on which betting facilities may be provided on licensed tracks within their licensing area, and those days, and no other days, shall accordingly be appointed days for the purposes of the said Act so far as it relates to such betting.

(2) During the continuance in force of this Act subsection (1) of section four of the principal Act (which provides that betting by way of bookmaking or by means of a totalisator shall not take place on any day on a track being a dog racecourse in connection with more than eight dog races, and that betting by way of bookmaking or by means of a totalisator on the results of dog races shall not take place on any day on such a track except during one continuous period not exceeding four hours,

but subject to a proviso relaxing those restrictions in relation to the special appointed days therein mentioned) shall have effect as respects licensed tracks subject to the following modifications, that is to say,—

(a) there shall be substituted therein, for the word " eight " where it first occurs, the word " sixteen ", and, for the words " one continuous period not exceeding four hours " where they first occur, the words " a period or periods not exceeding eight hours in the aggregate " ; and

(b) the proviso shall not have effect :

Provided that paragraph (a) of this subsection shall not apply as respects such betting as is mentioned in the said subsection (1) on any licensed track on the Saturday next following a Bank Holiday if such betting has taken place thereon on the Bank Holiday in connection with more than eight dog races or during more than one continuous period or during one continuous period exceeding four hours.

(3) For the purposes of the application to any licensed track being a dog racecourse of paragraph (a) of subsection (1) of section one of the principal Act (which provides that betting by way of bookmaking or by means of a totalisator shall not take place on any track on more than one hundred and four days in any year), a day on which such betting on the track takes place in connection with more than eight dog races, or during more than one continuous period or during one continuous period exceeding four hours, shall be reckoned as two days :

Provided that this subsection shall not apply—

(a) to a Bank Holiday ; or

(b) to the Saturday next following a Bank Holiday, in a case in which such betting did not take place as aforesaid on the track on the Bank Holiday.

(4) Licensing authorities shall during the continuance in force of this Act observe the provisions of section ten of the principal Act (which relates to the fixing of appointed days), and of subsection (3) of section four thereof (which relates to the fixing of special appointed days) notwithstanding the preceding provisions of this section.

2.—(1) During the continuance in force of this Act betting by way of bookmaking or by means of a totalisator on a licensed track being a dog racecourse shall not take place before the hour of one in the afternoon on any day other than a Bank Holiday.

Temporary  
limitation of  
dog racecourse  
betting on  
Saturdays to  
after  
1.0 p.m.

(2) If bookmaking is carried on or a totalisator is operated by any person on any track in contravention of this section, that person, and, if he is not the occupier of the track, the occupier also, shall be guilty of an offence :

Provided that, where the occupier of a track is charged with an offence by reason of a contravention of this section on the part of another person, it shall be a defence for him to prove that the contravention occurred without his knowledge.

Application  
to Scotland.

3. For the purpose of the application of this Act to Scotland, every licensing authority in Scotland shall fix two days during the period between the passing of this Act and the first day of July nineteen hundred and forty-seven and four days during the year ending on the thirtieth day of June nineteen hundred and forty-eight, such days not being Saturdays and being local public holidays, and for any reference to a Bank Holiday there shall be substituted a reference to one of the days so fixed.

Expiry of this  
Act, and power  
to relax its  
operation in  
particular  
localities.

4.—(1) Subject to the provisions of this section, this Act shall continue in force until the thirtieth day of June, nineteen hundred and forty-eight, and shall expire at the end of that day.

(2) His Majesty may by Order in Council declare that it is no longer necessary that this Act, or any provision thereof specified in the Order, should continue in force, and, if an Order under this subsection is made, this Act, or the specified provision, as the case may be, shall expire at the end of such day as may be specified in the Order.

(3) If the Secretary of State is satisfied as respects any particular licensing area or part of such an area that, having regard to its situation or to other local circumstances, the making of an order under this subsection in relation thereto is unlikely to lead to any substantial interference with industrial production, he may by order direct that, on and after such day as may be specified in the order, either—

(a) this Act shall not apply to tracks in that area or part ; or

(b) subsection (1) of section two of this Act shall not apply to tracks in that area or part, or shall, in its application to tracks in that area or part, have effect with the substitution of a reference to an earlier hour for the reference to one in the afternoon ;

and any order under this subsection may be revoked, and an order thereunder substituting an earlier hour as aforesaid may be varied, by a subsequent order made by the Secretary of State.

(4) The expiry of this Act, or the revocation of an order under the last preceding subsection, shall not affect the operation thereof as respects things previously done or omitted to be done, and, in reckoning the number of days on which betting by way of bookmaking or by means of a totalisator may take place on a track in a part of a year after the expiry of section one of this Act or in a part thereof during which that section does not apply to the track, days in that year on which such betting has taken

place during the continuance in force of that section and its application to the track shall be reckoned in accordance with subsection (3) of that section.

5.—(1) This Act may be cited as the Dog Racecourse Betting (Temporary Provisions) Act, 1947. Short title.  
construction  
and extent.

(2) This Act shall be construed as one with the principal Act as if included in Part I thereof.

(3) In this Act the expression "Bank Holiday" means each of the days specified as Bank Holidays in England in the Schedule to the Bank Holidays Act, 1871. 34 & 35 Vict.  
c. 17.

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

---

## CHAPTER 21.

### *Forestry Act, 1947.*

#### ARRANGEMENT OF SECTIONS.

- |          |   |
|----------|---|
| Section. | <i>Forestry dedication covenants (England).</i>                               |
| 1.       | Forestry dedication covenants and enforcement thereof.                        |
| 2.       | Power of tenants for life, etc., to enter into forestry dedication covenants. |
|          | <i>Forestry dedication agreements (Scotland).</i>                             |
| 3.       | Forestry dedication agreements and enforcement thereof.                       |
| 4.       | Power of liferenters, etc., to enter into forestry dedication agreements.     |
|          | <i>Miscellaneous, short title, etc.</i>                                       |
| 5.       | Restriction on compulsory acquisition of dedicated land.                      |
| 6.       | Deduction of grants from compensation in case of compulsory acquisition.      |
| 7.       | Execution of certain instruments on behalf of Secretary of State.             |
| 8.       | Short title, construction, citation, and extent.                              |

An Act to provide for the dedication of land to forestry purposes; for the deduction from compensation of grants made by the Forestry Commissioners in the event of compulsory purchase of the land in respect of which the grants were made; and for the execution on behalf of the Secretary of State of instruments relating to land placed at the disposal of the Forestry Commissioners. [27th March 1947.]

**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:—

*Forestry dedication covenants (England).*

Forestry  
dedication  
covenants and  
enforcement  
thereof.

9 & 10 Geo. 5.  
c. 58.

15 & 16 Geo. 5.  
c. 20.

1.—(1) In this Act the expression “forestry dedication covenant” means a covenant entered into with the Forestry Commissioners (in this Act referred to as “the Commissioners”) to the effect that land shall not, except with the previous consent in writing of the Commissioners or, in case of dispute, under direction of the Minister of Agriculture and Fisheries, be used otherwise than for the growing of timber (within the meaning of section three of the Forestry Act, 1919) in accordance with the rules or practice of good forestry or for purposes connected therewith, being a covenant not containing any expression of intention contrary to the application of section seventy-nine of the Law of Property Act, 1925 (which provides that, unless a contrary intention is expressed, a covenant relating to any land of a covenantor or capable of being bound by him shall be deemed to be made by the covenantor on behalf of himself or his successors in title and the persons deriving title under him or them).

(2) As respects the enforcement of a forestry dedication covenant against persons other than the covenantor the Commissioners shall have the like rights as if they had at all material times been the absolute owners in possession of ascertained land adjacent to the land in respect of which the covenant is sought to be enforced and capable of being benefited by the covenant, and the covenant had been expressed to be for the benefit of that adjacent land.

(3) Section eighty-four of the Law of Property Act, 1925 (which confers power to discharge or modify restrictive covenants) shall not apply to a forestry dedication covenant.

(4) This section shall not extend to Scotland.

Power of  
tenants for  
life, etc., to  
enter into  
forestry  
dedication  
covenants.

15 & 16 Geo. 5.  
c. 18.

2.—(1) A tenant for life may enter into a forestry dedication covenant relating to the settled land or any part thereof either for consideration or gratuitously, and—

(a) this subsection shall be construed as one with the Settled Land Act, 1925;

(b) that Act, and section twenty-eight of the Law of Property Act, 1925 (which confers the powers of a tenant for life on trustees for sale), shall apply as if the power conferred by this subsection had been conferred by that Act; and

(c) for the purposes of section seventy-two of that Act (which relates to the mode of giving effect to a disposition by a tenant for life and to the operation



thereof), and of any other relevant statutory provision, entering into a forestry dedication covenant shall be treated as a disposition.

(2) A university or college to which the Universities and College Estates Act, 1925, applies may enter into a forestry dedication covenant relating to any land belonging to it either for consideration or gratuitously, and that Act shall apply as if the power conferred by this subsection had been conferred by that Act. <sup>15 & 16 Geo. 5. c. 24.</sup>

(3) Where land is glebe land or other land belonging to an ecclesiastical benefice, the incumbent of the benefice, and, where land is part of the endowment of any other ecclesiastical corporation, the ecclesiastical corporation, may with the consent of the Ecclesiastical Commissioners enter into a forestry dedication covenant relating to the land either for consideration or gratuitously, and the Ecclesiastical Leasing Acts shall apply as if the power conferred by this subsection had been conferred by those Acts, except that the consent of the patron of an ecclesiastical benefice shall not be requisite.

(4) This section shall not extend to Scotland.

#### *Forestry dedication agreements (Scotland).*

3.—(1) In this Act the expression “ forestry dedication agreement ” means an agreement entered into with the Commissioners by an owner or a limited owner of land to the effect that the land or any part thereof shall not, except with the previous consent in writing of the Commissioners or, in case of dispute, under direction of the Secretary of State, be used otherwise than for the growing of timber (within the meaning of section three of the Forestry Act, 1919) in accordance with the rules or practice of good forestry or for purposes connected therewith. Forestry dedication agreements and enforcement thereof.

(2) A forestry dedication agreement may be recorded in the appropriate Register of Sasines, and, on being so recorded, shall be enforceable at the instance of the Commissioners against any person having any interest in the land to which the agreement relates and against any person deriving title from him :

Provided that such an agreement shall not be so enforceable against any third party who shall have in bona fide onerously acquired right (whether completed by infestment or not) to his interest in the land prior to the agreement being recorded as aforesaid, or against any person deriving title from such third party.

(3) In this section the expression “ owner ” in relation to any land means the proprietor thereof for his own absolute use, and the expression “ limited owner ” means any person

empowered by the next succeeding section to enter into forestry dedication agreements relating thereto.

(4) This section shall extend to Scotland only.

Power of life-renters, etc., to enter into forestry dedication agreements.

4.—(1) Any person being

(a) the life-renter, or

(b) the heir of entail,

in possession of any land shall have power to enter into forestry dedication agreements relating to the land or any part thereof.

11 & 12 Geo. 5. c. 58.

(2) The Trusts (Scotland) Act, 1921, shall have effect as if among the powers conferred on trustees by section four thereof (which relates to the general powers of trustees) there were included a power to enter into forestry dedication agreements relating to the trust estate or any part thereof.

(3) This section shall extend to Scotland only.

*Miscellaneous, short title, etc.*

Restriction on compulsory acquisition of dedicated land. 8 & 9 Geo. 6. c. 35.

5.—(1) Nothing in section four of the Forestry Act, 1945, shall authorise the compulsory acquisition of any land as to which a forestry dedication covenant or agreement is in force and which is being used and managed in accordance with the provisions and conditions of a plan of operations approved by the Commissioners.

(2) Any question arising under this section whether there has been a breach of any of the provisions and conditions of a plan of operations shall be referred to the determination of an arbitrator appointed by the President for the time being of the Royal Institution of Chartered Surveyors, and such a breach shall not be treated as having occurred by virtue of any act or omission capable of remedy unless there has been default in remedying it within a reasonable time after notice given by the Commissioners requiring the remedy thereof.

(3) In the application of this section to Scotland there shall be substituted, for the reference to an arbitrator appointed by the President of the Royal Institution of Chartered Surveyors, a reference to an arbiter appointed by the Chairman of the Scottish Committee of the said Institution.

Deduction of grants from compensation in case of compulsory acquisition.

6. If the power of compulsory purchase conferred by subsection (2) of section four of the Forestry Act, 1945, falls to be exercised in relation to land in respect of which advances by way of grant have been made by the Commissioners after the passing of this Act or within two years before the passing thereof, the advances, other than any made more than thirty years before the date of service of notice to treat in exercise of that power, shall become repayable by the

person entitled to the compensation for the compulsory purchase, together with compound interest on each advance repayable, calculated from the date of the making thereof to the date on which the compensation is paid at the rate of three pounds per cent. per annum with yearly rests, and shall be recoverable by deduction from the compensation and not otherwise:

Provided that, in the case of compensation for the compulsory purchase of one of several interests in such land, the amount repayable shall be a part only of the advances and interest proportionate to the value of the purchased interest as compared with the value of the land.

7. Any instrument in connection with the management or disposal of any land vested in or acquired by the Secretary of State concerned with agriculture in Scotland by or under the Forestry Act, 1945, and for the time being placed at the disposal of the Commissioners, shall, without prejudice to any other method of execution, be deemed to be validly executed by him if it is executed on his behalf by any officer of the Commissioners authorised by him for the purpose; and any instrument so executed shall, for the purposes of subsections (8) and (9) of section one of the Reorganisation of Offices (Scotland) Act, 1939, be deemed to have been executed by an officer of the Secretary of State duly authorised by him.

Execution of certain instruments on behalf of Secretary of State.

2 & 3 Geo. 6. c. 20.

8.—(1) This Act may be cited as the Forestry Act, 1947, and shall be construed as one with the Forestry Acts, 1919 to 1945, and this Act and those Acts may be cited together as the Forestry Acts, 1919 to 1947.

Short title, construction, citation, and extent.

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

## CHAPTER 22.

An Act to empower local authorities to establish and carry on restaurants, and otherwise provide for the supply to the public of meals and refreshments, and for purposes connected with the matters aforesaid.

[2nd April 1947.]

**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 authorities, that is to say—

(a) in the administrative county of London, the London County Council,

Power of local authorities to establish restaurants.

H

(b) elsewhere in England and Wales, the council of a county borough or county district,

(c) in Scotland, a county or town council,

may establish and carry on restaurants and otherwise provide for the supply to the public of meals and refreshments, and may carry on such activities as are reasonably incidental or ancillary to the activities aforesaid:

Provided that—

(i) where the Minister of Food is satisfied that the council of any county in Scotland are unreasonably refusing to exercise their powers under this Act in any district of the county, he may by order direct that the powers of the county council, so far as relating to that district, shall be exercisable by the district council instead of by the county council; and

(ii) this subsection shall not authorise the grant of a certificate under the Licensing (Scotland) Acts, 1903 to 1934, for the sale of exciseable liquor in any such restaurant in Scotland; and

(iii) a justices' licence granted under the Licensing Acts, 1910 to 1934, for the sale of intoxicating liquor in any such restaurant in England or Wales shall only authorise the sale of such liquor for consumption in the restaurant with a meal; and

(iv) such a licence shall not be granted in respect of any such restaurant established in premises forming part of, or used for the purposes of, any church, chapel or other place of religious worship or used for the purposes of any religious organisation except with the consent of the incumbent, minister, or other person in charge of the church, chapel or place of worship or, as the case may be, the consent of the religious organisation.

(2) Any such authority may delegate their powers under the foregoing provisions of this section, in respect of the whole of their area or any part thereof, to any other local authority.

(3) An authority exercising powers under this section, including an authority exercising delegated powers, is hereafter in this Act referred to as a "civic restaurant authority".

(4) A civic restaurant authority shall, in carrying on any activities under this section, be subject to all enactments and rules of law relating thereto, including, in England and Wales, the enactments relating to the sale of intoxicating liquor, in like manner as other persons carrying on the like activities.

2.—(1) A civic restaurant authority may be authorised by the Minister of Health to purchase land compulsorily for the purposes of this Act, and the Acquisition of Land (Authorisation Procedure) Act, 1946, shall have effect as if this section had been in force immediately before the passing of that Act : Compulsory purchase powers. 9 & 10 Geo. 6. c. 49.

Provided that section two of that Act shall not apply to the compulsory purchase of land for the purposes of this Act and a civic restaurant authority shall not be authorised under this subsection to purchase compulsorily for the purposes of this Act any premises which are being used by any other person wholly or mainly as a restaurant or otherwise for the supply to the public of meals and refreshments.

In the application of this subsection to Scotland, for the reference to the Minister of Health there shall be substituted a reference to the Secretary of State.

(2) Section twenty-six of the Requisitioned Land and War Works Act, 1945 (which empowers local authorities to acquire land which they have been authorised under Defence Regulations to use for purposes for which they can acquire land compulsorily under any Act) shall apply to any local authority, being a civic restaurant authority, as if this Act had been in force immediately before the passing of that Act, and the other provisions of the Requisitioned Land and War Works Act, 1945, relating to the acquisition of land under the said section twenty-six shall have effect accordingly. 8 & 9 Geo. 6. c. 43.

3.—(1) Every civic restaurant authority shall keep an account of their income under this Act and their expenditure under this Act on income account, and the form of the account and the particulars to be included therein shall be prescribed by the Minister of Food, after consultation with such associations of local authorities as appear to him to be concerned. Financial provisions.

(2) Every civic restaurant authority shall use their best endeavours to ensure that their income under this Act is sufficient to defray their expenditure thereunder and if the account kept by any such authority under the last foregoing subsection shows a deficit in respect of each of three consecutive financial years, the said powers shall cease to be exercisable by that authority at the expiration of six months from the end of the last of those years :

Provided that—

- (a) if the Minister of Food considers that a civic restaurant authority whose account shows such a deficit as aforesaid will, within a reasonable period, be able to defray their expenditure under this Act out of their income thereunder, he may, subject to such conditions as he thinks fit, postpone or exclude the operation of this subsection as respects that deficit ;

(b) if the Minister of Food considers that a civic restaurant authority whose powers have ceased to be exercisable by virtue of this subsection would, by reason of any change of circumstances, be able to defray their expenditure under this Act out of their income thereunder, if the said powers were restored, he may direct that the said powers shall again become exercisable and that this subsection shall have effect as if they had not previously been exercised.

(3) Any expenses incurred under this Act by the council of a county in England or Wales, other than the administrative county of London, shall be treated as expenses incurred for a special county purpose and chargeable on the county district or county districts for the benefit of which those expenses are incurred, and all receipts of the county council in exercising powers under this Act shall be treated as receipts for that special county purpose.

(4) Any expenses incurred under this Act by the Common Council of the City of London shall, in so far as they cannot be defrayed out of the receipts of the Council under this Act, be defrayed out of the general rate.

(5) Any expenses incurred under this Act by a civic restaurant authority in Scotland shall, in so far as they cannot be defrayed out of the receipts of the authority under this Act, be defrayed by the authority, or, where the authority are exercising delegated powers and so agree with the county or town council by whom the powers are delegated, by that county or town council, out of such rate payable by owners and occupiers in equal proportions as the authority or the council may determine and any excess of such receipts over such expenses shall be applied in reduction of that rate.

(6) Expenditure incurred by a district council under this Act shall not be taken into account in any calculation as to the limit imposed on the district council rate by section twenty-six of the Local Government (Scotland) Act, 1929.

19 & 20 Geo. 5.  
c. 25.

(7) A civic restaurant authority in Scotland who incur expenditure under this Act or a county or town council on whose behalf expenditure is incurred by a civic restaurant authority in the exercise of delegated powers may, subject to the provisions of subsection (2) of section twenty-three of the Local Government (Scotland) Act, 1929, borrow such sums as may be required to meet any expenditure of a capital nature, or the cost of executing any work, or providing any plant or equipment, or doing any other thing where, having regard to the nature of the work, plant, equipment or thing, the cost ought to be spread over a period of years :

Provided that—

- (a) sums so borrowed shall be repaid within such period not exceeding sixty years as the Secretary of State may determine ;
- (b) nothing in this subsection shall authorise the exercise of the power of borrowing money thereby conferred otherwise than in compliance with the provisions of the Local Authorities Loans Act, 1945, of any Defence Regulation within the meaning of the Supplies and Services (Transitional Powers) Act, 1945, for the time being having effect by virtue of that Act, and of any orders for the time being in force, made by the Treasury under section one of the Borrowing (Control and Guarantees) Act, 1946. 8 & 9 Geo. 6.  
c. 18.  
9 & 10 Geo. 6.  
c. 10.  
9 & 10 Geo. 6.  
c. 58.

4.—(1) This Act may be cited as the Civic Restaurants Act, 1947. Short title,  
extent, and  
interpreta-  
tion.

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

(3) In this Act the expression "local authority" means, in England and Wales, the council of a county, county borough or county district, the Common Council of the City of London and the council of a metropolitan borough, and, in Scotland, a county, town or district council.

---

## CHAPTER 23.

An Act to provide for carrying into effect Treaties of  
Peace between His Majesty and certain other Powers.  
[29th April 1947.]

**W**HEREAS in Paris on the tenth day of February, nineteen hundred and forty-seven, Treaties of Peace (including annexes thereto) with Italy, Roumania, Bulgaria, Hungary and Finland, copies of which have been laid before each House of Parliament, were signed on behalf of His Majesty, and the said Treaties will come into operation on the deposit of instruments of ratification thereof in accordance with the provisions of the respective Treaties :

And whereas it is expedient that His Majesty should have power to do all such things as may be proper and expedient for giving effect to the said Treaties :

Now, therefore, 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 :—

Power of His Majesty to give effect to Peace Treaties.

1.—(1) His Majesty may make such appointments, establish such offices, make such Orders in Council, and do such things as appear to Him to be necessary for carrying out the said Treaties, and for giving effect to any of the provisions thereof.

(2) Any Order in Council made under this Act may provide that persons contravening or failing to comply with provisions of the Order shall be guilty of offences against this section, and (except in so far as any such Order may provide for less penalties) any person guilty of an offence against this section 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 imprisonment and such fine, or on conviction on indictment to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years or to both such imprisonment and such fine.

(3) Any Order in Council made under this section shall be laid before Parliament forthwith after being made, and if either House of Parliament, within the period of forty days beginning with the day on which the Order is laid before it, resolves that an Address be presented to His Majesty praying that the Order be annulled, no further proceedings shall be taken thereunder after the date of the resolution, and His Majesty in Council may revoke the Order, so, however, that any such resolution and revocation shall be without prejudice to the validity of anything previously done under the Order or to the making of a new Order.

(4) In reckoning any such period of forty days as aforesaid, no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

56 & 57 Vict. c. 66. (5) Notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, an Order in Council under this section shall not be deemed to be, or to contain, statutory rules to which that section applies.

(6) Any Order in Council under this section may be varied or revoked by a subsequent Order made in the like manner and subject to the like provisions.

(7) The expenses of any Minister incurred in carrying out the said Treaties shall be defrayed out of moneys provided by Parliament.

Short title.

2. This Act may be cited as the *Treaties of Peace (Italy, Roumania, Bulgaria, Hungary and Finland) Act, 1947.*



## CHAPTER 24.

An Act to authorise deductions under the Naval and Marine Pay and Pensions Act, 1865, for the maintenance of wives and children ; to restrict the discontinuance of allotments of pay ; and for purposes connected with the matters aforesaid. [29th April 1947.]

**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.—(1) Section three of the Naval and Marine Pay and Pensions Act, 1865 (which provides that pay, pensions and certain other moneys payable in respect of service in His Majesty's naval or marine force shall be paid in such manner and subject to such restrictions, conditions and provisions as are from time to time directed by Order in Council) shall have effect as if the expression "restrictions", in relation to the pay of a person being an officer, seaman or marine, included deductions for the purpose of providing, to such extent and in such circumstances as may be specified in the Order in Council,—

Deductions from pay in respect of liabilities for maintenance, etc.  
28 & 29 Vict. c. 73.

- (a) for the maintenance of the wife and children (whether legitimate or illegitimate) of that person ;
- (b) for the payment of any sum adjudged as costs, or awarded as expenses, incurred in obtaining against that person an order or decree of any court in His Majesty's dominions in respect of the maintenance of his wife and any such children of his as aforesaid :

Provided that no deduction from pay shall be made under this subsection greater than will leave to the person from whose pay the deduction is made (subject, however, to the making of any other deduction authorised by or under any Act) not less than four-sevenths of his pay if he is an officer, and otherwise not less than one-third of his pay if he is not below the rank of petty officer or, if a marine, the rank of sergeant, and otherwise not less than one quarter of his pay.

(2) No deduction from pay shall be made under the last foregoing subsection in liquidation of a sum adjudged to be paid by an order or decree of any court unless such authority as may be specified by Order in Council under section three of the said Act of 1865 is satisfied that the person against whom the order or decree was made has had a reasonable opportunity of appearing himself, or has appeared by a duly authorised legal representative, to defend the case before the court by which the order or decree was made ; and a certificate purporting to be a certificate of the

commanding officer of the ship in which he was or is serving, or on the books of which he was or is borne, that the person has been prevented by the requirements of the service from attending at a hearing of any such case shall be evidence of the fact unless the contrary is proved.

(3) Where any arrears have accumulated in respect of sums adjudged to be paid by any order or decree to which this subsection applies while the person against whom the order or decree was made was serving under the Naval Discipline Act, whether or not deductions in respect thereof have been made from his pay under this section or, before the commencement of this Act, under subsection (2) of section ninety-eight A of the Naval Discipline Act (which provides for deductions from pay to satisfy liabilities for maintenance), then after the said person has ceased so to serve an order of committal shall not be made in respect of those arrears unless the court is satisfied that he is able, or has, since he has ceased so to serve, been able, to pay the arrears or any part thereof and has failed to do so.

This subsection applies to any order or decree having effect under any Act (including an Act of the Parliament of Northern Ireland and an Act of Tynwald) or at common law for payment by a person who is, or subsequently becomes, an officer, seaman or marine, either of the cost of the maintenance of his wife or child, or of any illegitimate child of his, or of the cost of any relief given to his wife or child by way of loan.

(4) The said subsection (2) of section ninety-eight A of the Naval Discipline Act shall cease to have effect; in subsection (3) of that section (which relates to the service of process)—

- (a) after the words "any Act," in each place where they occur, there shall be inserted the words "(including an Act of the Parliament of Northern Ireland and an Act of Tynwald)";
- (b) for the words "sent to the Admiralty or officer in accordance with subsection (2) of this section" there shall be substituted the words "made in consequence of process served in accordance with this subsection"; and
- (c) the words "in addition to those mentioned in subsection (2) of this section" shall cease to have effect; and in subsection (4) of that section (which provides that the section shall not apply to officers) for the words "This section" there shall be substituted the words "So much of the last foregoing subsection as provides for the service of process on the commanding officer or by sending it to the Secretary to the Admiralty, and for the leaving therewith of sufficient money to enable the defendant to attend the hearing and return therefrom."

(5) Paragraph (2) of Regulation thirteen of the Defence (Armed Forces) Regulations, 1939 (which provides for interim orders for deductions under the said subsection (2)) shall cease to have effect; but if any Order in Council coming into force by virtue of subsection (1) of this section at the commencement of this Act makes provision for deductions such as could have been made under the said paragraph (2), any order under that paragraph in force immediately before the commencement of this Act shall continue in force as if made under the Order in Council.

2.—(1) Where, whether before or after the commencement of this Act, an officer, seaman or marine has made an allotment of any part of his pay or allowances for the benefit of his wife and, by reason of the making of that allotment, a marriage allowance is payable to her or for her benefit under any Order in Council relating to marriage allowances made under section three of the Naval and Marine Pay and Pensions Act, 1865, then (notwithstanding anything in any Act) that allotment shall not be discontinued, or so reduced as to render that allowance no longer payable, until the Admiralty or a person deputed by the Admiralty is satisfied that the allowance should no longer be paid.

(2) Paragraph (2A) of Regulation thirteen of the Defence (Armed Forces) Regulations, 1939 (which makes, as respects seamen and marines, temporary provision for the matters provided for by the last foregoing subsection) shall cease to have effect.

3.—(1) This Act may be cited as the Naval Forces (Enforcement of Maintenance Liabilities) Act, 1947, and shall be construed as one with the Naval and Marine Pay and Pensions Act, 1865.

(2) This Act shall come into operation on such date as the Admiralty may by order appoint.

## CHAPTER 25.

### *Army and Air Force (Annual) Act, 1947.*

#### ARRANGEMENT OF SECTIONS.

Section,

1. Short title.
2. Army Act and Air Force Act to be in force for specified times.

#### AMENDMENTS OF THE ARMY AND AIR FORCE ACTS.

##### PART I.

##### AMENDMENTS OF THE ARMY ACT APPLICABLE ALSO (SUBJECT TO MODIFICATIONS) TO THE AIR FORCE.

3. Payments for copies of proceedings of court-martial.
4. Liability of officer to maintain wife and children.
5. Minor amendments as to liabilities for maintenance.
6. Interim orders for deductions from pay towards maintenance of wife and children.
7. Amendment of Army Act, section 163 (1).
8. Application of Part I to Air Force Act.

## PART II.

## AMENDMENT OF THE ARMY ACT.

9. Military corrective establishments.

## PART III.

## AMENDMENT OF THE AIR FORCE ACT.

10. Detention of airmen in military corrective establishments.

---

An Act to provide, during twelve months, for the discipline and regulation of the Army and the Air Force. [29th April 1947.]

**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 one million two hundred and ten thousand, exclusive of the numbers actually serving in India on the Indian establishment and paid directly out of the revenues of the Governor-General in Council, and of the numbers actually serving in Burma on the Burma establishment and paid directly out of the revenues of Burma :

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 three hundred and seventy thousand, exclusive of any numbers serving as aforesaid :

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-seven 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 :—

1. This Act may be cited as the Army and Air Force (Annual) Short title. Act, 1947.

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-seven, to the thirtieth day of April, nineteen hundred and forty-eight, both inclusive ; and
- (b) Elsewhere, whether within or without His Majesty's dominions, from the thirty-first day of July, nineteen hundred and forty-seven, to the thirty-first day of July, nineteen hundred and forty-eight, both inclusive.

(2) Notwithstanding anything in subsection (1) of section fifteen of the Army and Air Force (Annual) Act, 1932, the amendments of the Army Act and the Air Force Act made by this Act shall come into operation in all places as from the thirtieth day of April, nineteen hundred and forty-seven.

Army Act and  
Air Force Act  
to be in force  
for specified  
times.  
22 & 23 Geo 5.  
c. 22.

(3) 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.

(4) 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.

## AMENDMENTS OF THE ARMY AND AIR FORCE ACTS.

### PART I.

#### AMENDMENTS OF THE ARMY ACT APPLICABLE ALSO (SUBJECT TO MODIFICATIONS) TO THE AIR FORCE.

Payments for copies of proceedings of court-martial.

3. In section one hundred and twenty-four of the Army Act (which entitles a person tried by court-martial to obtain a copy of the proceedings thereof upon payment therefor at the prescribed rate, not exceeding twopence for every folio of seventy-two words) for the word "twopence" there shall be substituted the word "fourpence".

Liability of officer to maintain wife and children.

4.—(1) At the end of section one hundred and thirty-seven of the Army Act (which specifies the deductions which may be made from the ordinary pay due to an officer of the regular forces) there shall be added the following paragraph:—

"(5) In respect of the maintenance of the officer's wife or child, or of any illegitimate child, or towards the cost of any relief given by way of loan to his wife or child, any sum ordered by the Army Council, or any officer deputed by them for the purpose, to be paid as mentioned in this Act."

(2) After section one hundred and forty-four of the Army Act there shall be inserted the following section:—

"144A.—(1) An officer of the regular forces shall be liable to contribute to the maintenance of his wife and of his children, and also to the maintenance of any illegitimate child of which he may be proved to be the father, to the same extent as if he were not a member of the regular forces; but execution in respect of any such liability or of any order or decree in respect of such maintenance shall not issue against his person, pay, arms, ammunition, equipments, instruments or clothing; nor shall he be liable to be punished for the offence

of deserting or neglecting to maintain his wife or family, or any member thereof, or of leaving her or them chargeable to any area or place.

(2) When any order or decree is made under any Act (including an Act of the Parliament of Northern Ireland and an Act of Tynwald) or at common law for payment by a man who is or subsequently becomes an officer of the regular forces either of the cost of the maintenance of his wife or child, or of any illegitimate child of whom he is the putative father, or of the cost of any relief given to his wife or child by way of loan, a copy of such order or decree shall be sent to the Army Council, or any officer deputed by them for the purpose, and in the case—

- (a) Of such order or decree being so sent ; or
- (b) Of it appearing to the satisfaction of the Army Council or any officer deputed by them for the purpose that an officer of the regular forces has deserted or left in destitute circumstances, without reasonable cause, his wife or any of his legitimate children under sixteen years of age,

the Army Council or officer deputed as aforesaid shall order to be deducted from the pay of the first-mentioned officer and to be appropriated in liquidation of the sum adjudged to be paid by such order or decree, or towards the maintenance of the wife or children of the first-mentioned officer, as the case may be, in manner directed by the order, such portion of that officer's pay as the Army Council or officer deputed as aforesaid in their or his discretion from time to time think or thinks fit, but so that there shall be left to the first-mentioned officer (subject, however, to the making of any other deduction authorised by or under any Act) not less than four-sevenths of his pay.

(3) No proceedings instituted against an officer of the regular forces under any Act (including an Act of the Parliament of Northern Ireland and an Act of Tynwald) or at common law for the purpose of enforcing against him any such liability as above in this section mentioned shall be valid against him if his commanding officer certifies that the officer is under orders for service out of the United Kingdom, and that in his opinion it will not be possible for the officer to attend the hearing and return to his quarters in sufficient time to enable him to embark for such service.

Every such certificate shall be sent to the court and shall be final and conclusive.

(4) Where any arrears have accumulated in respect of sums adjudged to be paid by any such order or decree as aforesaid whilst the person against whom the order or decree was made was serving as an officer of the regular forces, whether or not deductions in respect thereof have been made from his pay under this section, then after he has ceased so to serve an order of committal shall not be made in respect of those arrears unless the court is satisfied that he is able, or since he ceased so to serve has been able, to pay the arrears or any part thereof, and has failed to do so."

Minor amendments as to liabilities for maintenance.

5.—(1) In section one hundred and thirty-eight, in paragraph (8), and in section one hundred and forty-five, of the Army Act for the word "bastard", wherever that word occurs, there shall be substituted the word "illegitimate".

(2) In the said section one hundred and forty-five in subsection (1) (which renders a soldier of the regular forces liable to contribute to the maintenance of his wife and children as if he were not a soldier) for the words "not a soldier" there shall be substituted the words "not a member of the regular forces".

(3) In the said section one hundred and forty-five after the words "any Act" in the first place where they occur in subsection (2) and where they occur in subsection (3) there shall be inserted the words "(including an Act of the Parliament of Northern Ireland and an Act of Tynwald)", and after the words "petty sessional division" in the said subsection (3) there shall be inserted the words "or (in Northern Ireland or the Isle of Man) the petty sessions district".

Interim orders for deductions from pay towards maintenance of wife and children.

6. After section one hundred and forty-five of the Army Act there shall be inserted the following section:—

" 145A. Where an application has been made to the Army Council or to an officer deputed by them for the purpose of subsection (2) of section one hundred and forty-four A or subsection (2) of section one hundred and forty-five of this Act for an order requiring a portion of the pay of an officer or soldier of the regular forces to be deducted and appropriated towards the maintenance of his wife or of his children on the grounds specified in paragraph (b) of either of the said subsections, the Army Council or the officer deputed as aforesaid may, if it appears to them or to him that a prima facie case has been made out for the making of such an order, make an interim order for such deduction and appropriation of pay (not exceeding the amount authorised by the subsection in question) to take effect pending the further examination of the case."



7. In subsection (1) of section one hundred and sixty-three of the Army Act (which contains provisions as to evidence in proceedings under that Act) after paragraph (j) there shall be inserted the following paragraph :—

“(jj) Where the proceedings are proceedings against an officer or soldier on a charge of being a deserter or absentee without leave, and the officer or soldier has been apprehended and has on arrest been taken into the custody of a provost-marshal, assistant provost-marshal or other officer, a certificate purporting to have been signed by such provost-marshal, assistant provost-marshal or other officer, and stating the fact, date and place of arrest, shall be evidence of the matters so stated”.

8. References in the preceding sections in this Part of this Act to the Army Act shall be deemed to include references to the Air Force Act, and the provisions of the said sections shall in their application to the Air Force Act have effect subject to any of the general modifications set out in Part I of the Second Schedule to the Air Force (Constitution) Act, 1917, which apply.

Amendment of Army Act, section 163 (1).  
Application of Part I to Air Force Act.  
7 & 8 Geo. 5.  
c. 51.

## PART II.

### AMENDMENT OF THE ARMY ACT.

9. In section one hundred and thirty-two of the Army Act (which provides for the establishment and regulation of detention barracks) after subsection (3) there shall be inserted the following subsection :—

“(3A) Rules under this section may provide for the serving of sentences of imprisonment or detention, or parts of such sentences, in establishments to be known as military corrective establishments in lieu of in detention barracks, and such rules—

- (a) may make special provisions as respects such establishments for any of the matters specified in subsection (2) of this section ;
- (b) may provide for persons serving sentences in such establishments being allowed out of military custody for such periods, and subject to such conditions, as may be specified by or under the rules and for the application of this Act to persons allowed out of military custody in pursuance of the rules who have not returned thereto on the expiration of any such period or who do not comply with any such conditions, as it applies to persons who escape from lawful custody ;

and subject to the provisions of rules made by virtue of this subsection this Act shall apply in relation to military corrective establishments as it applies in relation to detention barracks.”

## PART III.

## AMENDMENT OF THE AIR FORCE ACT.

Detention of  
airmen in  
military  
corrective  
establish-  
ments.

10.—(1) In section sixty-eight of the Air Force Act in paragraph (e) of subsection (2) (which provides that for the purposes of the provisions of that Act relating to detention the expression “detention barrack” includes a military detention barrack) after the words “military detention barrack” there shall be added the words “or military corrective establishment”.

(2) In section one hundred and thirty-two of the Air Force Act (which provides for the establishment and regulation of detention barracks) after subsection (3) there shall be inserted the following subsection :—

- “(3A) Rules under this section may provide that where—
- (a) persons subject to this Act are serving sentences in military corrective establishments, and
  - (b) under the rules relating to such establishments provision is made for the said persons being allowed out of custody,

then if any such person does not return to custody on the expiration of the period for which under the said provision he is allowed out of custody or if he does not comply with any conditions subject to which under the said provision he is allowed out of custody, this Act shall apply to him as it applies to persons who escape from lawful custody.”

---

## CHAPTER 26.

### *Cotton (Centralised Buying) Act, 1947.*

#### ARRANGEMENT OF SECTIONS.

Section.            *Provisions for establishing centralised buying.*

1. Establishment and primary functions of the Raw Cotton Commission.
2. Raw cotton to be imported only by the Commission.
3. Prohibition of dealings in raw cotton except with the consent of the Commission.
4. Punishment for prohibited importation or dealing.

#### *Constitution of the Commission, etc.*

5. Constitution of the Commission.
6. Provisions as to independent members of the Commission.
7. Powers of the Board of Trade in relation to the Commission.
8. Annual report of the Commission.

#### *Subsidiary functions of the Commission.*

9. Research.
10. Cover scheme.
11. Agency for government departments.
12. General powers.

*Transfer of cotton assets from Board of Trade, and  
financial provisions.*

## Section.

13. Transfer to the Commission of cotton assets of the Board of Trade.
14. Values of assets transferred to the Commission to be treated as advanced by the Board of Trade.
15. Advances by the Board of Trade to the Commission.
16. Temporary borrowing by the Commission.
17. Interest on advances.
18. Repayment of advances.
19. Reserve fund of the Commission.
20. Commission's accounts and audit thereof.
21. Issues from and repayments to the Consolidated Fund, etc.

*General.*

22. Provisions as to the Commission's obtaining information.
23. Restriction on disclosure of information.
24. Provisions as to prosecutions, and as to offences by corporations.
25. Provisions as to regulations.
26. Exercise of powers of Board of Trade.
27. Interpretation.
28. Short title and extent.

An Act to make provision for centralised buying, selling and distribution of raw cotton, for the establishment of a Commission for that purpose and for the purpose of research in connection with raw cotton and its manufacture, and for matters connected therewith.

[21st May 1947.]

**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:—

*Provisions for establishing centralised buying.*

1.—(1) There shall be a Raw Cotton Commission who shall, on and after the appointed day, be charged with the duty of buying, importing into the United Kingdom, and holding and distributing therein, all raw cotton required for the purposes of the cotton industry of the United Kingdom and of other persons using raw cotton therein, and raw cotton required therein for the purposes of the re-export trade in raw cotton.

Establishment and primary functions of the Raw Cotton Commission.

(2) The quantities, growths, types and qualities, of the raw cotton to be bought and imported by the Commission shall be such as to be suitable to meet the requirements in the United Kingdom—

- (a) primarily, of persons whose business it is to subject raw cotton to any process of manufacture, and
- (b) so far as may be consistent with meeting the requirements of those persons, of the re-export trade.

(3) The prices at which the Raw Cotton Commission (in this Act referred to as "the Commission") sell raw cotton shall be such as may seem to them best calculated to further the public interest in all respects.

(4) The Commission shall, so far as may be consistent with the proper discharge of their duty under the last preceding subsection, render raw cotton available to persons in the United Kingdom whose business it is to subject it to any process of manufacture at prices as low as may be possible consistently with securing that the revenues of the Commission shall be not less than sufficient, with any appropriations from their reserve fund to be established under this Act, for meeting all their outgoings properly chargeable to revenue account (including, without prejudice to the generality of that expression, provisions in respect of their obligations under section seventeen, subsection (2) of section eighteen, and section nineteen of this Act) on an average of good and bad years.

Raw cotton to  
be imported  
only by the  
Commission.

2.—(1) On and after the appointed day no person other than the Commission or their agent shall import or cause to be imported into the United Kingdom any raw cotton :

Provided that this subsection shall not apply—

- (a) subject to compliance with such conditions as the Commissioners of Customs and Excise may impose for securing the re-exportation thereof, to cotton imported solely with a view to the re-exportation thereof after transit through the United Kingdom or by way of trans-shipment ;
- (b) to a person acting in relation to the importation in question under the authority of a licence granted by the Board of Trade (in this Act referred to as "the Board") and in accordance with the terms of the licence ; or
- (c) to cotton imported in a quantity small enough to indicate to the satisfaction of the Commissioners of Customs and Excise that it is imported as a sample only.

(2) Any officer of Customs and Excise may seize any raw cotton with respect to which he may have reason to believe that the preceding subsection has been contravened, and may detain it pending the determination of any proceedings instituted in respect of the importation or until the Board certify that no such proceedings are likely to be instituted.

Any cotton so detained shall be detained at the owner's risk in such place and manner as the Board may direct, and, if any such proceedings as aforesaid result in a conviction, the cotton shall be disposed of as the Board may direct, and the Board shall have power by such a direction to vest the property in the cotton in the Commission or in any other person.

(3) Before granting a licence for the purposes of this section the Board shall consult the Commission.

3.—(1) On and after the appointed day no person other than the Commission shall, without the previous consent in writing of the Commission, sell, agree to sell or offer to sell, any raw cotton otherwise than under a contract providing for delivery outside the United Kingdom.

Prohibition of dealings in raw cotton except with the consent of the Commission.

(2) Where the Commission have made with any person a contract of sale which provides that raw cotton sold to him thereunder is sold with a view to his subjecting it to some process of manufacture in the United Kingdom, he shall not, without the previous consent in writing of the Commission, re-export any of it, or cause or permit any of it to be re-exported, therefrom.

(3) Where—

- (a) the Commission have made with any person a contract of sale which provides that raw cotton sold to him thereunder is sold with a view to his re-exporting it from the United Kingdom, or
- (b) a person has acquired the property in or possession of any raw cotton by virtue of any mortgage, charge or pledge thereof to him,

he shall not, without the previous consent in writing of the Commission, subject any of it, or cause or permit any of it to be subjected, to any process of manufacture in the United Kingdom.

(4) In this section references to selling shall be construed as references to entering into a contract which is a contract of sale within the meaning of the Sale of Goods Act, 1893, or which is a contract similar to such a contract in other respects but made for a consideration wholly or partly in money's worth and not, or not only, in money, and to entering into any transaction, in whatsoever form expressed, in so far as its effect is in substance the same as the effect of such a contract as aforesaid; and references to agreeing to sell or offering to sell shall be construed accordingly.

56 & 57 Vict. c. 71.

4. If any person contravenes any of the provisions of the two last preceding sections, or any of the terms of a licence granted for the purposes of section two of this Act, he shall be guilty of an offence and shall be liable—

Punishment for prohibited importation or dealing.

- (a) 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; or
- (b) on conviction on indictment, to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

*Constitution of the Commission, etc.*

Constitution  
of the  
Commission.

5.—(1) The Commission shall be a body corporate by the name of "the Raw Cotton Commission," with perpetual succession and a common seal and power to hold land without licence in mortmain.

(2) The principal office of the Commission shall be in Liverpool and a branch office shall be established in Manchester.

(3) The Commission shall consist of the following members, appointed by the Board, that is to say—

(a) a chairman and either one or two other members as the Board may from time to time think expedient (in this Act referred to as the "independent members") who shall be appointed as being independent persons and shall be required to devote their time primarily to their duties as members of the Commission; and

(b) other members (in this Act referred to as the "part-time members") to such number, not exceeding ten, as the Board may from time to time think expedient.

(4) The persons to be appointed as members of the Commission shall be appointed from amongst persons appearing to the Board to have the following qualifications, that is to say—

(a) as regards the independent members, having had experience of, and having shown capacity in, industrial, commercial or financial matters, or in administration, or having special knowledge of the cotton industry or of some branch thereof, of the business of merchanting raw cotton or of the business of a raw cotton broker;

(b) as regards the part-time members, as to not less than two of them, having special knowledge of the interests of operatives employed in the cotton industry, and as to the others, having special knowledge of the cotton industry or of some branch thereof, of the business of merchanting raw cotton or some products of the cotton industry or of the business of a raw cotton broker; and however that, in the case of those others, the persons to be appointed shall be appointed as having had experience of, and having shown capacity in, industrial, commercial or financial matters, or in administration, or having special knowledge as aforesaid.

(5) A person shall be eligible for appointment as a member of the Commission if he has been a member of the Commons House of Lords or of the House of Commons.

(6) The independent members shall be appointed, and the chairman, whilst there are two independent members, shall be appointed, as part-time being directed by the Board, and shall be appointed chairman of the Commission.

(7) There shall be paid to the members of the Commission such salaries and allowances as may be determined by the Board with the approval of the Treasury, and, on the retirement or death of any of the independent members as to whom it may be so determined to make such provision, such pensions and gratuities to them or to others by reference to their service as may be so determined.

(8) The Commission shall appoint a secretary and such other officers, agents and servants as the Commission may determine, and there shall be paid to them such remuneration as the Commission may determine, and, on the retirement or death of any of them as to whom the Commission may, with the approval of the Board, determine to make such provision, such pensions and gratuities to them or to others by reference to their service as the Commission may so determine.

(9) Salaries, allowances and remuneration under subsections (7) and (8) of this section shall be paid out of the revenues of the Commission.

(10) Any pensions or gratuities under subsections (7) or (8) of this section shall be paid or provided for in such manner as may be determined—

- (a) in the case of any to be paid under subsection (7), by the Board with the approval of the Treasury, or
- (b) in the case of any to be paid under subsection (8), by the Commission with the approval of the Board,

either wholly out of the revenues of the Commission or partly thereof and partly by means of contributions.

(11) The Board shall make regulations with respect to—

- (a) the appointment, and the tenure and vacation of office of the members of the Commission;
- (b) the proceedings and meetings of the Commission;
- (c) the powers and duties of the members of the Commission;
- (d) the mode of entering instruments by and on behalf of the Commission, and the documents to be executed, and the persons or a member, officer or servant thereof.

(12) The provisions of regulations made under the last section shall have power to

in the case of any person deemed to exempt the person from liability to pay any duty, rate, levy or other local

Provisions  
as to  
independent  
members of the  
Commission.

6.—(1) It shall be the duty of the Board to satisfy themselves, with respect to any person whom they propose to appoint to be an independent member of the Commission, that that person will have no such financial or commercial interest as is likely to affect him in the discharge of his functions as an independent member, and also to satisfy themselves from time to time, with respect to any independent member, that he has no such interest as aforesaid.

An independent member shall, whenever requested by the Board so to do, furnish to them such information as they consider necessary for the purpose of their duty under this subsection.

(2) A person who has been an independent member of the Commission shall not, during the period of six months beginning with the date on which he ceases on any occasion to be such a member, carry on business in the cotton industry or the business of merchanting raw cotton or any products of the cotton industry or the business of a raw cotton broker, or be a director, officer or servant of any undertaking carrying on any such business.

If any person contravenes any of the provisions of this subsection, he shall be liable on summary conviction to a fine not exceeding one hundred pounds, and if a contravention thereof of which a person has been convicted is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding twenty pounds for each day on which the contravention is so continued.

(3) The Board shall from time to time consider and decide what functions of the Commission are functions as to which determinations of the Commission ought, having regard to their independent status, to be taken by the independent members only, or what other provision ought to be made for giving to the independent members competence in relation to any affairs of the Commission to the exclusion, wholly or to any extent, of the part-time members, and effect may be given to any decision of the Board under this subsection either by directions to the Commission under the next succeeding section (which may, in the case of directions for the purposes of this provision, be of a specific character) or by regulations under subsection (11) of the last preceding section.

(4) The Commission shall make arrangements for ensuring that returns or information required under this Act to be furnished to them, being of a class as to which a direction given to the Commission by the Board for the purposes of this provision is for the time being in force, shall be furnished either to the independent members of the Commission, or to the secretary of the Commission, or to some other officer of the Commission specially authorised to receive the returns or information, and no person to whom returns or other information are furnished



pursuant to such arrangements shall disclose any of the contents thereof to any of the part-time members of the Commission except in the form of a summary of similar returns or information furnished by a number of persons, being a summary so framed as not to enable particulars relating to any individual business to be ascertained therefrom.

7.—(1) The Board may, after consultation with the Commission, give to the Commission directions of a general character as to the exercise and performance by the Commission of their functions in relation to matters appearing to the Board to affect the national interest, and the Commission shall give effect to any such directions. Powers of the Board of Trade in relation to the Commission.

(2) The Commission shall afford to the Board facilities for obtaining information with respect to the activities and property of the Commission, and shall furnish the Board with returns, accounts and other information with respect thereto, and afford to them facilities for the verification of information furnished, in such manner and at such times as the Board may require.

8.—(1) The Commission shall, as soon as possible after the end of each financial year of the Commission, make to the Board a report on the exercise and performance by them of their functions during that year, and the Board shall lay a copy of every such report before each House of Parliament. Annual report of the Commission.

(2) The report for any year shall set out any direction given by the Board to the Commission during that year unless the Board have notified to the Commission their opinion that it is against the national interest so to do.

#### *Subsidiary functions of the Commission.*

9. The Commission may prosecute research into matters relating to the growing and producing of raw cotton, to its transport, storage and preservation, to the treatment thereof so as to render it saleable, or to processes of manufacture to which it is subjected, and may promote such research by others and give assistance (including financial assistance) therefor. Research.

10. The Commission may operate (either in continuance, with or without modification, of the scheme in that behalf operated by the Board at the passing of this Act in the case of cotton spinners or under fresh arrangements) a scheme for giving protection against risks arising from fluctuations in the prices of raw cotton to persons carrying on any class of business in the United Kingdom that involves the incurring of such risks. Cover scheme.

11. The Commission may act as agents—

(a) for the Board in relation to the buying of cotton linters and cotton waste, the importing, holding and distributing thereof, the treatment thereof so as to render the goods saleable, or any of those matters; or Agency for government departments.

- (b) for any government department in relation to any arrangements for rendering raw cotton available at any place outside the United Kingdom.

General powers.

12. The Commission shall have power to do any thing or to enter into any transaction which in their opinion is calculated to facilitate the proper discharge of any of their functions under section one of this Act and the three last preceding sections or is incidental or conducive thereto (including any treating of raw cotton required for rendering it saleable in the discharge of those functions), whether or not involving the expenditure, borrowing in accordance with the provisions of this Act in that behalf or lending of money, the acquisition of any property or rights, or the disposal of any property or rights not in their opinion required for the proper discharge of their functions.

*Transfer of cotton assets from Board of Trade, and financial provisions.*

Transfer to the Commission of cotton assets of the Board of Trade.

13.—(1) There shall vest in the Commission, subject to and in accordance with the provisions of this section,—

- (a) the property in all raw cotton the property wherein is vested in the Board immediately before the appointed day, and all rights and liabilities of the Board under contracts then subsisting for the sale of raw cotton to or by the Board, for the importing, transport, storage or treatment of raw cotton, or for giving protection against risks arising from fluctuations in the prices of raw cotton under the scheme operated by the Board which is mentioned in section ten of this Act ; and
- (b) all other property then vested in the Board, and all rights and liabilities of the Board under other contracts then subsisting, except contracts of personal service, being property vested in them for the purposes only of functions of theirs relating to the buying, importing, holding or distributing of raw cotton or to matters incidental thereto (including the treatment of raw cotton, and including the operation of the said scheme, but excluding functions relating to cotton linters or cotton waste), or being contracts entered into by them for the purposes only of those functions.

(2) The property, rights and liabilities mentioned in paragraph (a) of subsection (1) of this section shall vest in the Commission, by virtue of this section and without further assurance, on the appointed day.

(3) The property, rights and liabilities which fall within paragraph (b) of subsection (1) of this section shall be determined by the Board, and the Board shall notify particulars thereof in writing to the Commission on the appointed day, or as soon as

possible thereafter, and the property, rights and liabilities specified in any notice given to the Commission for the purposes of this subsection shall vest in the Commission, by virtue of this section and without further assurance, on the appointed day or on the day on which the notice is given if later.

(4) The following provisions shall apply to any such contract as is mentioned in subsection (1) of this section, that is to say,—

- (a) any such contract shall have effect in favour of and against the Commission, on and after the day on which the rights and liabilities thereunder vest in them, as if the Commission had been a party thereto instead of the Board ;
- (b) if, by reason of the application to any such contract, as the proper law thereof, of the law of a country outside the United Kingdom or for other cause, the Commission are not in a position to enforce any rights thereunder, the Board shall give to the Commission such assistance in that behalf, whether by executing an assignment of the contract or themselves taking steps to enforce it or otherwise, as it appears to the Board to be in their power to give ;
- (c) the Commission shall indemnify the Board against any expenses incurred by the Board in giving such assistance as aforesaid, or in discharging any liability under any such contract which may be enforced against the Board after the said day ;
- (d) any proceeding or cause of action pending or existing by or against the Board in respect of any such contract immediately before the said day may be continued and enforced by or against the Commission as it might have been by or against the Board if this Act had not been passed.

14.—(1) The net values of the property, rights and liabilities vested in the Commission by virtue of the last preceding section shall be treated for the purposes of this Act as advances made by the Board to the Commission, being—

- (a) to the extent of the net value of the property, rights and liabilities mentioned in paragraph (a) of subsection (1) of the last preceding section, excluding such part thereof as the Board may, with the approval of the Treasury, determine, an advance for the purpose of meeting outgoings of the Commission properly chargeable to revenue account ;
- (b) to the extent of the said excluded part of the net value of the property, rights and liabilities mentioned in the said paragraph (a) and of the net value of the property,

Values of assets transferred to the Commission to be treated as advanced by the Board of Trade.

rights and liabilities mentioned in paragraph (b) of subsection (1) of the last preceding section, an advance for the purpose of meeting outgoings of the Commission properly chargeable to capital account.

The net value of property, rights and liabilities which is to be treated by virtue of this section as an advance for either of the said purposes is in this Act referred to as the "initial advance" for that purpose.

(2) The net value of the property, rights and liabilities mentioned in paragraph (a) of subsection (1) of the last preceding section shall be such as may be determined by the Board to be the fair value thereof having regard to the world prices of raw cotton at the appointed day and to all other considerations appearing to them to be relevant, and so that, as regards rights and liabilities under contracts of sale of raw cotton by or to the Board,—

- (a) any amount by which the sale price on a contract of sale by the Board is greater or less than the relevant world price shall be disregarded; but
- (b) any amount by which the sale price on a contract of sale to the Board is greater than the relevant world price shall be taken into account so as to decrease the said net value, and any amount by which the sale price on such a contract is less than the relevant world price shall be taken into account so as to increase the said net value.

(3) The net value of the property, rights and liabilities mentioned in paragraph (b) of subsection (1) of the last preceding section shall be determined by taking the aggregate of valuations of the different items as determined by persons to be appointed by the Board as having experience qualifying them to make such valuations.

Advances by  
the Board of  
Trade to the  
Commission.

15. The Board may make to the Commission from time to time advances (in this Act referred to as "periodical advances")—

- (a) for the purpose of meeting outgoings of the Commission properly chargeable to revenue account, of amounts such that the aggregate outstanding at any time in respect of periodical advances for that purpose and of the initial advance therefor shall not exceed the aggregate of the net value of property, rights and liabilities constituting that initial advance and seventy-five million pounds; and
- (b) for the purpose of meeting outgoings of the Commission properly chargeable to capital account, of amounts not exceeding in the aggregate ten million pounds (reckoned

without bringing into account the net value of property, rights and liabilities constituting the initial advance for that purpose).

16. The Commission may, with the consent of the Board, or in accordance with the terms of any general authority given by the Board, borrow temporarily by way of overdraft or otherwise such sums as they may require for meeting their obligations and discharging their functions under this Act :

Temporary  
borrowing  
by the  
Commission.

Provided that the aggregate of the amounts outstanding in respect of sums so borrowed shall not at any time exceed ten million pounds.

17.—(1) The Commission shall make to the Board, at such times and in such manner as the Board may, with the approval of the Treasury, direct, payments of interest on what is outstanding for the time being in respect of the initial and any periodical advances.

Interest on  
advances.

(2) The rate of the interest to be paid under this section shall be such as the Board, with the approval of the Treasury, may direct, and different rates may be directed as respects different advances or different parts of advances, and as respects interest for different periods.

18.—(1) If the Commission's cash balance at the end of any month (excluding any cash standing to the credit of their reserve fund to be established under this Act) exceeds such sum as may be then the sum fixed by the Board, with the approval of the Treasury, as the maximum cash balance to be held by the Commission, the Commission shall make to the Board a payment of an amount equal to the excess in or towards repayment to the Board of what is then outstanding in respect of the initial and any periodical advances for the purpose of meeting outgoings of the Commission properly chargeable to revenue account.

Repayment of  
advances.

A payment to be made under this subsection shall be made in such manner as the Board may, with the approval of the Treasury, direct, and shall be made forthwith after the end of the month in question or within such number of days thereafter as the Board may so direct.

(2) The initial and any periodical advances for the purpose of meeting outgoings of the Commission properly chargeable to capital account shall be repaid to the Board by the Commission's making, at such times and in such manner as the Board may, with the approval of the Treasury, direct, payments of such amounts as the Board may so direct.

(3) The Commission may make payments to the Board, in or towards repayment of advances, at times earlier than those at which such repayment would be required in accordance with the preceding provisions of this section.

Reserve fund  
of the  
Commission.

19.—(1) The Commission shall establish a reserve fund.

(2) There shall be paid to the Commission by the Board, and carried by the Commission to the credit of their reserve fund, such sum as the Board, with the approval of the Treasury, may determine to represent the net profit accruing to them from the discharge of functions of theirs relating to the buying, importing, holding or distributing of raw cotton or to matters incidental thereto (including the treatment of raw cotton, and including the operation of the scheme operated by them which is mentioned in section ten of this Act, but excluding functions relating to cotton linters or cotton waste) on or after the first day of April, nineteen hundred and forty-six.

The amount of the said net profit shall be determined having regard to all relevant considerations, including the net value of the property in raw cotton and rights and liabilities vested in the Commission by virtue of paragraph (a) of subsection (1) of section thirteen of this Act as determined for the purposes of section fourteen thereof.

(3) The management of the said fund, and (subject to the provisions of the last preceding subsection) the sums to be carried from time to time to the credit thereof, and the application thereof, shall be as the Commission may determine :

Provided that—

- (a) no part of the said fund shall be applied otherwise than for purposes of the Commission ; and
- (b) the power of the Board to give directions to the Commission 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 said fund, the carrying of sums to the credit thereof, or the application thereof, notwithstanding that the directions may be of a specific character.

Commission's  
accounts and  
audit thereof.

20.—(1) The Commission shall keep proper accounts and other records in relation thereto in such form as the Board may direct, and shall prepare in respect of each financial year of the Commission a statement of accounts in such form as the Board, with the approval of the Treasury, may direct, being a form which shall conform with the best commercial standards.

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

(3) So soon as the accounts of the Commission have been audited, they shall send a copy of the statement of accounts referred to in subsection (1) of this section to the Board together with a copy of any report made by the auditors on that statement or on the accounts of the Commission.

(4) The Board shall lay a copy of every such statement and report before each House of Parliament.

21.—(1) The Treasury may issue to the Board out of the Consolidated Fund such sums as are necessary to enable the Board to make to the Commission periodical advances and the payment required by subsection (2) of section nineteen of this Act. Issues from and repayments to the Consolidated Fund, etc.

(2) For the purpose of providing sums (or any part of sums) to be issued under the preceding subsection, or of providing 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 have been created and issued under that Act. 2 & 3 Geo. 6. c. 117.

(3) Sums received by the Board in respect of interest on advances, or in or towards repayment thereof, shall be paid into the Exchequer, and shall be issued out of the Consolidated Fund 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 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.

(4) The Board shall lay before each House of Parliament a statement of any payment due from the Commission to the Board under this Act in respect of interest on advances, or in or towards repayment thereof, which is not duly paid to the Board as required thereunder.

(5) The Board shall, as respects each financial year, prepare in such form and manner as the Treasury may direct, an account of sums received by the Board in respect of interest on advances, or in or towards repayment thereof, and of sums issued to and received by the Board under subsection (1) of this section, and of the disposal by the Board of those sums respectively.

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

*General.*

Provisions  
as to the  
Commission's  
obtaining  
information.

22. The Board may make regulations for enabling the Commission to obtain all such information as appears to the Commission to be necessary for the purpose of the proper discharge of any of their functions from persons carrying on in the United Kingdom a business which consists of or comprises the subjection of raw cotton to any process of manufacture, and from persons appearing to the Commission to be the owners of, or to have in their possession or under their control, raw cotton in the United Kingdom, and, without prejudice to the generality of this section, provision may be made by the regulations—

- (a) for the keeping and production of records ;
- (b) for the punishment of persons failing to comply with the regulations, or making or producing or furnishing false records or information :

Provided that no punishment provided for shall exceed that imposed by section four of this Act, or, in the case of a fine for a continuing offence, five pounds in respect of each day.

Restriction on  
disclosure of  
information.

23.—(1) No information relating to any individual business, being information which has been obtained by, or on behalf of, any person for the purpose of functions of his under this Act, shall, without the previous consent in writing of the owner for the time being of that business be disclosed otherwise than in connection with the execution, or for the purposes, of this Act.

(2) Nothing in the preceding subsection shall apply to any disclosure of information made for the purposes of any legal proceedings (including arbitrations) pursuant to this Act or of any criminal proceedings which may be taken whether pursuant to this Act or otherwise, or for the purposes of any report of any such proceedings as aforesaid.

(3) If any person discloses any information in contravention of this section, or of subsection (4) of section six of this Act, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment, or, on conviction on indictment, to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

Provisions  
as to  
prosecutions,  
and as to  
offences by  
corporations.

24.—(1) No proceedings for an offence against this Act or regulations made thereunder shall be instituted, in England, except by or with the consent of the Board or by the Director of Public Prosecutions, or, in Northern Ireland, except by or with the consent of the Board or by the Attorney-General for Northern Ireland.



(2) Where an offence against this Act or regulations made thereunder 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 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.

(3) Where a person convicted on indictment of an offence against this Act or regulations made thereunder is a body corporate, no provision in this Act or in regulations made thereunder limiting the amount of the fine which may be imposed shall apply to the body corporate, and the body corporate shall be liable to such fine as the court thinks just.

25.—(1) Regulations made under this Act shall be laid before Parliament as soon as may be after they are made, and if either House of Parliament within the period of forty days beginning with the day on which any such regulations are laid before it resolves that the regulations be annulled, the regulations shall thereupon become void, without prejudice, however, to the validity of anything previously done thereunder or to the making of new regulations. Provisions as to regulations.

(2) In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.

(3) Notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, regulations made under this Act shall be deemed not to be, or to contain, statutory rules to which that section applies. 56 & 57 Vict. c. 66.

26. Anything required or authorised by or under this Act to be done by, to, or before the Board 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.

27.—(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 appointed day” means such day as the Board may by order fix as that on which the Commission are to enter upon the duty with which they are charged by section one of this Act ;

2 & 3 Geo. 6.  
c. 54.

“ the cotton industry ” means spinning, doubling, weaving, and finishing, as defined respectively in subsection (2) of section thirty-eight of the Cotton Industry (Reorganisation) Act, 1939 ;

“ process of manufacture ” does not include treating so as to render saleable ;

“ raw cotton ” includes seed cotton, but does not include cotton linters, cotton waste, or bleached or dyed cotton ; and references to a contravention of any provision of this Act, of regulations made thereunder or of terms of a licence, include references to a failure to comply therewith.

(2) For the purposes of this Act, raw cotton removed from the Isle of Man into the United Kingdom shall be deemed to be imported into the United Kingdom.

Short title  
and extent.

28.—(1) This Act may be cited as the Cotton (Centralised Buying) Act, 1947.

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

## CHAPTER 27.

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

#### ARRANGEMENT OF SECTIONS.

##### PART I.

##### CENTRAL ADMINISTRATION.

##### Section.

1. Duty of Secretary of State.
2. Scottish Health Services Council and Standing Advisory Committees.

##### PART II.

##### SERVICES PROVIDED BY THE SECRETARY OF STATE.

##### *Hospital and Specialist Services.*

3. Provision of hospital and specialist services.
4. Accommodation available on part payment.
5. Accommodation for private patients.

##### *Transfer of hospitals to the Secretary of State.*

6. Transfer of hospitals to the Secretary of State.
7. Endowments of voluntary hospitals.
8. Hospital Endowments Commission.
9. Supplementary provisions relating to transfer of hospital property and liabilities.
10. Power to acquire hospital equipment.

##### *Administration of hospital and specialist services.*

11. Regional Hospital Boards, Medical Education Committees and Boards of Management.
12. Functions of Regional Hospital Boards and Boards of Management.
13. Legal status of Regional Hospital Boards and Boards of Management.
14. Conditions of service and appointment of officers.

*Other services provided by the Secretary of State.*

## Section.

15. Health Centres.
16. Ambulances.
17. Research.
18. Bacteriological service.
19. Blood transfusion and other services.

## PART III.

## SERVICES PROVIDED BY LOCAL HEALTH AUTHORITIES.

20. Local health authorities.
21. Proposals for provision of services by local health authority.
22. Care of mothers and young children.
23. Midwifery.
24. Health visiting.
25. Home nursing.
26. Vaccination and immunisation.
27. Prevention of illness, care and after-care.
28. Domestic help.
29. Powers of local health authorities regarding research.
30. Power of local health authority to contribute to expenditure on co-ordination of services.
31. Appointed day for the purposes of Part III.

## PART IV.

GENERAL MEDICAL AND DENTAL SERVICES, PHARMACEUTICAL  
SERVICES AND SUPPLEMENTARY OPHTHALMIC SERVICES.*Administration.*

32. Executive Councils.
33. Local representative committees.

*General Medical Services.*

34. Arrangements for general medical services.
35. Distribution of medical practitioners providing services.
36. Prohibition of sale of medical practices.
37. Compensation for loss of right to sell a medical practice.
38. Practitioners dying or retiring before appointed day.

*General Dental Services.*

39. Arrangements for general dental services.

*Pharmaceutical Services.*

40. Arrangements for pharmaceutical services.
41. Persons authorised to provide pharmaceutical services.

*Supplementary Ophthalmic Services.*

42. Supplementary ophthalmic services.

*Supplementary Provisions.*

43. Disqualification of persons providing services.
44. Powers of Secretary of State where services are inadequate.
45. Recovery of charges in respect of certain appliances and dental treatment.
46. Exercise of choice of medical practitioner, etc., in certain cases.
47. Decision of disputes.
48. Provision of courses for persons providing services.

## PART V.

## PROVISIONS AS TO MENTAL HEALTH SERVICES.

## Section.

49. Functions of Secretary of State under Lunacy and Mental Deficiency Acts.
50. Amendment and repeal of enactments relating to lunacy or mental deficiency.
51. Duties of local health authorities under Lunacy and Mental Deficiency Acts.

## PART VI.

## GENERAL.

*Financial Provisions.*

52. Expenses and receipts of the Secretary of State.
53. Grants to local health authorities.
54. Payments to Regional Hospital Boards, Executive Councils and other bodies.
55. Accounts of local health authorities, Regional Hospital Boards, Boards of Management and Executive Councils.

*Administrative provisions.*

56. Default powers of Secretary of State.
57. Purchase of land.
58. Power of Regional Hospital Boards and Boards of Management to hold property on trust.
59. Power of trustees to make payments to Regional Hospital Boards and Boards of Management.
60. Preservation of associations of denominational hospitals.
61. Provision of special educational treatment in hospitals.
62. Supply of goods by local health authorities.
63. Use of premises and equipment by other authorities.
64. Provision of residential accommodation for staff.
65. Qualifications, remuneration and conditions of service of officers.
66. Superannuation of officers.
67. Transfer and compensation of officers.
68. Consequential provisions on transfer of functions.
69. Inquiries.
70. Protection of certain bodies and their officers.
71. Exemptions from stamp duty on certain documents required for purposes of Act.
72. Miscellaneous administrative matters.
73. Regulations and orders.

*Supplementary Provisions.*

74. Consequential amendment and repeal of enactments.
75. Amendment and repeal of local Acts and charters.
76. Provision for winding up certain bodies.
77. Arbitration.
78. Repeal of s. 2 (3) of 6 & 7 Geo. 6. c. 33.
79. Expression "asylum" to cease to be used.
80. Interpretation.
81. Short title and extent.

## SCHEDULES :

First Schedule.—Scottish Health Services Council and Advisory Committees.

Second Schedule.—Hospital Endowments Commission.

Third Schedule.—Acquisition of Hospital Property other than Land.

Fourth Schedule.—Regional Hospital Boards, Medical Education Committees and Boards of Management.

Fifth Schedule.—Provisions as to Health Committees of Local Health Authorities.

Sixth Schedule.—Executive Councils.

Seventh Schedule.—Scottish Medical Practices Committee.

Eighth Schedule.—Constitution of Tribunal.

Ninth Schedule.—Amendment and repeal of enactments relating to lunatics and mental defectives.

Part I.—Amendments.

Part II.—Repeals.

Tenth Schedule.—Provisions as to Inquiries.

Eleventh Schedule.—Consequential amendments and repeals.

Part I.—Amendments.

Part II.—Repeals.

An Act to provide for the establishment of a comprehensive health service for Scotland, and for purposes connected therewith. [21st May 1947.]

**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.

### CENTRAL ADMINISTRATION.

1.—(1) It shall be the duty of the Secretary of State to promote the establishment in Scotland of a comprehensive health service designed to secure improvement in the physical and mental health of the people of Scotland and the prevention, diagnosis and treatment of illness, and for that purpose to provide or secure the effective provision of services in accordance with the following provisions of this Act. Duty of Secretary of State.

(2) The services so provided shall be free of charge, except where any provision of this Act expressly provides for the making and recovery of charges.

2.—(1) There shall be constituted in accordance with the First Schedule to this Act a council, to be called the Scottish Health Services Council and hereafter in this Act referred to as "the Health Services Council", and it shall be the duty of that Council to advise the Secretary of State upon such general matters relating to the services provided or which could be provided under this Act or any health services provided or which could be provided by local health authorities or by education authorities as the Council think fit and upon any questions referred to them by him relating to those services. Scottish Health Services Council and Standing Advisory Committees.

PART I.  
—cont.

(2) The Secretary of State may, after consultation with the Health Services Council, by order vary the constitution of that Council.

(3) The Secretary of State may, after consultation with the Health Services Council, by order constitute standing advisory committees for the purpose of advising him and the Health Services Council on such of the services aforesaid as may be specified in the order, and any committee constituted under this subsection shall consist partly of members of the Health Services Council appointed by that Council as being persons of experience in those services and partly of persons, whether members of the Health Services Council or not, appointed by the Secretary of State after consultation with such representative organisations as the Secretary of State may recognise for the purpose.

(4) It shall be the duty of a standing advisory committee constituted under this section to advise the Secretary of State and the Health Services Council upon such matters relating to the services with which the committee are concerned as they think fit and upon any questions referred to them by the Secretary of State or Health Services Council relating to those services, and, if the committee advise the Secretary of State upon any matter, they shall inform the Health Services Council, who may express their views thereon to the Secretary of State.

(5) The Health Services Council shall make an annual report to the Secretary of State on their proceedings and on the proceedings of any standing advisory committee constituted under this section, and the Secretary of State shall lay that report before Parliament with such comments (if any) as he thinks fit:

Provided that, if the Secretary of State, after consultation with the Health Services Council, is satisfied that it would be contrary to the public interest to lay any such report, or a part of any such report, before Parliament, he may refrain from laying that report or part.

(6) The supplementary provisions contained in the First Schedule to this Act shall have effect in relation to the Health Services Council and any standing advisory committee constituted under this section.

## PART II.

## SERVICES PROVIDED BY THE SECRETARY OF STATE.

*Hospital and Specialist Services.*

3.—(1) As from the appointed day, it shall be the duty of the Secretary of State to provide throughout Scotland, to such extent as he considers necessary to meet all reasonable

Provision of  
hospital and  
specialist  
services.

requirements, accommodation and services of the following descriptions, that is to say:—

- (a) hospital accommodation;
- (b) medical, nursing and other services required at or for the purposes of hospitals;
- (c) the services of specialists, whether at a hospital, a health centre provided under this Part of this Act, a clinic or, if necessary on medical grounds, the home of the patient or elsewhere;

and any accommodation and services provided under this section are in this Act referred to as "hospital and specialist services".

(2) It shall be the duty of the Secretary of State, in providing hospital and specialist services, to make available such facilities for undergraduate and post-graduate clinical teaching and research as he considers necessary to meet all reasonable requirements.

(3) Regulations may provide for the making and recovery by the Secretary of State of charges in respect of:—

- (a) the supply, as part of the hospital and specialist services, of any appliance which is, at the request of the person supplied, of a more expensive type than the type which would normally be supplied, or the replacement or repair of any such appliance; or
- (b) the replacement or repair of any appliance supplied as part of the services aforesaid, if it is determined in the prescribed manner that the replacement or repair is necessitated by lack of care on the part of the person supplied.

(4) Regulations may provide for the payment by the Secretary of State, in such cases as may be prescribed, of travelling expenses (including the travelling expenses of a companion) incurred or to be incurred by persons for the purpose of availing themselves of hospital and specialist services.

4. Where there is provided in any hospital, as part of the hospital and specialist services, accommodation in single rooms or small wards, the Secretary of State may make any such accommodation which is not for the time being needed by any patient on medical grounds, available for patients who undertake, or in respect of whom an undertaking is given, to pay for the accommodation such charges, designed to cover part of the cost thereof, as may be determined in the prescribed manner, and the Secretary of State may recover those charges.

Accommodation available on part payment.

5.—(1) If the Secretary of State, having regard to his duty to provide hospital and specialist services, is satisfied that it is reasonable so to do, he may set aside in any

Accommodation for private patients.

PART II.  
—cont.

hospital vested in him and providing such services special accommodation for patients who undertake, or in respect of whom an undertaking is given, to pay such charges as may be determined in the prescribed manner, being charges designed to cover the whole cost so far as falling to be defrayed out of moneys provided by Parliament of the accommodation and services provided for the patient at the hospital, including an appropriate amount in respect of overhead expenses, and the Secretary of State may recover those charges:

Provided that no accommodation shall be so set aside unless there will remain available, as part of the hospital and specialist services, for other patients at least as much accommodation as was immediately before the appointed day available free of charge or at hospitals vested in local authorities, being accommodation which became part of the hospital and specialist services on that day:

Provided also that nothing in this section shall prevent accommodation so set aside from being made available for any patient who urgently needs that accommodation on medical grounds and for whom suitable accommodation is not otherwise available.

(2) The Secretary of State may allow any medical practitioner serving, whether in an honorary or paid capacity, on the staff of a hospital vested in the Secretary of State and providing hospital and specialist services to make arrangements for the treatment of the private patients of such medical practitioner either at that hospital or at any other such hospital, and may make available for that purpose the special accommodation aforesaid, and in that case the charges under the last foregoing subsection shall not include the cost of any services rendered by the medical practitioner, and regulations may provide for determining the maximum charges to be made and recovered by any such medical practitioner in respect of the treatment of his private patients under this subsection.

*Transfer of hospitals to the Secretary of State.*

Transfer of  
hospitals to  
the Secretary  
of State.

6.—(1) Subject to the provisions of this Act, there shall, on the appointed day, be transferred to and vest in the Secretary of State for Scotland by virtue of this Act all interests in or attaching to premises forming part of a voluntary hospital or used for the purposes of a voluntary hospital, and in equipment, furniture or other corporeal moveable property used in or in connection with such premises, being interests held immediately before the appointed day by the governing body of the hospital or by trustees solely for the purposes of that



hospital, and all rights and liabilities to which any such governing body or trustees were entitled or subject immediately before the appointed day, being rights and liabilities acquired or incurred solely for the purposes of managing any such premises or property as aforesaid or otherwise carrying on the business of the hospital or any part thereof, but not including any endowment within the meaning of the next following section or any rights or liabilities transferred under that section.

(2) Subject to the provisions of this Act, there shall also, on the appointed day, be transferred to and vest in the Secretary of State for Scotland by virtue of this Act all hospitals vested in a local authority immediately before the appointed day, and all property and liabilities held by a local authority, or to which a local authority were subject, immediately before the appointed day, being property and liabilities held or incurred solely for the purposes of those hospitals or any of them.

(3) If it appears to the Secretary of State that, in the case of any such hospital as is mentioned in the foregoing provisions of this section, the transfer of the hospital or of the interests referred to in subsection (1) of this section will not be required for the purpose of providing hospital and specialist services, he may, at any time before the appointed day, serve a notice to that effect on the governing body of the hospital or, as the case may be, on the local authority in whom the hospital is vested, and in that event this section shall not apply to that hospital:

Provided that if the governing body or local authority, within such period (not being less than twenty-eight days from the service of the notice) as may be specified in the notice, serve a notice on the Secretary of State stating that they wish the hospital or interests to be transferred to the Secretary of State, this section shall apply to the hospital.

(4) All property transferred to the Secretary of State for Scotland under this section shall vest in him free of any trust existing immediately before the appointed day, and the Secretary of State may use any such property for the purpose of any of his functions under this Act, but shall so far as practicable secure that the objects for which any such property was used immediately before the appointed day are not prejudiced by the exercise of the power hereby conferred.

(5) There shall be apportioned between the Secretary of State for Scotland and the other persons concerned—

- (a) interests in premises used partly for the purposes of any hospital to which this section applies and partly for other purposes;
- (b) periodical sums payable in respect of such interests;

PART II.  
—cont.

- (c) liabilities incurred partly for the purposes referred to in subsection (1) or subsection (2) of this section and partly for other purposes;

and regulations may provide for the granting of the deeds required to transfer to and vest in the Secretary of State for Scotland and the other persons concerned with effect from the appointed day the appropriate shares of such interests sums or liabilities as aforesaid.

(6) Any question arising as to any of the matters referred to in the last foregoing subsection shall, in default of agreement, be determined by arbitration.

(7) The provisions of this section shall apply as regards interests, rights and liabilities held, acquired or incurred for the purpose of two or more voluntary hospitals to which this section applies in like manner as if those interests, rights and liabilities were held, acquired or incurred for the purposes of one such hospital.

(8) This section shall not apply to rights and liabilities arising under contracts for the rendering of personal services or to rights and liabilities arising under any enactment, scheme or contract providing for the payment of superannuation benefits, except superannuation benefits payable in respect of officers employed for the purposes of a voluntary hospital who have ceased to be so employed before the appointed day, but this subsection shall be without prejudice to the provisions of Part VI of this Act relating to the transfer and compensation of officers and the superannuation of officers.

Endowments  
of voluntary  
hospitals.

7.—(1) All endowments of a voluntary hospital to which the last foregoing section applies, being endowments given after the fifth day of November, nineteen hundred and forty-six, and before the appointed day, whether to the governing body of the hospital or to trustees, upon trusts which provide either—

- (a) for the administration of the property as a capital fund separate from the general funds of the hospital; or  
(b) for the application of the property for some specific object distinct from the general purposes of the hospital and involving expenditure of a capital nature;

shall on the appointed day, by virtue of this Act, be transferred to and vest in the Board of Management constituted under the following provisions of this Part of this Act for the hospital or for the group of hospitals comprising the hospital, and shall vest in that Board free of any trust existing immediately before the appointed day, and shall be held by the Board on trust for such purposes relating to the hospital or specialist services or to the functions of the Board under this Part of this Act with respect to research as the Board think fit:

Provided that the Board of Management shall secure, so far as is reasonably practicable, that the objects of the endowment and the observance of any conditions attaching thereto, including, in particular, conditions intended to preserve the memory of any person or class of persons, are not prejudiced by the exercise of the power hereby conferred.

(2) All endowments of a voluntary hospital to which the last foregoing section applies, other than endowments to which the last foregoing subsection applies, being endowments held immediately before the appointed day, shall on that day by virtue of this Act be transferred to and vest in the Board of Management constituted under the following provisions of this Part of this Act for the hospital or for the group of hospitals comprising the hospital.

(3) Any endowment vested in a Board of Management under the last foregoing subsection shall, pending the coming into operation of a scheme for that endowment made by the Hospital Endowments Commission constituted under the next succeeding section, be held by that Board on trust for the like uses and purposes as it was held immediately before the appointed day.

(4) Where any endowment which is to be transferred to and vested in a Board of Management under the provisions of this section is, immediately before the date of such transfer, subject to a liability, that liability shall be transferred to the Board on that day.

(5) All rights and liabilities acquired or incurred, whether by the governing body or by trustees, solely for the purposes of managing any endowment of a voluntary hospital to which the last foregoing section applies, being rights or liabilities to which the governing body or trustees were entitled or subject immediately before the appointed day, shall be transferred to and vest in the Board of Management of the hospital or of the group of hospitals comprising the hospital on that day by virtue of this Act.

(6) Regulations may provide, notwithstanding anything in the foregoing provisions of this section, for enabling the application, to such extent as may be prescribed, of property comprised in any endowment to which subsection (2) of this section applies to the discharge of any liabilities transferred to the Secretary of State from the governing body or trustees of a voluntary hospital under the last foregoing section or to a Board of Management under either of the last two foregoing subsections.

(7) There shall be apportioned between the Board of Management of the hospital or of the group of hospitals comprising the hospital and the other persons concerned—

(a) any property held partly for the purposes of a voluntary hospital to which the last foregoing section

PART II.  
—cont.

applies and partly for other purposes, being property which would, if it were held solely for the purposes of the hospital, constitute an endowment of that hospital;

- (b) any rights or liabilities acquired or incurred for the purpose of managing such property and any liabilities charged thereon; and
- (c) any periodical sums payable in respect of such property.

(8) Regulations may provide for the granting of the deeds required to transfer to and vest in the Board of Management and the other persons concerned with effect from the appointed day the appropriate shares of any such property, rights, liabilities or sums as aforesaid, and any shares of property so transferred to and vested in the Board of Management shall be deemed to be endowments transferred to and vested in that Board under subsection (1) or under subsection (2) of this section, whichever of those subsections would have applied if the property had been held solely for the purposes of a voluntary hospital to which the last foregoing section applies.

(9) Any question arising with respect to the matters referred to in the last foregoing subsection shall be determined in default of agreement by arbitration.

(10) In this section the expression “endowment,” in relation to a voluntary hospital, means property held by the governing body of the hospital or by trustees solely for the purposes of that hospital, being property of the following descriptions—

- (a) interests in or attaching to land other than the premises referred to in subsection (1) or subsection (5) of the last foregoing section, and in equipment, furniture or other corporeal moveable property used on or in connection with such land;
- (b) shares, stocks, bonds, debentures and other securities, and any other moveable property held by way of an investment;
- (c) money, including any credit in a banking account;
- (d) rights under any bill of exchange, promissory note, bond, or obligation for the payment of money.

(11) The foregoing provisions of this section shall apply, in like manner as they apply to property held solely or partly for the purposes of a voluntary hospital, to any property held solely or partly for the purposes of a hospital vested in a local authority immediately before the appointed day, which, if the hospital had been a voluntary hospital immediately before that day, would have been an endowment of that hospital within the meaning of this section, or could have been apportioned under paragraph (a) of subsection (7) of this section.

8.—(1) The Secretary of State shall constitute in accordance with the Second Schedule to this Act a Hospital Endowments Commission.

PART II.  
—*cont.*  
Hospital  
Endowments  
Commission.

(2) It shall be the duty of the Hospital Endowments Commission to frame and submit to the Secretary of State schemes for the government and management of endowments transferred to Boards of Management under subsection (2) of the last foregoing section, for the transfer in appropriate cases of such endowments to other Boards of Management or to Regional Hospital Boards constituted under the following provisions of this Part of this Act, and for the application of the capital or income of such endowments to such purposes as the Commission think fit, being purposes relating to hospital or specialist services or to research into any such matters as are mentioned in section seventeen of this Act. In framing any such scheme the Commission shall have special regard to—

- (a) the spirit of the intention of the founder or donor of the endowment to which the scheme relates and in particular to conditions intended to preserve the memory of any person or class of persons; and
- (b) the extent to which the original purpose of the endowment is sufficiently provided for by a public service or otherwise.

(3) Where in pursuance of a scheme under this section an endowment is transferred from the Board of Management in whom it was vested under the last foregoing section to another Board of Management or to a Regional Hospital Board the scheme may provide for the transfer to that other Board of Management or Regional Hospital Board, as the case may be, of any rights and liabilities in relation to that endowment vested in the first mentioned Board by subsection (4) or subsection (5) of the last foregoing section.

(4) Any sums received in pursuance of any such scheme by a Regional Hospital Board or a Board of Management may, subject to the provisions of the scheme, be used for such purposes relating to hospital or specialist services or to the functions of the Regional Hospital Board or the Board of Management under this Part of this Act with respect to research as they think fit.

(5) Regulations shall prescribe the procedure governing the framing and publication of schemes, the lodging and consideration of objections thereto and the holding of inquiries thereanent, and the provisions of the Tenth Schedule to this Act shall apply to any such inquiries held by the Hospital Endowments Commission with the substitution of the Commission for the Secretary of State in paragraphs 1 and 2, and the omission of paragraphs 6, 7 and 8 of the said Schedule.

PART II.  
—cont.

(6) The Secretary of State may by order approve, with or without modifications, which may include additions or exceptions, any scheme submitted to him by the Hospital Endowments Commission or may remit to the Commission to frame and submit a new scheme.

(7) The powers of the Hospital Endowments Commission shall terminate on the expiry of seven years from the appointed day:

Provided that the Secretary of State may from time to time by order direct that the said powers shall continue for a further period.

(8) On the expiry of the powers of the Hospital Endowments Commission the Secretary of State shall have the like powers to frame schemes as were exercisable by the Commission prior to such expiry, and for that purpose the provisions of this section shall, so far as applicable, have effect with the substitution, however, of power to confirm for power to approve a scheme.

(9) A scheme under this section may be varied or revoked by a subsequent scheme framed and approved or confirmed under this section.

Supplement-  
ary provisions  
relating to  
transfer of  
hospital  
property and  
liabilities.

9.—(1) For the purposes of the foregoing provisions of this Part of this Act relating to the transfer of property and liabilities, the expression "hospital" includes, in addition to the premises specified in the definition of the said expression contained in section eighty of this Act, any clinic, dispensary or out-patient department not maintained in connection with such premises as aforesaid at which treatment by or under the direction of medical or dental practitioners is provided, not being—

(a) a clinic or out-patient department maintained by an education authority or maintained by any other local authority for the care of expectant and nursing mothers and young children; or

(b) a clinic, out-patient department or dispensary where medical advice or treatment is ordinarily given by general medical practitioners and not by specialists;

and also includes any part of a poorhouse which would, if it were a separate institution, be a hospital as defined by the said section eighty, but save as aforesaid does not include any premises forming part of or ancillary to any institution or undertaking of which the main purpose is not therapeutic.

(2) Where in connection with a voluntary hospital any premises are used for providing accommodation for paying patients and any profits thereby earned are made available for the purposes of the hospital, the premises shall be deemed for the purposes of this Part of this Act to form part of the hospital.

(3) Where a dental school is associated with any hospital to which section six of this Act applies, nothing in the last three foregoing sections shall be taken as affecting any property or liabilities held or incurred solely for the purposes of that school, and those purposes shall not be deemed to be purposes of the hospital.

(4) Where—

- (a) any premises are intended to be used for the purposes of a hospital to which section six of this Act applies but have not been so used before the appointed day, and work has been done before that day for the purpose of adapting the premises for such use;
- (b) it is intended to construct on any land new buildings or works which will on completion be used for the purposes of such a hospital as aforesaid, and the work of constructing the buildings or works has commenced before the appointed day;
- (c) any premises used for the purposes of such a hospital as aforesaid have been destroyed and have not been restored before the appointed day; or
- (d) any premises normally used for the purposes of such a hospital as aforesaid are, owing to damage or any other cause, not so used immediately before the appointed day;

any interests in those premises or in that land or, in the case of destroyed premises, the site thereof held immediately before the appointed day by the governing body of the hospital or trustees or, as the case may be, the local authority in whom the hospital is vested, being interests held solely for the purposes of the hospital, shall be deemed for the purposes of this Part of this Act to be interests in premises forming part of the hospital.

(5) Where any premises or land normally used for other purposes are or is temporarily used immediately before the appointed day by a local authority for the purposes of a hospital, the premises or land shall not be deemed, for the purposes of this Part of this Act, to be a hospital, or, as the case may be, to form part of a hospital.

(6) Any right under the War Damage Act, 1943, to receive <sup>6 & 7 Geo. 6.</sup> a payment in respect of war damage within the meaning of <sup>c. 21.</sup> that Act, held immediately before the appointed day by the governing body of a voluntary hospital or by trustees solely for the purposes of such a hospital, and any such right, other than a right to receive a payment of cost of works or a temporary works payment within the meaning of that Act, held immediately before the appointed day by a local authority in whom a hospital is vested, in respect of war damage to property which before the occurrence of the

**PART II.**  
**—cont.**

damage was held for the purposes of that hospital, shall be deemed for the purposes of this Part of this Act to be a right acquired solely for the purposes of carrying on the business of the voluntary hospital or, as the case may be, a right held by the local authority solely for the purposes of the hospital vested in them:

Provided that, if the property to which the right relates was before the occurrence of the damage an endowment (within the meaning of section seven of this Act) of a voluntary hospital, the right shall for the purposes of this Part of this Act be deemed to be such an endowment.

(7) For the purposes of section fourteen of the War Damage Act, 1943 (which relates to the compulsory acquisition of partially damaged land) the transfer of any land under the foregoing provisions of this Part of this Act shall not be deemed to be the compulsory acquisition thereof.

(8) Where any property was, at any time between the twenty-first day of March, nineteen hundred and forty-six and the appointed day, held or used by such persons and for such purposes as would result, but for anything done after the said date, in the transfer of the property to the Secretary of State or to a Board of Management under the foregoing provisions of this Part of this Act, and that property ceases to be so held or used before the appointed day, it shall nevertheless be treated for the purposes of those provisions as if it had continued to be so held or used until the appointed day, unless it is proved by a person whose interest in that property would be transferred to the Secretary of State or to a Board of Management under those provisions, that the fact that it was not so held or used immediately before the appointed day was due to something done or occurring in the ordinary course of business, or was in no way connected with the said provisions.

(9) Regulations may make such provision, supplementary to or consequential on the foregoing provisions of this Part of this Act relating to the transfer of property and liabilities, as appears to the Secretary of State to be necessary or expedient, and in particular, but without prejudice to the generality of this subsection, regulations may provide—

- (a) for the determination by arbitration, in default of agreement, of any question arising as to whether any property or liability will be or has been transferred under the said provisions or as to the person to whom it will be or has been transferred;
- (b) for the granting of the deeds required for the purposes of such transfer; and
- (c) for enabling pending proceedings relating to any transferred property or liabilities to be carried on.



10. Where, in the exercise of powers to purchase land conferred on him by Part VI of this Act, the Secretary of State acquires any hospital (as defined by the last foregoing section), whether or not carried on for profit, he may also acquire, either by agreement or compulsorily in accordance with the provisions of the Third Schedule to this Act, any equipment, furniture or other corporeal moveable property used in or in connection with the hospital premises.

PART II.  
—cont.  
Power to  
acquire  
hospital  
equipment.

*Administration of hospital and specialist services.*

11.—(1) The Secretary of State shall by order constitute, in accordance with Part I of the Fourth Schedule to this Act, boards to be called Regional Hospital Boards, for such areas as he may by order determine, for the purpose of exercising functions with respect to the administration of the hospital and specialist services in those areas; and the Secretary of State shall secure, so far as practicable, that each area is such that the provision of the said services in the area can conveniently be associated with a university having a school of medicine.

Regional  
Hospital  
Boards,  
Medical  
Education  
Committees  
and Boards of  
Management.

(2) The order or orders made under the last foregoing subsection determining the areas for which the Regional Hospital Boards are to be constituted shall be separate from the order or orders constituting those Boards, and before making any order determining such an area, the Secretary of State shall consult with such bodies and organisations as appear to him to be concerned.

(3) The Secretary of State shall by order constitute, in accordance with Part II of the Fourth Schedule to this Act, for the area of each Regional Hospital Board, a Medical Education Committee for the purpose of advising that Board on the administration of the hospital and specialist services in the area so far as relating to the provision of facilities for undergraduate or post-graduate clinical teaching or for research.

(4) Every Regional Hospital Board shall, within such period as the Secretary of State may specify, submit to the Secretary of State a scheme for the appointment by them of boards to be called Boards of Management, for the purpose of exercising functions with respect to the control and management of individual hospitals or groups of hospitals vested in the Secretary of State and providing hospital and specialist services in the area of the Regional Hospital Board.

(5) Before submitting a scheme under the last foregoing subsection the Regional Hospital Board shall consult any university with which the provision of hospital and specialist services in the area of the Board is or is to be associated and any other body or organisation which appears to the Board to be concerned.

PART II.  
—cont.

(6) The Secretary of State may approve, with or without modifications, which may include additions or exceptions, any scheme submitted to him by a Regional Hospital Board under subsection (4) of this section, or may remit to the Board to submit a new scheme, and it shall be the duty of the Board to give effect to any scheme so approved by the Secretary of State.

(7) A Regional Hospital Board may at any time, and if directed by the Secretary of State shall within such period as he may specify, submit a new scheme under this section, and the last two foregoing subsections shall apply to any such new scheme.

(8) If a Regional Hospital Board fail to submit any scheme which they are required under this section to submit within a period specified by the Secretary of State, the Secretary of State may, after consultation with any university with which the provision of the hospital and specialist services in the area of the Board is associated, himself prepare a scheme, which shall have effect as if it had been submitted and approved under the foregoing provisions of this section.

(9) A Board of Management shall be constituted in accordance with Part III of the Fourth Schedule to this Act.

(10) Where after the appointed day—

- (a) any of the areas for which Regional Hospital Boards are constituted are varied, whether or not such variation involves the constitution of a new Board or the termination of the functions of an existing Board; or
- (b) a new scheme is made under this section involving the appointment of a new Board of Management or the termination of the functions of an existing Board or any variation in the grouping of hospitals managed by such Board;

then—

- (i) the Secretary of State may by order make provision for any supplementary and incidental matters for which it appears to him to be necessary or expedient to provide, and in particular for the transfer and compensation of officers, and the transfer of property and liabilities; and
- (ii) the Hospital Endowments Commission shall, if the Secretary of State so requests, frame and submit to him a scheme under section eight of this Act for adjusting the application of any endowments vested in the Regional Hospital Boards or Boards of Management concerned.

(11) The supplementary provisions contained in Part IV of the Fourth Schedule to this Act shall have effect in relation to the various bodies constituted under this section.

PART II.  
—cont.

12.—(1) Subject to the exercise of functions by Boards of Management in accordance with subsection (6) of this section, it shall be the duty of a Regional Hospital Board, subject to and in accordance with regulations and such directions as may be given by the Secretary of State, generally to administer on behalf of the Secretary of State the hospital and specialist services provided in their area.

Functions of  
Regional  
Hospital  
Boards and  
Boards of  
Management.

(2) Every Regional Hospital Board shall, within such period as the Secretary of State may specify, submit to him a scheme for the exercise on their behalf by Boards of Management of hospitals or groups of hospitals within their area of functions relating to the control and management of those hospitals or groups of hospitals, and any such scheme may include provision as to the following matters:—

- (a) the appointment of officers required to be employed at or for the purposes of any hospital controlled and managed by a Board of Management;
- (b) the maintenance of any premises forming part of or used in connection with any such hospital; and
- (c) the acquisition on behalf of the Secretary of State and the maintenance of equipment, furniture and other corporeal moveable property, required for the purposes of any such hospital.

(3) The Secretary of State may approve with or without modifications, which may include additions or exceptions, any scheme submitted to him by a Regional Hospital Board under subsection (2) of this section or may remit to the Board to submit a new scheme.

(4) A Regional Hospital Board may at any time, and if directed by the Secretary of State shall within such period as he may specify, submit a new scheme under this section and the last foregoing subsection shall apply to any such new scheme.

(5) If a Regional Hospital Board fail to submit any scheme which they are required under this section to submit within a period specified by the Secretary of State, the Secretary of State may himself prepare a scheme, which shall have effect as if it had been submitted and approved under the foregoing provisions of this section.

(6) It shall be the duty of the Board of Management of any hospital or group of hospitals, subject to and in accordance with regulations and any scheme approved under this section, to control and manage that hospital or group of hospitals

PART II.  
—cont.

on behalf of the Regional Hospital Board, and for that purpose to exercise on behalf of the Regional Hospital Board such of that Board's functions relating to the hospital or group of hospitals as may be specified in the said scheme.

Legal status of  
Regional  
Hospital  
Boards and  
Boards of  
Management.

13.—(1) A Regional Hospital Board shall, notwithstanding that they are exercising functions on behalf of the Secretary of State and a Board of Management shall, notwithstanding that they are exercising functions on behalf of the Regional Hospital Board be entitled to enforce any rights acquired, and shall be liable in respect of any liabilities incurred (including liability in damages for wrongful or negligent acts or omissions), in the exercise of those functions, in all respects as if the Regional Hospital Board or Board of Management, as the case may be, were acting as a principal, and all proceedings for the enforcement of such rights or liabilities shall be brought by or against the Regional Hospital Board or Board of Management, as the case may be, in their own name.

(2) A Regional Hospital Board or Board of Management shall not be entitled to claim in any proceedings any privilege of the Crown in respect of the recovery or production of documents, but this subsection shall be without prejudice to any right of the Crown to withhold or procure the withholding from production of any document on the ground that its disclosure would be contrary to the public interest.

Conditions of  
service and  
appointment  
of officers.

14.—(1) All officers employed for the purposes of the functions of a Regional Hospital Board under this Act shall be officers of that Board, and the remuneration and conditions of service of all such officers shall, subject to regulations, be determined by that Board.

(2) Regulations may make provision with respect to the appointment of such classes of the medical or dental officers employed on the staff of any such hospitals providing hospital and specialist services as may be specified in the regulations, and such regulations shall, without prejudice to the generality of the foregoing provision, provide—

(a) for the advertisement of any vacancy in any office to which the regulations apply;

(b) for the constitution, on the occasion of each such vacancy, of an advisory appointments committee consisting of—

(i) persons nominated by any Regional Hospital Board concerned;

(ii) persons nominated by any Board of Management concerned;

(iii) in the case of an appointment involving specialist duties, specialists nominated from among their own number by the members of a

national panel constituted in accordance with regulations for the purpose of making such nominations; and

- (iv) in the case of an appointment involving teaching duties, persons nominated by any university concerned, the number of persons nominated under this sub-paragraph being, except in such circumstances as may be prescribed, equal to one half of the total number of members of the committee;
- (c) for the selection by the appointments committee from the applicants of the persons considered by them to be suitable for the appointment, and for the making of the appointment from the persons so selected;
- (d) for the payment of the reasonable expenses of any appointments committee constituted as aforesaid.

*Other services provided by the Secretary of State.*

15.—(1) It shall be the duty of the Secretary of State to make such provision in such areas as he may deem necessary for the establishment, equipping and maintenance of premises, which shall be called "health centres", at which facilities shall be available for all or any of the following purposes:—

- (a) the provision of general medical services under Part IV of this Act by medical practitioners;
- (b) the provision of general dental services under Part IV of this Act by dental practitioners;
- (c) the provision of pharmaceutical services under Part IV of this Act by registered pharmacists;
- (d) the provision of the services of specialists or other services provided for out-patients under this Part of this Act;
- (e) the provision or organisation of any of the health services which local health or education authorities are required or empowered to provide;
- (f) the publication of information (including the delivery of lectures and the display of pictures or cinematograph films) relating to health or disease.

(2) The Secretary of State may provide staff for any health centre (other than staff employed solely for the purposes of paragraph (e) of the last foregoing subsection), and may provide residential accommodation at a health centre for members of the staff employed at that centre.

(3) The Secretary of State may delegate to a local health authority, on such conditions as may be agreed, any of his functions under this section relating to the area of that authority or any part thereof, and that authority may defray in whole or in part the expense incurred in the performance of

PART II.  
—cont.

any functions so delegated to them in like manner as if those functions had been conferred on the authority by this Act.

(4) Where a health centre affords facilities for the provision or organisation of any of the health services which local health or education authorities are required or empowered to provide, those facilities may be made available to such local health or education authority or authorities on such terms, including terms as to the payment of charges, and on such conditions as the Secretary of State may determine.

(5) Where a health centre affords facilities for the provision of general medical services, general dental services or pharmaceutical services, the centre shall be made available for those services on such terms, including terms as to the payment of charges by the persons providing such services, and on such conditions as the Secretary of State may determine.

## Ambulances.

16.—(1) It shall be the duty of the Secretary of State to make such provision as he thinks necessary for securing that ambulances and other means of transport are available for the conveyance of persons suffering from illness or mental deficiency or of expectant or nursing mothers.

(2) Regulations and schemes under section twelve of this Act may provide for the administration of the services under the last foregoing subsection as if those services formed part of the hospital and specialist services.

## Research.

9 & 10 Geo. 5.  
c. 21.

17.—(1) Without prejudice to the general powers and duties conferred or imposed on the Secretary of State under the Scottish Board of Health Act, 1919, the Secretary of State may conduct, or assist by grants or otherwise any person to conduct, research into any matters relating to the causation, prevention, diagnosis or treatment of illness or mental deficiency, or to the development of medical or surgical appliances including hearing aids.

(2) A Regional Hospital Board and a Board of Management shall have power to conduct or assist by grants or otherwise any person to conduct research into any of the aforesaid matters.

Bacteriological  
service.

18.—(1) The Secretary of State may provide or secure the provision of a bacteriological service, which may include the provision of laboratories, for the control of the spread of infectious diseases, and the Secretary of State may allow persons to make use of services provided at such laboratories on such terms, including terms as to the payment of charges, and on such conditions as the Secretary of State may determine.

(2) Regulations and schemes under section twelve of this Act may provide for the administration of the services under the last foregoing subsection as if those services formed part of the hospital and specialist services.

19. Where the Secretary of State has, in providing hospital and specialist services, acquired supplies of human blood for the purpose of carrying out blood transfusion, or supplies of any other substances or preparations not readily obtainable, he may make arrangements for making such supplies available to local health authorities and medical practitioners who require them on such terms, including terms as to the payment of charges, and on such conditions as the Secretary of State may determine.

PART II.  
—*cont.*  
Blood transfusion and other services.

### PART III.

#### SERVICES PROVIDED BY LOCAL HEALTH AUTHORITIES.

20.—(1) Subject to the provisions of this section, the local authority for the purposes of this Part of this Act, who shall be called the “local health authority”, shall be

Local health authorities.

(a) for a large burgh, the town council;

(b) for counties combined for the purposes mentioned in subsection (7) of section ten of the Local Government (Scotland) Act, 1929, the joint county council; and

19 & 20 Geo. 5.  
c. 25.

(c) for any county other than aforesaid, the county council,

and for the purposes of this subsection the expression “county” means a county inclusive of any small burgh situate in the county.

(2) Two or more local health authorities may, with the consent of the Secretary of State, combine for the purposes of all or any of their functions on such terms and conditions as may be agreed between them and approved by the Secretary of State.

(3) The agreement entered into for the purposes of any such combination may provide for the appointment of a joint committee or joint board consisting of representatives of the local health authorities concerned, and for the delegation to the joint committee or board of all or some of the functions relating to the purposes for which the combination has effect; and the agreement may make provision for the transfer of property and liabilities, the adjustment of liabilities between the authorities, the settlement of differences and for such other matters as appear to be necessary or expedient for the purpose of carrying the combination into effect.

(4) The expenses of a joint committee or board shall be defrayed by the authorities concerned in the proportions specified or provided for in the agreement, and the proportion of such expenses falling to be defrayed by a local health authority shall be defrayed by that authority in like manner as if the expenses had been incurred by the local health authority for the purposes for which the combination has effect.

PART III.  
—*cont.*

(5) The Secretary of State may, on the application of the local health authorities concerned, make an order for the purpose of giving effect to any of the provisions of this section.

(6) Whether or not an order is made under the last preceding subsection, the Secretary of State may by order constitute a joint committee or board, a body corporate by such name as may be determined by the order.

(7) The Secretary of State may, if it appears to him expedient so to do, make an order withdrawing the consent given by him to the combination, under subsection (2) of this section, of any two or more local health authorities and dissolving the combination; and any such order may contain provisions regulating the rights and liabilities of the authorities concerned and such other provisions as the Secretary of State thinks necessary or proper in the circumstances.

(8) If it appears to the Secretary of State to be expedient in the interests of the efficiency of any services provided by local health authorities in the exercise of their functions that two or more local health authorities should be combined for the purposes of all or any of their functions, he may make an order combining the authorities for the purpose of such of those functions as may be specified in the order.

(9) An order under the last foregoing subsection may provide—

- (a) for the appointment of a joint committee or joint board consisting of representatives of the local health authorities concerned and for the constitution of the joint committee or joint board as a body corporate;
- (b) for the delegation to the joint committee or joint board of such of the functions of the authorities concerned relating to the purposes for which the combination has effect as may be specified in the order;
- (c) for the transfer of property and liabilities; and
- (d) the adjustment of liabilities and the settlement of differences between the authorities concerned;

and shall specify the manner in which the expenses of the combination are to be defrayed by the local authorities concerned, 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.

(10) The Secretary of State shall not make an order under subsection (7) or subsection (8) of this section except after an inquiry unless all the authorities concerned have consented to the making of the order, and where any such order made after an inquiry is, in pursuance of subsection (1) of section seventy-three of this Act, laid before Parliament there shall be laid



together with it a copy of the report of the person by whom the inquiry was held.

PART III.  
—cont.

(11) The provisions of the Fifth Schedule to this Act shall have effect with respect to health committees of local health authorities.

21.—(1) Every local health authority shall, within such period as the Secretary of State may specify, submit to the Secretary of State proposals for carrying out their duties under the next following six sections of this Act, including their duties as local supervising authority for the purposes of the Midwives (Scotland) Acts, 1915 and 1927.

Proposals for provision of services by local health authority.

The Secretary of State may specify different periods under this section for proposals relating to different duties.

(2) Not later than the day on which any proposals are submitted to the Secretary of State, the local health authority shall serve a copy thereof—

- (a) on every voluntary organisation which to the knowledge of the local health authority provides in the area of the authority services of the kind dealt with in those proposals, and
- (b) on the Executive Council constituted under Part IV of this Act, and the Regional Hospital Board for the area in which any part of the area of the local health authority is situated;

and any such voluntary organisation, Council or Board may within two months of the service on them of a copy of the proposals make recommendations to the Secretary of State for modifying the proposals, and shall, not later than the day on which such recommendations are made, serve a copy thereof on the local health authority.

(3) The Secretary of State may approve the proposals with or without modifications, which may include additions or exceptions, or may remit to the local health authority to submit new proposals, and it shall be the duty of the local health authority to carry out their aforesaid duties in accordance with the proposals submitted and approved for their area under this section.

(4) A local health authority may at any time, and if directed by the Secretary of State shall within such period as he may specify, submit new proposals, and the last two foregoing subsections shall apply to any such new proposals.

(5) If any local health authority fail to submit any proposals which they are required to submit within a period specified by the Secretary of State, the Secretary of State may himself make proposals, and they shall have effect as if they had been submitted and approved under the foregoing provisions of this section:

PART III.  
—cont.

Provided that, before making any such proposals, the Secretary of State shall serve a copy of the draft proposals on the local health authority and on every voluntary organisation which to the knowledge of the Secretary of State provides in the area of the authority services of the kind dealt with in the proposals and on the bodies mentioned in paragraph (b) of subsection (2) of this section, and give an opportunity to that authority and those organisations and bodies to make recommendations to him for modifying the proposals.

Care of  
mothers and  
young  
children.

9 & 10 Geo. 6.  
c. 72.

22.—(1) It shall be the duty of every local health authority to make arrangements for the care, including in particular dental care, of expectant and nursing mothers and of children who are not attending a school under the management of an education authority and who have not attained, or are deemed under section thirty-three of the Education (Scotland) Act, 1946, not to have attained, the age of five years.

(2) Where the aforesaid arrangements provide for the supply of anything that may be prescribed, not being a drug, a medicine, or an appliance of a type normally supplied, the local health authority may recover from any person so supplied such charge as the authority may determine having regard to the cost of supply:

Provided that the authority may remit the said charge in whole or in part if in the circumstances of any particular case they consider it reasonable to do so.

(3) A local health authority may, with the approval of the Secretary of State, contribute to any voluntary organisation including among its objects any of the purposes mentioned in subsection (1) of this section.

Midwifery.

23.—(1) The local health authority shall be the local supervising authority for the purposes of the Midwives (Scotland) Acts, 1915 and 1927.

(2) It shall be the duty of every local health authority to make adequate arrangements for the provision to women by whom or on whose behalf application is made, of the services in their own homes of certified midwives before and during child-birth and from time to time thereafter during a period not less than the lying-in period and for that purpose the authority may arrange with Regional Hospital Boards or voluntary organisations employing midwives or they may themselves employ midwives.

In this subsection the expression "lying-in period" means the period defined as the lying-in period by any rule for the time being in force under section five of the Midwives (Scotland) Act, 1915.

5 & 6 Geo. 5.  
c. 91.

24.—(1) It shall be the duty of every local health authority to make provision in their area for the visiting of persons in their homes by visitors, to be called "health visitors", for the purpose of giving advice as to the care of young children, persons suffering from illness and expectant or nursing mothers, and as to the measures necessary to promote health and to prevent the spread of infection.

PART III.  
—cont.  
Health  
visiting.

(2) The duty of a local health authority under this section may be discharged by making arrangements with voluntary organisations for the employment by those organisations of health visitors or by themselves employing health visitors.

25. It shall be the duty of every local health authority to make provision in their area, whether by making arrangements with voluntary organisations employing nurses or by themselves employing nurses, for securing the attendance of nurses on persons who require nursing in their own homes.

Home nursing

26.—(1) Every local health authority shall make arrangements with medical practitioners for the vaccination of persons in the area of the authority against smallpox, and the immunisation of such persons against diphtheria.

Vaccination  
and immuni-  
sation.

(2) Any local health authority may, with the approval of the Secretary of State, and if directed by the Secretary of State shall, make similar arrangements for vaccination or immunisation against any other disease.

(3) In making arrangements under this section a local health authority shall give every medical practitioner providing general medical services in their area under Part IV of this Act an opportunity to provide services under this section.

(4) The Secretary of State may, either directly or by entering into arrangements with such persons as he thinks fit, supply free of charge to local health authorities and medical practitioners providing services under this section, vaccines, sera or other preparations for vaccinating or immunising persons against any disease.

(5) The Vaccination (Scotland) Acts, 1863 to 1907, and section seventy-seven of the Public Health (Scotland) Act, 1897, shall cease to have effect.

60 & 61 Vict.  
c. 38.

27.—(1) A local health authority may with the approval of the Secretary of State, and to such extent as the Secretary of State may direct shall, make arrangements for the purpose of the prevention of illness, the care of persons suffering from illness or mental deficiency, or the aftercare of such persons, but no such arrangements shall provide for the payment of

Prevention of  
illness, care  
and after-care.

PART III.  
—cont.

money to such persons, except in so far as they may provide for the remuneration of such persons engaged in suitable work in accordance with the arrangements.

(2) The local health authority may recover from any person availing himself of any such service provided under this section as may be prescribed such charge as the authority may determine having regard to the cost of the service:

Provided that the authority may remit the said charge in whole or in part if in the circumstances of any particular case they consider it reasonable to do so.

(3) A local health authority may, with the approval of the Secretary of State, contribute to any voluntary organisation including among its objects any such purpose as aforesaid.

Domestic  
help.

28.—(1) A local health authority may make such arrangements as the Secretary of State may approve for providing domestic help for households where such help is required owing to the presence of any person who is ill, lying-in, an expectant mother, mentally defective, aged, or a child not over school age within the meaning of the Education (Scotland) Act, 1946.

(2) The local health authority may recover from any person availing himself of domestic help so provided such charge as the authority may determine having regard to the cost of the arrangements:

Provided that the authority may remit the said charge in whole or in part if in the circumstances of any particular case they consider it reasonable to do so.

Powers of  
local health  
authorities  
regarding  
research.

29. Without prejudice to any other powers of a local health authority, such an authority may, with the approval of the Secretary of State, make such provision for conducting, or assisting the conduct of, research as appears to the authority desirable for purposes relating to their functions.

Power of  
local health  
authority to  
contribute to  
expenditure on  
co-ordination  
of services.

30. A local health authority may contribute towards expenditure incurred by any body including representatives of the authority among its members and approved by the Secretary of State that may be set up to advise on the local co-ordination of any of the services referred to in section two of this Act.

Appointed  
day for the  
purposes of  
Part III.

31. This Part of this Act, except section twenty, section twenty-one and section thirty, shall come into force on the appointed day.

## PART IV.

GENERAL MEDICAL AND DENTAL SERVICES, PHARMACEUTICAL  
SERVICES AND SUPPLEMENTARY OPHTHALMIC SERVICES.*Administration.*

32.—(1) The Secretary of State shall by order constitute, Executive Councils. in accordance with the provisions of the Sixth Schedule to this Act, for each area as hereinafter defined, a council, to be called the Executive Council, for the purpose of exercising functions with respect to the provision of services under this Part of this Act, and the supplementary provisions contained in the said Schedule shall apply to every such Council.

(2) Where it appears to the Secretary of State, either before or after Executive Councils have been constituted under the last foregoing subsection, to be expedient in the interests of the efficiency of the services provided under this Part of this Act that a single Executive Council should be constituted for two or more areas, he may by order provide for the constitution of such a Council.

(3) Where it appears to the Secretary of State that owing to the special circumstances of the area for which an Executive Council has been or is to be constituted under this section it is desirable to vary the constitution of that Council, he may by order provide for such variation:

Provided that before making any such order with respect to a Council already constituted, he shall consult with that Council, and in making any order under this subsection he shall have regard to the desirability of maintaining, so far as practicable, the same numerical proportion as between the members appointed by the several authorities and bodies mentioned in the Sixth Schedule to this Act.

(4) Where it appears to the Secretary of State to be expedient in the interests of the efficiency of the services provided under this Part of this Act that a joint committee should be established for the areas of two or more Executive Councils for the purpose of exercising some but not all of their functions, the Secretary of State may by order constitute such a joint committee and provide for the exercise by that committee of such of the said functions as may be specified in the order, and for the payment of the expenses of the committee by the constituent Councils, and for the application, with such modifications as may be so specified, to that committee of any provisions of this Act

**PART IV.**  
—*cont.*

relating to those functions, and for any of the matters for which, in relation to an Executive Council, regulations made under the Sixth Schedule to this Act may provide.

(5) Any order made under this section may contain such supplementary and incidental provisions as appear to the Secretary of State to be necessary or expedient, including provision for the transfer of officers and their compensation by the Secretary of State and the transfer of property and liabilities.

(6) In this section—

the expression “ area ” means a county or a burgh being a county of a city: Provided that the Secretary of State may, by order, direct that an area consisting of a part or parts of one or more counties shall be an area for the purposes of this section;

the expression “ county ” includes any burgh (other than a county of a city) situate therein.

Local repre-  
sentative  
committees.

33.—(1) Where the Secretary of State is satisfied that a local committee formed for the area of any Executive Council is representative—

(a) of the medical practitioners of that area, or

(b) of the dental practitioners of that area, or

(c) of the persons providing pharmaceutical services in that area,

the Secretary of State shall recognise that committee, and any committee so recognised shall be called the Local Medical Committee, the Local Dental Committee or the Local Pharmaceutical Committee, as the case may be, for the area concerned.

(2) The Executive Council shall in exercising their functions under this Part of this Act consult with the said Committees on such occasions and to such extent as may be prescribed, and the said Committees shall exercise such other functions as may be prescribed.

*General Medical Services.*

Arrangements  
for general  
medical  
services.

34.—(1) It shall be the duty of every Executive Council in accordance with regulations to make as respects their area arrangements with medical practitioners for the provision by them as from the appointed day of personal medical services for all persons in the area who wish to take advantage of the arrangements, and the services provided in accordance with the arrangements are in this Act referred to as “ general medical services.”

(2) Regulations may make provision for defining the personal medical services to be provided and for securing that the arrangements will be such that all persons availing themselves of those services will receive adequate personal care and attendance, and the regulations shall include provision—

- (a) for the preparation and publication of lists of medical practitioners who undertake to provide general medical services;
- (b) for securing a right to any person to choose or to change, in accordance with the prescribed procedure, the medical practitioner by whom he is to be attended, subject to the consent of the practitioner who is to give the attendance and to any prescribed limit on the number of patients to be accepted by any practitioner;
- (c) for the distribution, among medical practitioners whose names are on the aforesaid lists, of any persons who have indicated a wish to obtain general medical services but who have not made any choice of medical practitioner or have been refused by the practitioner chosen;
- (d) for the issue to patients or their personal representatives by medical practitioners providing such services as aforesaid of certificates reasonably required by them under or for the purposes of any enactment.

35.—(1) Subject to the provisions of this Part of this Act relating to the disqualification of persons providing services, every medical practitioner engaged in medical practice (otherwise than as a paid assistant) who wishes to provide general medical services shall be entitled, on making an application at any time before the appointed day in the prescribed manner to the Executive Council for any area in which he is practising, to be included in the list of medical practitioners undertaking to provide general medical services for persons in that area.

Distribution  
of medical  
practitioners  
providing  
services.

(2) With a view to securing that the number of medical practitioners undertaking to provide general medical services in the areas of different Executive Councils or in different parts of those areas is adequate, the Secretary of State shall constitute a committee, to be called the Scottish Medical Practices Committee, for the purpose of considering and determining applications—

- (a) made before the appointed day by a medical practitioner who is not entitled under the last foregoing subsection to be included in the list of an Executive Council, for inclusion in that list; and
- (b) made on or after the appointed day for inclusion in any such list kept by an Executive Council for any area;

PART IV.  
—cont.

and all such applications made in the prescribed manner to an Executive Council shall be referred by that Council to the said Committee, and any medical practitioner whose application is granted by the said Committee shall, subject to the provisions of this Part of this Act relating to the disqualification of practitioners, be entitled to be included in the list.

(3) The Scottish Medical Practices Committee may refuse any such application on the ground that the number of medical practitioners undertaking to provide general medical services in the area or part of an area concerned is already adequate, and, if in the opinion of the Committee additional practitioners are required for any area or part but the number of persons who have made applications exceeds the number required, the Committee shall select the persons whose applications are to be granted and shall refuse the other applications.

Before selecting any persons under this subsection the Scottish Medical Practices Committee shall consult the Executive Council concerned, and that Council shall, if a Local Medical Committee has been formed for the area of the Council and recognised under the last but one foregoing section, consult that Committee before expressing their views on the persons to be selected.

(4) Except as provided by the last foregoing subsection, the Scottish Medical Practices Committee shall not refuse any such application, but the Committee may grant an application subject to conditions excluding the provision of general medical services by the applicant in such part or parts of the area of the Executive Council as the Committee may specify.

(5) The Scottish Medical Practices Committee shall be constituted in accordance with the Seventh Schedule to this Act and the provisions of that Schedule shall apply to that Committee.

(6) A medical practitioner who has made such an application as aforesaid which has been refused or has been granted subject to conditions, may appeal to the Secretary of State, and the Secretary of State may, on any such appeal, direct the said Committee to grant the application either unconditionally or subject to such conditions as the Secretary of State may specify.

(7) Where the Scottish Medical Practices Committee select persons from a number of applicants, the persons selected shall not, during the period for bringing an appeal to the Secretary of State or pending the determination of any such appeal, be included in the list in question, and on any such appeal the Secretary of State may, if he grants the appeal, direct either that the application shall be granted in addition to the applications already granted or that it shall be granted



instead of such one of those applications as the Secretary of State may specify:

PART IV.  
—cont.

Provided that in the latter case he shall make the other applicant a party to the appeal, and no further appeal shall be brought by that applicant in respect of the application in question.

(8) Regulations shall make provision—

(a) for requiring Executive Councils to make reports, at such times and in such manner as may be prescribed, to the Scottish Medical Practices Committee as to the number of medical practitioners required to meet the reasonable needs of their area and the different parts thereof, as to the occurrence of any vacancies in the lists of medical practitioners kept by them under this Part of this Act and as to the need for filling such vacancies;

(b) for prescribing the procedure for the determination of applications by the Scottish Medical Practices Committee and for the making and determination of appeals to the Secretary of State under this section, and for requiring Executive Councils and applicants to be informed of the decisions of the Committee and the Secretary of State.

(g) The Scottish Medical Practices Committee shall, in a case where persons have to be selected from a number of applicants, and the Secretary of State shall, on an appeal in any such case, have regard to any desire expressed by any applicant to practise with other medical practitioners already providing general medical services in the area or part of an area concerned, and to any desire expressed by such other medical practitioners to take any applicant into practice with them, and shall have special regard to the matters aforesaid in cases where an applicant is related to any such other medical practitioner.

36.—(1) Where the name of any medical practitioner is, on the appointed day or at any time thereafter, entered in any list of medical practitioners undertaking to provide general medical services, it shall be unlawful subsequently to sell the goodwill or any part of the goodwill of the medical practice of that medical practitioner: Prohibition of sale of medical practices.

Provided that, where a medical practitioner, whose name has ceased to be entered in any such list as aforesaid, practises in the area of an Executive Council in whose list his name has never been entered, this subsection shall not render unlawful the sale of the goodwill or any part of the goodwill of his practice in that area.

PART IV.  
—cont.

(2) Any person who sells or buys the goodwill or any part of the goodwill of a medical practice which it is unlawful to sell by virtue of the last foregoing subsection, shall be guilty of an offence and shall be liable on conviction on indictment to a fine not exceeding—

(a) such amount as will in the opinion of the court secure that he derives no benefit from the offence; and

(b) the further amount of five hundred pounds;

or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

(3) Where any medical practitioner or the personal representative of any medical practitioner knowingly sells or lets premises previously used by that practitioner for the purposes of his practice to another medical practitioner, or in any other way disposes or procures the disposition of the premises, whether by a single transaction or a series of transactions, with a view to enabling another practitioner to use the premises for the purposes of his practice, and the consideration for the sale, letting or other disposition is substantially in excess of the consideration which might reasonably have been expected to be paid by a medical practitioner for the premises as such irrespective of goodwill, the sale, letting or other disposition of the premises shall be deemed for the purposes of this section to be a sale by the first medical practitioner or his personal representative of the goodwill or part of the goodwill of the practice of that practitioner to that other practitioner.

Where a medical practitioner or his personal representative sells, lets, or disposes or procures the disposition of any premises together with any other property, the court shall, for the purposes of this subsection, make such apportionment of the consideration as it thinks just.

(4) Where in pursuance of any partnership agreement between medical practitioners—

(a) any valuable consideration, other than the performance of services in the partnership business, is given by a partner or proposed partner as consideration for his being taken into partnership;

(b) any valuable consideration is given to a partner, on or in contemplation of his retirement or of his acceptance of a reduced share of the partnership profits, or to the personal representative of a partner on his death, not being a payment in respect of that partner's share in past earnings of the partnership or in any partnership assets or any other payment required to be made to him as the result of the final

settlement of accounts, as between him and the other partners, in respect of past transactions of the partnership; or

PART IV.  
—cont.

- (c) services are performed by any partner for a consideration substantially less than those services might reasonably have been expected to be worth having regard to the circumstances at the time when the agreement was made;

there shall be deemed for the purposes of this section to have been a sale of the goodwill or part of the goodwill of the practice of any partner to whom or to whose personal representative the consideration or any part thereof is given or, as the case may be, for whose benefit the services are performed, to the partner or each of the partners by or on whose behalf the consideration or any part thereof was given or, as the case may be, the partner who performed the services, and the said sale shall be deemed for the purposes of this section to have been effected—

- (i) in a case to which paragraph (a) or paragraph (b) applies, at the time when the consideration was given or, if the consideration was not all given at the same time, at the time when the first part thereof was given; or
- (ii) in a case to which paragraph (c) applies, at the time when the agreement was made.

(5) Where any medical practitioner performs services as an assistant to another medical practitioner for a remuneration substantially less than those services might reasonably have been expected to be worth, having regard to the circumstances at the time when the remuneration was fixed, and subsequently succeeds, whether as the result of a partnership agreement or otherwise, to the practice or any part of the practice of the second practitioner, there shall be deemed for the purposes of this section to have been a sale of the goodwill or part of the goodwill of the said practice by the second practitioner to the first practitioner, unless it is shown that the said remuneration of the first practitioner was not fixed in contemplation of his succeeding to the said practice or any part thereof, and the said sale shall be deemed for the purposes of this section to have been effected at the time when the remuneration was fixed.

(6) For the purposes of this section—

- (a) if a medical practitioner or the personal representative of a medical practitioner agrees, for valuable consideration, to do or refrain from doing any act, or allow any act to be done, for the purpose of facilitating the succession of another medical practitioner to

PART IV.  
—cont.

the practice or any part of the practice of the first practitioner, the transaction shall be deemed to be a sale of the goodwill or part of the goodwill of that practice by the first practitioner or his personal representative to the second practitioner;

- (b) if any medical practitioner or any person acting on his behalf gives any valuable consideration to another medical practitioner or the personal representative of another medical practitioner, and the first medical practitioner succeeds or has succeeded, whether before or after the transaction aforesaid, to the practice or any part of the practice of the second practitioner, the transaction shall be deemed to be a sale of the goodwill or part of the goodwill of the practice of the second practitioner by him or by his personal representative to the first practitioner, unless it is shown that no part of the consideration was given in respect of the said goodwill or part thereof:

Provided that this subsection shall not apply to anything done in relation to the acquisition of premises for the purposes of a medical practice, or in pursuance of a partnership agreement, or to the performance of services as an assistant to a medical practitioner.

(7) In determining for the purposes of this section the consideration given in respect of any transaction, the court shall have regard to any other transaction appearing to the court to be associated with the first transaction, and shall estimate the total consideration given in respect of both or all the transactions and shall apportion it between those transactions in such manner as it thinks just.

(8) Where any consideration is, with the knowledge and consent of a medical practitioner or his personal representative, given to any other person, and it appears to the court that the medical practitioner or, if he has died, his estate or some person beneficially interested in his estate derives a substantial benefit from the giving of the consideration, the consideration shall be deemed for the purposes of this section to have been given to the medical practitioner or his personal representative, as the case may be.

(9) Any medical practitioner or the personal representative of any medical practitioner may apply to the Scottish Medical Practices Committee for their opinion as to whether a proposed transaction or series of transactions involves the sale of the goodwill or any part of the goodwill of a medical practice which it is unlawful to sell by virtue of this section, and the Committee shall consider any such application and, if they are satisfied that the transaction or series of transactions does

not involve the giving of valuable consideration in respect of the goodwill or any part of the goodwill of such a medical practice, they shall issue to the applicant a certificate to that effect, which shall be in the prescribed form and shall set out all material circumstances disclosed to the Committee.

(10) Where any person is charged with an offence under this section in respect of any transaction or series of transactions, it shall be a defence to the charge to prove that the transactions or series of transactions was certified by the Scottish Medical Practices Committee under the last foregoing subsection, and any document purporting to be such a certificate shall be admissible in evidence and shall be deemed to be such a certificate unless the contrary is proved :

Provided that, if it appears to the court that the applicant for any such certificate failed to disclose to the Committee all the material circumstances or made any misrepresentation with respect thereto, it may disregard the certificate and this subsection shall not apply thereto.

(11) The Scottish Medical Practices Committee shall, at the request of the Lord Advocate, furnish him with a copy of any certificate issued by them under subsection (9) of this section and with copies of any documents produced to them in connection with the application for that certificate.

(12) For the purposes of this and the next two following sections, references to the goodwill of a medical practice shall, in relation to a medical practitioner practising in partnership, be construed as referring to his share of the goodwill of the partnership practice.

37.—(1) Every medical practitioner whose name is entered on the appointed day in any list of medical practitioners undertaking to provide general medical services shall be entitled to be paid out of moneys provided by Parliament compensation in accordance with this section in respect of any loss suffered by him by reason that he is or will be unable to sell the goodwill or any part of the goodwill of his practice by virtue of the last foregoing section. Compensation for loss of right to sell a medical practice.

(2) The aggregate amount of the compensation to be paid under this section (exclusive of any sums paid by way of interest) shall be the amount apportioned to Scotland under paragraph (b) of subsection (4) of section thirty-six of the National Health Service Act, 1946, of the sum of sixty-six million pounds or, as the case may be, of that sum as reduced in pursuance of the proviso to subsection (2) of that section. 9 & 10 Geo. 6. c. 81.

(3) Regulations shall—

(a) prescribe the manner in which and the time within which claims for compensation are to be made, and

PART IV.  
—cont.

provide for determining whether any claimant has suffered loss by reason of the matters referred to in subsection (1) of this section and, if so, the extent of that loss;

- (b) provide for the distribution of the said aggregate amount among the persons who have suffered such loss as aforesaid, having regard to the extent of their respective losses;
- (c) prescribe the manner in which and the times at which the compensation is to be paid, and secure that, except in such circumstances as may be prescribed, it shall not be paid until the retirement or death of the medical practitioner concerned, whichever first occurs; and
- (d) provide for paying out of moneys provided by Parliament interest at two and three-quarters per cent. per annum on the amount of the compensation payable to any medical practitioner, in respect of the period from the appointed day until the time when the compensation is paid;

and before making any regulations under this subsection the Secretary of State shall consult such organisations as may be recognised by him as representing the medical profession.

Practitioners  
dying or  
retiring before  
appointed day.

38. Where the Scottish Medical Practices Committee are satisfied, on the application of a medical practitioner or his personal representative, that—

- (a) the practitioner has retired from practice or died during the period between the fifth day of November, nineteen hundred and forty-six, and the appointed day; and
- (b) the goodwill of his practice has not been sold in whole or in part before the appointed day;

the last two foregoing sections shall apply in relation to that medical practitioner and to his practice as if his name were entered on the appointed day on a list of medical practitioners undertaking to provide general medical services.

#### General Dental Services.

Arrangements  
for general  
dental  
services.

39.—(1) It shall be the duty of every Executive Council in accordance with regulations to make as respects their area arrangements with dental practitioners under which, as from the appointed day, any person for whom a dental practitioner undertakes in accordance with the arrangements to provide dental treatment and appliances, shall receive such treatment and appliances, and the services provided in accordance with the arrangements are in this Act referred to as “general dental services”.

(2) Regulations may make provision as to the arrangements to be made under the last foregoing subsection, and shall include provision—

PART IV.  
—cont.

- (a) for the preparation and publication of lists of dental practitioners who undertake to provide general dental services;
- (b) for conferring a right, subject to the provisions of this Part of this Act relating to the disqualification of persons providing services, on any dental practitioner, who wishes to be included in any such list, to be so included;
- (c) for conferring a right on any person to choose in accordance with the prescribed procedure the dental practitioner from whom he is to receive general dental services, subject to the consent of the practitioner so chosen;
- (d) for constituting a Board, to be called the Scottish Dental Estimates Board, of whom the chairman and a majority of the members shall be dental practitioners, for the purpose of carrying out such duties as may be prescribed with respect to the approval of estimates of dental treatment and appliances;
- (e) for providing, in relation to the Scottish Dental Estimates Board, for any of the matters for which, in relation to an Executive Council, provision is or may be made by or under the supplementary provisions of the Sixth Schedule to this Act, and also for the remuneration of members of the Board.

#### *Pharmaceutical Services.*

40.—(1) It shall be the duty of every Executive Council in accordance with regulations to make as respects their area arrangements for the supply as from the appointed day of proper and sufficient drugs and medicines and prescribed appliances to persons who are receiving general medical services, and of prescribed drugs and medicines to persons who are receiving general dental services, and the services provided in accordance with the arrangements are in this Act referred to as “pharmaceutical services”.

Arrangements  
for pharma-  
ceutical  
services.

(2) Regulations may make provision for securing that arrangements made under this section will be such as to enable any person receiving general medical services to obtain proper and sufficient drugs and medicines and prescribed appliances, if ordered by the medical practitioner rendering those services, from any persons with whom arrangements have been made under this section, and to enable any person receiving general dental services to obtain prescribed drugs and medicines, if

PART IV.  
—cont.

ordered by the dental practitioner rendering those services, from any persons with whom such arrangements have been made and the regulations shall include provision—

- (a) for the preparation and publication of lists of persons who undertake to provide pharmaceutical services; and
- (b) for conferring a right, subject to the provisions of this Part of this Act relating to the disqualification of persons providing services, on any person who wishes to be included in any such list to be so included for the purpose of supplying such drugs, medicines and appliances as that person is entitled by law to sell.

Persons authorised to provide pharmaceutical services.

41.—(1) Except as may be provided by regulations, no arrangement shall be made by the Executive Council with a medical practitioner or dental practitioner under which he is required or agrees to provide pharmaceutical services to any person to whom he is rendering general medical services or general dental services.

23 & 24 Geo. 5.  
c. 25.

(2) Except as may be provided by regulations, no arrangements for the dispensing of medicines shall be made with persons other than persons who are registered pharmacists or are authorised sellers of poisons within the meaning of the Pharmacy and Poisons Act, 1933, and who undertake that all medicines supplied by them under the arrangements made under this Part of this Act shall be dispensed either by or under the direct supervision of a registered pharmacist or by a person who for three years immediately before the sixteenth day of December, nineteen hundred and eleven, acted as a dispenser to a medical practitioner or a public institution.

*Supplementary Ophthalmic Services.*

Supplementary ophthalmic services.

42.—(1) Without prejudice to the duty of the Secretary of State under Part II of this Act to provide, as part of the hospital and specialist services, services in connection with the diagnosis and treatment of disease or defect of the eyes and the supply of optical appliances, it shall be the duty of every Executive Council to make as respects their area, in accordance with regulations, arrangements with medical practitioners having the prescribed qualifications, ophthalmic opticians and dispensing opticians for securing, as from the appointed day, the testing of sight by such medical practitioners and ophthalmic opticians and the supply by ophthalmic opticians and dispensing opticians of optical appliances, and the services provided in accordance with the arrangements are in this Act referred to as “ supplementary ophthalmic services.”



(2) The functions of an Executive Council under this section shall, to such extent as may be prescribed, be exercised on behalf of the Council by a committee to be called the "Ophthalmic Services Committee" constituted for the area of the Council in accordance with regulations so as to include members appointed by the Executive Council and by medical practitioners having the prescribed qualifications, ophthalmic opticians and dispensing opticians, respectively, and the regulations may make provision in relation to the Ophthalmic Services Committee, for any of the matters for which, in relation to an Executive Council, provision is or may be made by or under the supplementary provisions of the Sixth Schedule to this Act.

(3) Regulations may make provision as to the arrangements to be made under this section, and shall include provision—

- (a) for the preparation and publication of lists of medical practitioners, ophthalmic opticians and dispensing opticians respectively who undertake to provide supplementary ophthalmic services;
- (b) for conferring a right, subject to the provisions of this Part of this Act relating to the disqualification of persons providing services, on any medical practitioner having the prescribed qualifications, ophthalmic optician or dispensing optician, who wishes to be included in the appropriate list, to be so included;
- (c) for conferring on any person a right to choose in accordance with the prescribed procedure the medical practitioner or ophthalmic optician by whom his sight is to be tested or from whom any prescription for the supply of optical appliances is to be obtained and the ophthalmic or dispensing optician who is to supply the appliances.

(4) Where the Secretary of State is satisfied that adequate ophthalmic services are available in the area of any Executive Council through the hospital and specialist services provided under Part II of this Act, he may by order direct that this section shall cease to apply to that area, and this section shall thereupon cease to apply as from a date specified in the order; and any such order may contain such consequential and incidental provisions as the Secretary of State considers necessary or expedient.

#### *Supplementary Provisions.*

43.—(1) There shall be constituted in accordance with the provisions of the Eighth Schedule to this Act, a tribunal, in this section referred to as "the Tribunal", for the purpose of inquiring into cases where representations are made in the

Disqualifica-  
tion of persons  
providing  
services.

PART IV.  
—cont.

prescribed manner to the Tribunal by an Executive Council or any other person that the continued inclusion of any person in any list prepared under this Part of this Act—

- (a) of medical practitioners undertaking to provide general medical services;
- (b) of dental practitioners undertaking to provide general dental services;
- (c) of persons undertaking to provide pharmaceutical services;
- (d) of medical practitioners undertaking to provide supplementary ophthalmic services;
- (e) of ophthalmic opticians undertaking to provide supplementary ophthalmic services; or
- (f) of dispensing opticians undertaking to provide supplementary ophthalmic services;

would be prejudicial to the efficiency of the services in question.

(2) The supplementary provisions contained in the said Eighth Schedule shall apply in relation to the Tribunal.

(3) The Tribunal, on receiving representations from an Executive Council shall, and in any other case may, inquire into the case and, if they are of opinion that the continued inclusion of the said person in any list to which the representations relate would be prejudicial to the efficiency of the said services, shall direct that his name be removed from that list, and may also, if they think fit, direct that his name be removed from, or not be included in, any corresponding list kept by any other Executive Council under this Part of this Act.

(4) An appeal shall lie to the Secretary of State from any direction of the Tribunal under the last foregoing subsection, and the Secretary of State may confirm or revoke that direction in whole or in part.

(5) Where the Tribunal direct that the name of any person be removed from or not included in any list or lists, the Executive Council or Councils concerned shall—

- (a) if no appeal is brought, at the end of the period for bringing an appeal; or
- (b) if an appeal is brought and the direction of the Tribunal as regards any such list or lists is confirmed by the Secretary of State, on receiving notice of the Secretary of State's decision,

remove the name of the person concerned from the list or lists in question, and, until such time as the Tribunal or the Secretary of State directs to the contrary, that person shall be disqualified for inclusion in any list to which the direction or the direction as so confirmed, as the case may be, relates.

(6) A person who is for the time being disqualified under Part IV of the National Health Service Act, 1946, for inclusion in all lists prepared under that Part of that Act of persons undertaking to provide services of one or more of the kinds specified in subsection (1) of this section, shall so long as that disqualification is in force be disqualified for inclusion in any list prepared under this Part of this Act of persons undertaking to provide services of that kind or of those kinds, and the name of that person shall be removed from any such list in which his name is included.

(7) Regulations shall make provision—

(a) with regard to the procedure for the holding of inquiries by the Tribunal and for the making and determining of appeals to the Secretary of State under this section and, in particular, for securing that any person who is the subject of an inquiry by the Tribunal under this section shall be informed, as soon as may be, of the substance of any charge or complaint to which the inquiry relates and shall have an opportunity—

(i) of appearing, either in person or by counsel or solicitor or such other representative as may be prescribed, before the Tribunal and, in the case of an appeal, before a person appointed by the Secretary of State; and

(ii) of being heard by the Tribunal or the person so appointed and of calling witnesses and producing other evidence on his behalf;

and that the hearing, whether by the Tribunal or the person appointed as aforesaid, shall be in public if the person who is the subject of the inquiry so requests;

(b) for conferring on the Tribunal and on any person appointed as aforesaid such powers as the Secretary of State considers necessary for the purpose of holding such inquiries, including power to require the attendance of witnesses and the production of documents and to administer oaths; and

(c) for the publication of the decisions of the Tribunal and the Secretary of State under this section and of the imposition and removal of any disqualification imposed by virtue of this section and for the intimation to any person who is the subject of such an inquiry of the grounds upon which any disqualification has been imposed in his case.

(8) Where, before the appointed day—

(a) the name of any person has after inquiry been removed from any list of medical practitioners kept

PART IV.  
—*cont.*  
26 Geo. 5 &  
1 Edw. 8. c. 32.

by an insurance committee under the National Health Insurance Act, 1936, or any enactment repealed by that Act;

- (b) any dental practitioner has been declared under regulations made under the National Health Insurance Act, 1936, or any enactment repealed by that Act, to be permanently unsuitable for service in connection with the provision of dental benefit within the meaning of those regulations;
- (c) an application by any person for inclusion in a list of persons supplying drugs, medicines or appliances under the National Health Insurance Act, 1936, or any enactment repealed by that Act, has after inquiry been refused, or the name of any person has after inquiry been removed from any such list;
- (d) an application by any person for inclusion in a list of persons recognised for the purpose of the provision of optical appliances under the National Health Insurance (Additional Benefits) Regulations, 1930, has been rejected, or the name of any person has after inquiry been removed from any such list;

and the name of that person has not before the appointed day been included in or restored to the list or, in the case of a dental practitioner, the declaration of unsuitability has not before the appointed day been withdrawn, that person shall, until such time as the Tribunal or the Secretary of State directs to the contrary, be disqualified for inclusion in the appropriate list referred to in subsection (1) of this section.

Powers of  
Secretary of  
State where  
services are  
inadequate.

44. If the Secretary of State is satisfied, after such inquiry as he may think fit, as respects the area of any Executive Council or part of any such area that the persons included in any list prepared under this Part of this Act—

- (a) of medical practitioners undertaking to provide general medical services;
- (b) of dental practitioners undertaking to provide general dental services; or
- (c) of persons undertaking to provide pharmaceutical services,

are not such as to secure the adequate provision of the services in question in that area or part, or that for any other reason any considerable number of persons in any such area or part are not receiving satisfactory services under the arrangements in force under this Part of this Act, he may authorise the Executive Council to make such other arrangements as he may approve, or may himself make other arrangements, and may dispense with any of the requirements of regulations made under this Part of this Act so far as appears to him to be necessary to meet exceptional circumstances and enable such arrangements to be made.

45.—(1) Regulations may provide for the making and recovery by persons providing general dental services or supplementary ophthalmic services of charges in respect of—

PART IV.  
—cont.  
Recovery of charges in respect of certain appliances and dental treatment.

- (a) the supply, as part of those services, of any dental or optical appliance which is, at the request of the person supplied, of a more expensive type than the type which would normally be supplied, or the replacement or repair of any such appliance; or
- (b) the replacement or repair of any dental or optical appliance supplied as part of the services aforesaid, if it is determined in the prescribed manner that the replacement or repair is necessitated by lack of care on the part of the person supplied.

(2) Regulations may provide that, in the case of such special dental treatment as may be prescribed, being treatment provided as part of the general dental services, such charges as may be determined in the prescribed manner may be made and recovered by the person providing the services.

46. Regulations may provide that, where a right to choose the person by whom services are to be provided under this Part of this Act is conferred by or under any provision of this Part of this Act, that right shall, in the case of such persons as may be specified in the regulations, be exercisable on their behalf by other persons so specified.

Exercise of choice of medical practitioner, etc., in certain cases.

47. Any dispute arising under this Part of this Act or any regulation made thereunder between an Executive Council and a person receiving, or claiming that he is entitled to receive, any services under this Part of this Act shall in such manner as may be prescribed be referred to and decided by the Secretary of State who shall, where either party to the dispute so requests, cause an inquiry to be held unless he is satisfied that, in the special circumstances of the case, an inquiry is unnecessary.

Decision of disputes.

48. For the purpose of affording opportunities for persons providing any services under this Part of this Act to keep themselves informed of the latest developments in professional knowledge, the Secretary of State may enter into arrangements with universities, medical schools and dental schools, and any other persons for the provision of courses which the persons providing such services as aforesaid may attend, and may, with the approval of the Treasury, make payments towards the cost of the provision of such courses and the expenses of persons attending such courses.

Provision of courses for persons providing services.

## PART V.

## PROVISIONS AS TO MENTAL HEALTH SERVICES.

Functions of  
Secretary of  
State under  
Lunacy and  
Mental  
Deficiency  
Acts.

3 & 4 Geo. 5.  
c. 38.

49.—(1) It shall be the duty of the Secretary of State to co-ordinate and supervise the administration by education and local health authorities of their powers and duties with regard to defectives under the Mental Deficiency (Scotland) Acts, 1913 and 1940, and subsection (1) of section twenty-five of the Mental Deficiency and Lunacy (Scotland) Act, 1913, in so far as it imposes such a duty on the General Board of Control for Scotland (hereinafter referred to as the General Board) shall cease to have effect.

(2) The Secretary of State shall, in the performance of any of his functions under the Lunacy (Scotland) Acts, 1857 to 1913, the Mental Deficiency (Scotland) Acts, 1913 and 1940 and this Act relating to mental illness or mental deficiency, consult the General Board.

63 & 64 Vict.  
c. 54.

2 & 3 Geo. 6.  
c. 20.

(3) The officers of the General Board, other than the Deputy Commissioners and the secretary, shall be transferred to and become officers of the Secretary of State, and the Lunacy Board (Scotland) Salaries and Clerks Act, 1900 (which provides for the appointment of clerks by the General Board) shall cease to have effect except in so far as it applies, by virtue of subsection (8) of section two of the Reorganisation of Offices (Scotland) Act, 1939, to the appointment of the secretary or in so far as it relates to the salary of the secretary.

(4) The services of such officers, other than the Deputy Commissioners and the secretary, as the General Board may require for the purpose of the exercise of their functions shall be provided by the Secretary of State.

(5) Any institution established under subsection (1) of section twenty-eight of the Mental Deficiency and Lunacy (Scotland) Act, 1913, for defectives of dangerous or violent propensities, and any institution provided under Part II of this Act for such defectives shall be under the management of the General Board, and the provisions of this Act relating to Regional Hospital Boards and Boards of Management shall not apply to any such institution.

20 & 21 Vict.  
c. 71.

(6) Section five of the Lunacy (Scotland) Act, 1857 (which relates to meetings of the General Board) shall, except in so far as it enacts that three members shall be a quorum at any meeting of the General Board, cease to have effect.

(7) This section shall come into force on the appointed day.

Amendment  
and Repeal of  
enactments  
relating to  
lunacy or  
mental  
deficiency.

50.—(1) The provisions of the Lunacy (Scotland) Acts, 1857 to 1919, and the Mental Deficiency (Scotland) Acts, 1913 and 1940, and the other enactments specified in Part I of the Ninth Schedule to this Act shall be amended to the extent specified in that Part and the provisions of the said Acts

and the other enactments specified in Part II of that Schedule shall be repealed to the extent specified in the third column of that Part, such amendment and repeal being required—

- (a) in consequence of the provision by the Secretary of State of hospitals for lunatics and mental defectives;
- (b) for making it unlawful to detain lunatics in poor-houses;
- (c) for the purpose of assimilating as regards all lunatics the procedure for securing the reception into mental hospitals, the placing under guardianship and the discharge from such hospitals or guardianship; and
- (d) generally for bringing the provisions of the said Acts into conformity with this Act.

(2) Nothing in the aforesaid repeals and amendments or in the provisions of this Act shall affect any order, certificate, licence, sanction, registration, approval, regulation or other thing, made, issued, granted or done under any provision of any enactment specified in the Ninth Schedule to this Act, and in force immediately before the appointed day if it could have been made, issued, granted or done under that provision as amended by this Act or under any corresponding provision of this Act, and any such order, certificate, licence, sanction, registration, approval, regulation or other thing shall be deemed to have been duly made, issued, granted or done under that provision as so amended or under that provision of this Act.

(3) Where immediately before the appointed day any person is detained with the sanction of the General Board under section four of the Lunacy (Scotland) Act, 1862, in the lunatic ward of a poorhouse which is transferred under this Act to the Secretary of State and is or forms part of a hospital designated by him as a public mental hospital, such person shall be deemed to be detained in pursuance of an order for his detention in a mental hospital granted on the appointed day by the sheriff under section fourteen of the said Act. 25 & 26 Vict.  
c. 54.

(4) Where immediately before the appointed day any person is detained, whether on an order of the sheriff or by virtue of the sanction of the General Board, in the lunatic ward of a poorhouse which is not transferred to the Secretary of State under this Act the order or sanction shall, for a period of six months or such longer period as the Secretary of State may direct, continue to be an authority for his detention in such ward and while he is so detained the provisions of the Lunacy (Scotland) Acts, 1857 to 1913, shall continue to apply to him as if this Act had not passed, and the order or sanction shall be an authority for his transfer to and for his detention in a mental hospital as if an order for his detention in a mental hospital had been granted on the appointed day by the sheriff

PART V.  
—cont.

under section fourteen of the Lunacy (Scotland) Act, 1862: Provided that any decree or order for recovery of the cost of the maintenance of the said person shall cease to have effect.

(5) This section shall come into force on the appointed day.

Duties of  
local health  
authorities  
under Lunacy  
and Mental  
Deficiency  
Acts.

51.—(1) It shall be the duty of the local health authority to provide or secure the provision of suitable training and occupation for—

- (a) persons under the age of sixteen who have been reported by the education authority under section fifty-six of the Education (Scotland) Act, 1946, as having been found incapable of receiving education or training in a special school, and
- (b) mental defectives over the age of sixteen:

Provided that this subsection shall not apply in the case of mental defectives in mental deficiency institutions.

(2) Section twenty-one of this Act (which requires local health authorities to submit proposals to the Secretary of State for carrying out their duties under certain provisions of Part III of this Act and to carry out those duties in accordance with the proposals) shall apply with respect to the duties of local health authorities under the Lunacy (Scotland) Acts, 1857 to 1913, the Mental Deficiency (Scotland) Acts, 1913 and 1940, and this Part of this Act.

(3) Where a local health authority make arrangements with any voluntary organisation for the performance of any services in connection with the duties of the local health authority under the Mental Deficiency (Scotland) Acts, 1913 and 1940, or this Part of this Act, the local health authority may, with the approval of the Secretary of State, contribute to that voluntary organisation.

(4) This section shall come into force on the appointed day.

## PART VI.

## GENERAL.

*Financial Provisions.*

Expenses and  
receipts of  
the Secretary  
of State.

52.—(1) Any expenses incurred by the Secretary of State in the exercise of his functions under this Act, the Lunacy (Scotland) Acts, 1857 to 1913, or the Mental Deficiency (Scotland) Acts, 1913 and 1940, shall be defrayed out of moneys provided by Parliament.

(2) All sums received by the Secretary of State under this Act shall be paid into the Exchequer.

Grants to  
local health  
authorities.

53.—(1) In respect of the period beginning with the appointed day and ending with the fifteenth day of May next following and each subsequent period of twelve months,



there shall be paid out of moneys provided by Parliament to every local health authority a grant in respect of the expenditure, estimated in the prescribed manner, incurred by the authority in carrying out their functions and the grant shall be payable in accordance with regulations made by the Secretary of State with the approval of the Treasury:

PART VI.  
—cont.

Provided that the total amount of the grant payable to any local health authority in respect of any such period shall not exceed three-quarters of the total expenditure estimated as aforesaid of that authority, and shall not be less than three-eighths of that expenditure.

(2) In the case of a local health authority whose financial year ends on a day other than the fifteenth day of May, the last foregoing subsection shall have effect with the substitution of a reference to that other day for any reference to the fifteenth day of May.

(3) Where any functions of two or more local health authorities are being exercised by a joint committee or a joint board, grants shall be paid to the said authorities under subsection (1) of this section in respect of their expenditure in defraying expenses of the committee or board in exercising those functions, as if that expenditure were incurred by them in exercising functions as local health authorities.

(4) For the purposes of section sixty-six of the Local Government (Scotland) Act, 1929 (which authorises the reduction of grants payable under Part III of that Act to a council which fails to achieve and maintain an efficient service) grants payable under this section shall be deemed to be payable under the said Part III.

(5) The council of every county and large burgh shall pay to the Secretary of State in respect of the period beginning with the appointed day and ending with the fifteenth day of May next following, and each subsequent period of twelve months during the third fixed grant period within the meaning of the Local Government (Scotland) Act, 1929, a sum equal to the loss on account of the grants mentioned in paragraph 2 of the Fifth Schedule to the Local Government (Scotland) Act, 1929, discontinued by virtue of section fifty-two of that Act, as determined in accordance with Part II of the Seventh Schedule to that Act, less such part of that loss as is attributable to grants for the welfare of the blind:

Provided that—

- (a) where the said loss on account of the said grants has, in the case of the council of any county or large burgh, been increased or reduced by an amount certified by the Secretary of State under

PART VI.  
—cont.

regulations made under paragraph (b) of subsection (1) of section seventy of the Local Government (Scotland) Act, 1929, the payment to be made by the council under this subsection shall be increased or reduced by such part of the amount so certified as is attributable to the said grants other than grants for the welfare of the blind;

- (b) if the said third fixed grant period ends during the period beginning with the appointed day and ending with the fifteenth day of May next following or during any subsequent period of twelve months, the payments to be made by councils under this subsection in respect of that period shall bear the same proportion to the sums that would be payable in respect of a complete period of twelve months as that period bears to a complete period of twelve months.

(6) The expenditure incurred by a local health authority in carrying out their functions, so far as not defrayed out of grants payable under this section, shall be defrayed in like manner as expenditure incurred by a local authority in carrying out functions under the Public Health (Scotland) Act, 1897 for the purpose of which small burghs are included within the county in which they are situate.

(7) A local health authority shall, subject to the provisions of subsection (2) of section twenty-three of the Local Government (Scotland) Act, 1929, have power to borrow such sums as may be required by them for the purposes of their functions in order to meet any expenditure of a capital nature or the cost of executing any work or providing any plant or doing any other thing where, having regard to the nature of the work, plant or thing, the cost ought to be spread over a period of years:

Provided that—

- (i) nothing in this subsection shall authorise the exercise of the aforesaid power or the making of any issue of capital otherwise than in compliance with the provisions of the Local Authorities Loans Act, 1945, of any Defence Regulation within the meaning of the Supplies and Services (Transitional Powers) Act, 1945, for the time being having effect by virtue of that Act and of any orders for the time being in force made by the Treasury under section one of the Borrowing (Control and Guarantees) Act, 1946; and
- (ii) any sums borrowed under this subsection shall be repaid within a period of thirty years or such other period as the Secretary of State may determine.

8 & 9 Geo. 6.  
c. 18.  
9 & 10 Geo. 6.  
c. 10.

9 & 10 Geo. 6.  
c. 58.

54.—(1) There shall be paid out of moneys provided by Parliament to each of the following bodies, that is to say—

- (a) every Regional Hospital Board;
- (b) every Executive Council;
- (c) the Health Services Council;
- (d) every standing advisory committee constituted under section two of this Act;
- (e) the Hospital Endowments Commission;
- (f) the Scottish Medical Practices Committee;
- (g) the Tribunal constituted under section forty-three of this Act;
- (h) the Scottish Dental Estimates Board;

PART VI.  
—cont.  
Payments  
to Regional  
Hospital  
Boards,  
Executive  
Councils and  
other bodies.

such sums as may be necessary to defray the expenditure of that body, being expenditure approved by the Secretary of State in the prescribed manner.

For the purposes of this subsection, expenditure incurred by the Medical Education Committee for any area and expenditure incurred by a Board of Management in exercising functions on behalf of the Regional Hospital Board for any area shall be deemed to be expenditure of the Regional Hospital Board for that area, and expenditure incurred by an Ophthalmic Service Committee on behalf of an Executive Council shall be deemed to be expenditure of that Council.

(2) All expenditure approved as aforesaid of the Medical Education Committee for any area or of the Board of Management of a hospital or group of hospitals situated in any area shall be defrayed by the Regional Hospital Board for that area.

(3) Any sums required for the making of payments under regulations in respect of any loss of remunerative time or any travelling or subsistence expenses to the members of any body constituted under this Act, or for the payment of any remuneration so payable to members of the Scottish Medical Practices Committee, the Tribunal constituted under section forty-three of this Act or the Scottish Dental Estimates Board shall be defrayed out of moneys provided by Parliament.

(4) Payments under this section shall be made at such times and in such manner as the Treasury may direct, and subject to such conditions as to records, certificates, or otherwise as the Secretary of State may with the approval of the Treasury determine.

55.—(1) The council of a county or of a large burgh shall keep accounts of their revenue and expenditure for the purposes of their functions as a local health authority, and such accounts shall be kept separate from their other accounts, and the provisions of subsection (1) of section fifteen of the Local

Accounts of  
local health  
authorities,  
Regional  
Hospital  
Boards.

PART VI.  
—cont.Boards of  
Management  
and Executive  
Councils.

Government (Scotland) Act, 1929 (which relate to the audit of county and town council accounts), shall have effect in relation to the accounts which a council are required to keep under this section.

(2) Every Regional Hospital Board, Board of Management and Executive Council shall keep, in such form as the Secretary of State may with the approval of the Treasury prescribe, accounts of all moneys received or paid out by them, and those accounts shall be audited by auditors appointed by the Secretary of State, and the Comptroller and Auditor General may examine all such accounts and any records relating thereto and any report of the auditor thereon.

(3) Every such Board and Council shall prepare and transmit to the Secretary of State in respect of each financial year accounts in such form as the Secretary of State may with the approval of the Treasury prescribe.

(4) The Secretary of State shall prepare in respect of each financial year, in such form as the Treasury may direct, summarised accounts of such Boards and Councils, and shall transmit them on or before the thirtieth day of November in each year to the Comptroller and Auditor General who shall examine and certify them and lay copies of them together with his report thereon before both Houses of Parliament.

*Administrative provisions.*Default powers  
of Secretary  
of State.

56.—(1) Where the Secretary of State is of opinion on representations made to him or otherwise that any Regional Hospital Board, Board of Management, Executive Council, Ophthalmic Services Committee or local health authority, or the Scottish Medical Practices Committee or the Scottish Dental Estimates Board have failed to carry out any functions conferred or imposed on them by or under this Act, or have in carrying out those functions failed to comply with any regulations, schemes, proposals or directions relating thereto, he may after holding an inquiry make an order declaring them to be in default.

(2) Except where the body in default is a local health authority, the members of the body shall forthwith vacate their office and the order shall provide for the appointment, in accordance with the provisions of this Act, of new members of the body, and may contain such provisions as seem to the Secretary of State expedient for authorising any person to act in the place of the body in question pending the appointment of the new members.

(3) If the body in default is a local health authority, the order shall direct them, for the purpose of remedying the default, to discharge such of their functions, in such manner

and within such time or times, as may be specified in the order, and if the authority fail to comply with any direction given under this subsection, within the time limited for compliance therewith, the Court of Session may, on the application of the Lord Advocate on behalf of the Secretary of State, order specific performance of the functions in respect of which there has been default and do otherwise as to the Court appears to be just.

(4) An order made by the Secretary of State under this section may contain such supplementary and incidental provisions as appear to him to be necessary or expedient.

57.—(1) The Secretary of State may purchase by agreement or compulsorily any land required by him or by an Executive Council for the purposes of this Act, and, without prejudice to the generality of this subsection, land may be so purchased for the purpose of providing residential accommodation for persons employed at any hospital or health centre vested in the Secretary of State. Purchase of land.

(2) A local health authority may purchase by agreement or may be authorised by the Secretary of State to purchase compulsorily land for the purposes of this Act.

(3) For the purpose of the purchase of land by agreement by the Secretary of State or by a local health authority, the Lands Clauses Acts (except the provisions relating to the acquisition of land otherwise than by agreement and the provisions relating to access to the special Act, and except sections one hundred and twenty to one hundred and twenty-five of the Land Clauses Consolidation (Scotland) Act, 1845) 8 & 9 Vict. c. 19. and section six and sections seventy to seventy-eight of the Railways Clauses Consolidation (Scotland) Act, 1845 (as originally enacted and not as amended by section fifteen of the Mines (Working Facilities and Support) Act, 1923), 8 & 9 Vict. c. 33. shall be incorporated with this section, and in construing those Acts for the purposes of this section, this section shall be deemed to be the special Act, and the Secretary of State or the local health authority, as the case may be, to be the promoters. 13 & 14 Geo. 5. c. 20.

(4) The provisions of the Acquisition of Land (Authorisation Procedure) Act, 1946, shall have effect with regard to the compulsory purchase of land by the Secretary of State or by a local health authority under this section as if— 9 & 10 Geo. 6. c. 49.

(i) in subsection (7) of section nine of that Act there were inserted after the word “under” the words “section fifty-seven of the National Health Service (Scotland) Act, 1947”; and

(ii) this Act had been in force immediately before the commencement of the Acquisition of Land (Authorisation Procedure) Act, 1946:

PART VI.  
—cont.

Provided that section two of the said Act (which confers temporary powers for speedy acquisition of land in urgent cases) shall not apply to any compulsory purchase of land under this section.

Power of Regional Hospital Boards and Boards of Management to hold property on trust.

58. A Regional Hospital Board and the Board of Management of any hospital or group of hospitals shall have power to accept, hold and administer any property upon trust for purposes relating to hospital or specialist services or to their functions under Part II of this Act with respect to research.

Power of trustees to make payments to Regional Hospital Boards and Boards of Management.

59.—(1) Where property, other than property transferred to the Secretary of State or to a Board of Management under section six or section seven of this Act, is held on trust immediately before the appointed day, and the terms of the trust instrument authorise or require the trustees, whether immediately or in the future, to apply any part of the capital or income of the trust property for the purposes of any hospital to which section six of this Act applies, the trust instrument shall be construed as authorising or, as the case may be, requiring the trustees to pay that part of the capital or income of the trust property to the Regional Hospital Board for the area in which the hospital is situated or to the Board of Management of the hospital or group of hospitals comprising the hospital, as the trustees, having regard to the purposes of the trust, may determine.

(2) Any sums paid to a Regional Hospital Board or Board of Management in pursuance of the last foregoing subsection shall, so far as practicable, be applied by them for the purposes specified in the trust deed.

Preservation of associations of denominational hospitals.

60. Where the character and associations of any voluntary hospital transferred to the Secretary of State by virtue of this Act are such as to link it with a particular religious denomination, regard shall be had in the general administration of the hospital and in the making of appointments to the Board of Management to the preservation of the character and associations of the hospital.

Provision of special educational treatment in hospitals.

61.—(1) The Secretary of State may arrange with any education authority or voluntary organisation for—

(a) the provision by the authority or organisation in a hospital vested in the Secretary of State of special educational treatment (within the meaning of the Education (Scotland) Act, 1946) for patients in the hospital or for persons other than patients attending the hospital for the purpose of receiving such treatment, and

(b) the maintenance by the Secretary of State (where necessary) of persons other than patients receiving such treatment,

and any such arrangements may include provision for payment by the authority or organisation to the Secretary of State in respect of the use of any part of the hospital for the purpose of such provision or in respect of the maintenance of such persons.

PART VI.  
—cont.

(2) Regulations and schemes under section twelve of this Act may provide for the making of arrangements under the last foregoing subsection as if those arrangements formed part of the hospital and specialist services.

62. A local health authority may purchase and store and supply to the following authorities, that is to say—

Supply of goods by local health authorities.

- (a) the Secretary of State;
- (b) any other local health authority;
- (c) any education authority (for the purposes of any health services provided by them);
- (d) any Regional Hospital Board or Board of Management; or
- (e) any Executive Council;

any goods or materials required for the discharge of the functions of the authority supplied, on such terms as may be agreed between the two authorities.

63. Any of the authorities mentioned in the last foregoing section who provide premises, furniture or equipment for any of the purposes of this Act may, on such terms (including terms with respect to the services of any staff employed by them) as may be agreed, permit the use thereof by any other such authority or by any voluntary organisation providing services under Part II or Part III of this Act or any service connected with the duties of a local health authority under the **Mental Deficiency (Scotland) Acts, 1913 and 1940**, or under Part V of this Act.

Use of premises and equipment by other authorities.

64.—(1) A local health authority may provide residential accommodation for officers employed by them for the purposes of any of their functions, or for officers employed by a voluntary organisation for the purposes of any services provided under Part III of this Act.

Provision of residential accommodation for staff.

(2) An Executive Council may, if so authorised by the Secretary of State in any case in view of the special circumstances thereof, provide residential accommodation for medical practitioners providing services under Part IV of this Act.

65. Regulations may make provision with respect to the qualifications, remuneration, and conditions of service of officers who are employed by any one or more of the following bodies, that is to say—

Qualifications, remuneration and conditions of service of officers.

- (a) any body constituted under this Act,
- (b) a local health authority,

PART VI.  
—cont.

- (c) an education authority,
- (d) any such voluntary organisation as is referred to in section sixty-three of this Act,

and who are so employed wholly or mainly for the purpose of the provision of such services as are referred to in section two of this Act, and no officer to whom the regulations apply shall be employed otherwise than in accordance with the regulations.

Super-  
annuation of  
officers.

## 66.—(1) Regulations may provide—

- (a) for the granting out of moneys provided by Parliament of superannuation benefits to officers of such classes as may be prescribed, being officers of Regional Hospital Boards, Boards of Management, Executive Councils, or other bodies constituted under this Act, or other officers engaged in health services, whether provided under this Act or otherwise but not provided by a local health authority or other local authority, and for the recovery of contributions from such officers and, in such cases as may be prescribed, from their employers;
- (b) for extending, with such modifications as may be prescribed, the provisions of the Local Government Superannuation (Scotland) Act, 1937, or any local Act scheme within the meaning of that Act to such officers as may be prescribed, or for modifying the provisions of the said Act or of any such scheme in their application to such officers as may be prescribed, being in either case officers of local health authorities or other local authorities or officers of voluntary organisations engaged in the provision of services under Part III or Part V of this Act or under the Mental Deficiency (Scotland) Acts, 1913 and 1940;
- (c) for the granting out of moneys provided by Parliament of superannuation benefits to medical practitioners and dental practitioners providing general medical services or general dental services, and for the recovery of contributions from such practitioners and, in such cases as may be prescribed, from Executive Councils;
- (d) for dealing with cases where any person is engaged in employment which would bring him within all or any two of the foregoing paragraphs;
- (e) for the payment to the Secretary of State by any local authority or other person of transfer value in respect of persons who become entitled to participate in superannuation benefits provided under the

1 Edw. 8 &  
1 Geo. 6. c. 69.



regulations out of moneys provided by Parliament, who were previously entitled to participate in superannuation benefits provided by that authority or person or to which that authority or person was liable to contribute, or for the transfer to the Secretary of State, in lieu of such payment, of any fund or part of a fund or policy of insurance previously maintained for the purpose of providing superannuation benefits to persons who become entitled to participate in superannuation benefits provided under the regulations out of moneys provided by Parliament;

- (f) for the payment of transfer value by the Secretary of State in respect of persons leaving employment entitling them to participate in superannuation benefits provided under the regulations out of moneys provided by Parliament and entering employment entitling them to participate in superannuation benefits otherwise provided;
- (g) for making special provision for special classes of persons;
- (h) for granting to persons who, immediately before becoming entitled to participate in superannuation benefits provided under or by virtue of the regulations, were entitled to participate in other superannuation benefits, an option to retain rights corresponding with those previously enjoyed by them in lieu of the rights which they would otherwise enjoy under or by virtue of the regulations;
- (i) for the determination by the Secretary of State of all questions arising under the regulations;
- (k) for such provisions supplementary to and consequential on the matters aforesaid as appear to the Secretary of State to be necessary, including provisions for adapting, modifying or repealing any Acts of Parliament, whether public general, local or private, or any such local Act schemes as aforesaid so far as appears to the Secretary of State to be necessary in consequence of the regulations.

(2) If the Secretary of State and the appropriate Minister are satisfied that any Act for the time being in force in England and Wales or in Northern Ireland makes provision with respect to the superannuation of persons employed in health services in England and Wales or in Northern Ireland which is substantially similar to the provision made under this section, they may make regulations with respect to the rights and liabilities of any person who leaves employment in England and Wales or Northern Ireland entitling him to participate in superannuation benefits (whether provided under the said Act or otherwise) and enters into employment

**PART VI.**  
—*cont.*

in respect of which superannuation benefits are provided under regulations made under subsection (1) of this section or into the employment of a local health authority in respect of which superannuation benefits are provided under the Local Government Superannuation (Scotland) Act, 1937, as extended or modified by the regulations or under a local Act scheme as so extended or modified, and vice versa, and with respect to the rights and liabilities of the Secretary of State, the appropriate Minister and other authorities concerned.

In this subsection the expression "the appropriate Minister" means, as respects England and Wales, the Minister of Health, and as respects Northern Ireland, the Minister of Health and Local Government for Northern Ireland.

Transfer and  
compensation  
of officers.

**67.—(1) Regulations shall provide—**

- (a) for the transfer of officers employed immediately before the appointed day solely or mainly at or for the purposes of any hospital transferred to the Secretary of State by virtue of this Act, to the Regional Hospital Board for the area in which the hospital is situated, subject in the case of honorary officers to such exceptions and conditions as may be prescribed.
- (b) for the transfer of officers employed immediately before the appointed day by an insurance committee to the Executive Council for the area comprising the area of the insurance committee or, where the area of the insurance committee is not wholly comprised in the area of one Executive Council, to such Executive Council as may be determined by the Secretary of State;
- (c) for the payment of compensation subject to any prescribed exceptions or conditions, by the Secretary of State or such local health authority as may be prescribed, to persons who immediately before the appointed day—
  - (i) devoted the whole of their time to employment by the governing body of a voluntary hospital, a local authority, an insurance committee or any such other body as may be prescribed, or to any combination of such employments; and
  - (ii) were employed for at least part of their time for the purposes of any hospital transferred to the Secretary of State by virtue of this Act or for the purposes of functions which cease, or are transferred from the employing authority or body, in consequence of this Act,

and who suffer loss of employment or loss or diminution of emoluments which is attributable to the passing of this Act;

- (d) for the payment of compensation subject to any prescribed exceptions or conditions by the Secretary of State or such local health authority as may be prescribed to officers who, having before the appointed day been employed in the employment mentioned in paragraph (c) hereof, would have been in that employment immediately before that day but for any war service in which they have been engaged; and
  - (e) for the determination of any question arising under the regulations.
- (2) This section shall—
- (i) apply, in the case of an officer employed immediately before the appointed day solely or mainly for the purposes of two or more hospitals, not all of which will be administered by the same Regional Hospital Board, with the modification that the Board to whom the officer is to be transferred shall be determined by the Secretary of State;
  - (ii) apply in relation to a joint insurance committee constituted under section ninety-four of the National Health Insurance Act, 1936, as it applies to an insurance committee for a county or burgh, with the modification that any officer to be transferred shall be transferred to such Executive Council or joint Committee established for the areas of two or more such Councils as may be determined by the Secretary of State;

and the expression “ war service ” in this section means service in any of His Majesty’s forces and such other employment as may be prescribed.

**68. Regulations may provide—**

- (a) for the transfer of property and liabilities to an Executive Council from the insurance committee for any county or burgh comprised wholly or partly in the area of the Council;
- (b) for the transfer to the Executive Council for any area of houses in that area provided for medical practitioners by local authorities in pursuance of a scheme under the Highlands and Islands (Medical Service) Grant Act, 1913, together with any rights or liabilities acquired or incurred solely for the purposes of such houses or the appropriate shares of any rights or liabilities acquired or incurred partly for such purposes and partly for other purposes;

Consequential provisions on transfer of functions.

3 & 4 Geo. 5.  
c. 26.

PART VI.  
—cont.

- (c) for the granting of such deeds as appear to the Secretary of State to be necessary for the purposes of such transfers as aforesaid;
- (d) for enabling any proceedings pending with respect to any such property, liabilities or houses to be carried on by or against the Executive Council;
- (e) for the winding up of the Highlands and Islands (Medical Service) Fund and the payment into the Exchequer of any balance thereof remaining after discharging any liabilities attaching thereto; and
- (f) for the determination of questions arising in relation to the matters aforesaid.

This section shall apply in relation to a joint insurance committee constituted under section ninety-four of the National Health Insurance Act, 1936, as it applies in relation to an insurance committee for a county or burgh, with the modification that the body to whom any property or liability is to be transferred, or by or against whom any proceedings are to be carried on, shall be such Executive Council or joint committee established for the areas of two or more such Councils as may be determined by the Secretary of State.

## Inquiries.

69.—(1) The Secretary of State may cause an inquiry to be held in any case where he deems it advisable to do so in connection with any matter arising under this Act.

(2) The provisions of the Tenth Schedule to this Act shall have effect with regard to any inquiry which the Secretary of State is, under this Act, required or authorised to hold.

Protection of  
certain bodies  
and their  
officers.

70. Section one hundred and sixty-six of the Public Health (Scotland) Act, 1897 (which relates to the protection of local authorities and their officers) shall apply in relation to a Regional Hospital Board, Board of Management, a local health authority and an Executive Council, in like manner as the said section applies in relation to a local authority subject however to the following modifications—

- (a) for any reference to that Act there shall be substituted a reference to this Act; and
- (b) for the reference to two months there shall be substituted a reference to twelve months.

Exemptions  
from stamp  
duty on certain  
documents  
required for  
purposes of  
Act.

71. Stamp duty shall not be chargeable on any draft, order or receipt given by or to an Executive Council in respect of money payable in pursuance of this Act, or on any agreement entered into by any person with an Executive Council for the provision of services under Part IV of this Act, or on any document required in connection with the transfer of property or liabilities from an insurance committee to an Executive Council.

72. Regulations may make provision for all or any of the following matters:

- (a) for prescribing the forms of notices and other documents, and the manner of service of notices and other documents;
- (b) for prescribing the manner in which documents may be executed or proved;
- (c) for prescribing the manner in which resolutions of local health authorities and any bodies constituted under this Act are to be proved.

PART VI.  
—cont.  
Miscellaneous  
administrative  
matters.

73.—(1) The following regulations and orders made under this Act—

Regulations  
and orders.

- (a) all regulations (except regulations made under section sixty-six or section sixty-seven);
- (b) all orders made under subsection (2) of section two or under section eight or under subsection (3) of section thirty-two or under section seventy-five;
- (c) such of the orders made under subsection (1) of section eleven as determine the areas for which regional hospital boards are to be constituted; and
- (d) such of the orders made under subsection (7) or subsection (8) of section twenty as are required to be preceded by an inquiry;

shall be laid before Parliament immediately after they are made, and if either House of Parliament, within the period of forty days beginning with the day on which any such regulations or order are or is laid before it, resolves that the regulations or order be annulled, the regulations or order shall cease to have effect, but without prejudice to anything previously done thereunder or to the making of new regulations or a new order.

In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(2) No regulations shall be made under section sixty-six or section sixty-seven of this Act unless a draft of the regulations has been laid before Parliament and has been approved by resolution of each House of Parliament.

(3) Any power conferred on the Secretary of State by this Act to make regulations shall, if the Treasury so direct, not be exercisable except in conjunction with the Treasury.

(4) Any order made by the Secretary of State under this Act may be varied or revoked by a subsequent order made by him in like manner and subject to the like conditions as the original order.

## PART VI.

*Supplementary Provisions.*

—*cont.*  
Consequential  
amendment  
and repeal of  
enactments.

74. As from the appointed day, the enactments specified in Part I of the Eleventh Schedule to this Act shall be amended to the extent therein specified, and the enactments specified in Part II of the said Schedule shall be repealed to the extent specified in the third column of that Part, such amendment and repeal being required in consequence of the passing of this Act or for the purpose of bringing the said enactments into conformity with the provisions of this Act.

Amendment  
and repeal of  
local Acts  
and charters.

75.—(1) Where at the passing of this Act, there is in force a local or private Act or charter containing provisions appearing to the Secretary of State either to be inconsistent with any of the provisions of this Act, or to be redundant in consequence of the passing of this Act, the Secretary of State may by order make such alterations, whether by amendment or by repeal, in the local or private Act or charter as appear to him to be necessary for the purpose of bringing its provisions into conformity with the provisions of this Act, or for the purpose of removing redundant provisions, as the case may be.

(2) Any provision of a local or private Act or charter defining or restricting the objects of any hospital to which section six of this Act applies or the purposes for which any property transferred to the Secretary of State or a Board of Management under this Act may be used shall cease to have effect.

Provision for  
winding up  
certain bodies.

76.—(1) The following bodies, that is to say—

- (a) bodies formed by combination deemed to have taken place under subsection (4) of section eleven of the Local Government (Scotland) Act, 1929;
- (b) joint committees or combined bodies constituted or deemed to have been constituted under any enactment for the purpose of the maintenance and management of any hospital transferred to the Secretary of State under this Act, or for the purpose of exercising functions which cease to be exercisable in consequence of this Act or are transferred to the Secretary of State under this Act; and
- (c) governing bodies of voluntary hospitals transferred to the Secretary of State by virtue of this Act whose functions wholly cease in consequence of this Act;

shall as from the appointed day be dissolved, and regulations may make such provision, supplementary to the provisions of this Act, as may be necessary for the purpose of winding up the affairs of those bodies.

(2) Without prejudice to the provisions of the last foregoing subsection, regulations may provide that any rights or liabilities of any of the bodies referred to in paragraphs

(a) and (b) of the last foregoing subsection under any enactment, scheme or contract providing for the payment of, or contribution towards, superannuation benefits in respect of officers employed by those bodies, being rights and liabilities arising in respect of officers who have ceased to be so employed before the appointed day, shall as from that day be apportioned among the constituent authorities of those bodies.

PART VI.  
—cont.

77. Any question which is required by this Act or by any regulation thereunder to be determined by arbitration shall be determined by a single arbiter agreed upon by the parties or, failing such agreement, appointed by the Court of Session on the application of any of the parties to the question, and at any stage in 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.

Arbitration.

78. Subsection (3) of section two of the Nurses (Scotland) Act, 1943 (which subsection precludes rules made under that section from enabling a course of training begun after the fourth day of August nineteen hundred and forty-eight to qualify any person for admission to the roll of assistant nurses) shall cease to have effect.

Repeal of  
s. 2 (3) of  
6 & 7 Geo. 6.  
c. 33.

79. Asylums within the meaning of the Lunacy (Scotland) Act, 1857, shall hereafter be called and are in this Act referred to as mental hospitals, and for references to such an asylum in any enactment or in any order, regulation or other document issued under any enactment there shall be substituted references to a mental hospital.

Expression  
“ asylum ”  
to cease to be  
used.

80.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them—

Interpretation.

“ appointed day ” means such day as His Majesty may by Order in Council appoint, and different days may be appointed for the purposes of different provisions of this Act and for the repeal or amendment of different enactments by this Act;

“ certified midwife ” means a person certified under the Midwives (Scotland) Acts, 1915 and 1927;

“ dental practitioner ” means a person registered in the dentists register under the Dentists Acts, 1878 to 1923;

“ dispensing optician ” means a person having the prescribed qualifications for the fitting and supply of optical appliances;

“ education authority ” has the same meaning as in the Education (Scotland) Act, 1946;

PART VI.  
—cont.

- “ equipment ” includes any machinery, apparatus or appliance, whether fixed or not, and any vehicle;
- “ the governing body ”, in relation to any voluntary hospital, includes any body, whether corporate or unincorporate, having the control and management of the hospital or any part thereof or otherwise carrying on the business of the hospital or any part thereof;
- “ hospital ” means any institution for the reception and treatment of persons suffering from illness or mental deficiency, any maternity home, any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation, and any institution for providing dental treatment maintained in connection with a dental school and includes clinics, dispensaries and out-patient departments maintained in connection with any such institution or home as aforesaid, and “ hospital accommodation ” shall be construed accordingly;
- “ illness ” includes lunacy, mental illness and any injury or disability requiring medical or dental treatment or nursing;
- “ insurance committee ” means an insurance committee constituted under the National Health Insurance Act, 1936;
- “ large burgh ” and “ small burgh ” have the like meanings as in the Local Government (Scotland) Act, 1929;
- “ local authority ” means a county or town council, and includes any joint board or joint committee or other combined body of which all the constituent authorities are such councils as aforesaid and any body which is, in pursuance of any Act, deemed to be a combination of such councils;
- “ local health authority ” has the meaning assigned to it by section twenty of this Act;
- “ medical ” includes surgical;
- “ medical practitioner ” means a registered medical practitioner;
- “ medicine ” includes any prescribed chemical re-agent;
- “ mental defective ” means a person who is a defective within the meaning of the Mental Deficiency (Scotland) Acts, 1913 and 1940;
- “ officer ” includes servant;



- “ ophthalmic optician ” means a person having the prescribed qualifications in optics including the measurement of errors of refraction, in orthoptics and in the fitting and supply of optical appliances;
- “ patient ” includes an expectant or nursing mother and a lying-in woman;
- “ prescribed ” means prescribed by regulations made by the Secretary of State under this Act;
- “ property ” includes rights;
- “ registered nurse ” means a nurse registered in the register of nurses established under the Nurses Registration (Scotland) Act, 1919; <sup>9 & 10 Geo. 5. c. 95.</sup>
- “ registered pharmacist ” means a pharmacist registered in the register of pharmaceutical chemists or the register of chemists and druggists;
- “ regulations ” means regulations made by the Secretary of State under this Act;
- “ superannuation benefits ” means annual superannuation allowances, gratuities and periodical payments payable on retirement, death or incapacity, and similar benefits;
- “ voluntary ” means not carried on for profit and not provided by a local or public authority.

(2) References in this Act to the purposes of a hospital shall be construed as referring both to the general purposes of the hospital and to any specific purpose of the hospital.

(3) References in this Act to the functions of or services provided by a local health authority shall, unless the context otherwise requires, be construed respectively as references to all the functions exercisable or services provided by a local health authority whether under this Act or under any other enactment conferring functions on or empowering or requiring the provision of services by a local health authority in their capacity as such an authority.

(4) Any reference in this Act to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment including this Act.

**81.—(1)** This Act may be cited as the National Health Service (Scotland) Act, 1947. Short title  
and extent.

(2) This Act, except subsection (2) of section sixty-six, shall extend to Scotland only.

## SCHEDULES.

## FIRST SCHEDULE.

Section 2.

## SCOTTISH HEALTH SERVICES COUNCIL AND ADVISORY COMMITTEES.

*Constitution of Scottish Health Services Council.*

1. The Scottish Health Services Council shall consist of thirty-five members who shall be appointed by the Secretary of State and of whom—

- (a) eighteen shall be medical practitioners of whom two shall be selected for their knowledge of mental illness and mental deficiency;
- (b) four shall be persons, not being medical practitioners, with experience in hospital management including one with experience in mental health services;
- (c) five shall be persons, not being medical practitioners, with experience in local government including one with experience in local government in relation to mental health services;
- (d) three shall be dental practitioners;
- (e) two shall be registered nurses;
- (f) one shall be a certified midwife; and
- (g) two shall be registered pharmacists;

and before appointing any of the persons specified in sub-paragraphs (a) to (g), respectively, the Secretary of State shall consult with such organisations as he may recognise as representative of those persons.

*Supplementary Provisions.*

2. Regulations may make provision with respect to the appointment, tenure of office and vacation of office of the members of the Health Services Council and of any standing advisory committee constituted under section two of this Act and for the making of payments to such members and to members of any committee or sub-committee set up under paragraph 4 of this Schedule in respect of any loss of remunerative time or any travelling or subsistence expenses.

3. The Secretary of State shall appoint a secretary to the Health Services Council and to each standing advisory committee, and the Health Services Council and any standing advisory committee may also appoint a secretary to the Council or the committee, as the case may be, who shall act jointly with the secretary appointed by the Secretary of State.

4. The Health Services Council may appoint such committees, and any standing advisory committee may appoint such sub-committees, as they think fit, to consider and report upon questions referred to them by the Health Services Council or standing advisory committee, as the case may be, and any such committee or sub-committee may include persons who are not members of the Health Services Council or standing advisory committee, as the case may be.

5. The Health Services Council and any standing advisory committee shall elect one of the members of the Council or committee,

as the case may be; to be chairman of the Council or committee, and shall have power to regulate their own procedure.

1ST SCH.  
—*con'*.

6. The proceedings of the Health Services Council or of any standing advisory committee shall not be invalidated by any vacancy in the membership of the Council or committee or by any defect in the appointment or qualification of any member thereof.

---

## SECOND SCHEDULE.

Section 8.

### HOSPITAL ENDOWMENTS COMMISSION.

1. The Hospital Endowments Commission shall consist of a chairman appointed by the Secretary of State and such number of other members so appointed as the Secretary of State may from time to time determine.

2. The chairman and other members of the Commission shall, except where their office is sooner vacated by death or resignation, hold office from the time of appointment until the expiry of seven years from the appointed day. If an order is made under subsection (7) of section eight of this Act directing that the powers of the Commission shall continue, the Chairman and other members of the Commission shall be eligible for re-appointment and if so re-appointed shall, except as aforesaid, hold office from the time of such re-appointment till the expiry of the powers of the Commission.

3. The Secretary of State may make regulations for the making of payments to members of the Commission in respect of any loss of remunerative time or any travelling or subsistence expenses.

4. The Secretary of State may provide the services of such officers as the Commission may require.

5. The proceedings of the Commission shall not be invalidated by any vacancy in the membership thereof.

6. It is hereby declared for the avoidance of doubt that a member of the Commission is not, by reason of his membership, rendered incapable of being elected, or of sitting and voting, as a Member of the House of Commons.

---

## THIRD SCHEDULE.

Section 10.

### ACQUISITION OF HOSPITAL PROPERTY OTHER THAN LAND.

1. Where under Part II of this Act, in connection with the acquisition of any hospital, the Secretary of State proposes to acquire any equipment, furniture or other corporeal moveable property used in or in connection with the hospital premises, he may, at any time after the acquisition of the hospital (in the case of acquisition by agreement) or at any time after the service of the notice to treat (in the case of the compulsory acquisition of a hospital), serve a notice on the owner of the property specifying the property proposed to be acquired, and specifying the time within which and the manner in which any objection to such acquisition may be made.

2. If any objection is duly made, the Secretary of State shall afford to the said owner an opportunity of appearing before and being heard by a person appointed by him for the purpose, and

3RD SCH.  
—cont.

after considering any such objection and the report of the person so appointed by him, the Secretary of State shall either withdraw the notice aforesaid or serve upon the owner a notice confirming that notice.

3. The property with respect to which a notice is served under paragraph 1 of this Schedule and is not withdrawn shall—

- (a) if no objection is duly made to the notice, vest in the Secretary of State at the expiration of the time for making such an objection;
- (b) if such an objection is duly made and the notice is confirmed by a notice served under the last foregoing paragraph, vest in the Secretary of State on the service of the last mentioned notice;

and shall in each case vest free of any pledge, lien or right in security.

4. Where any property is acquired in accordance with this Schedule there shall be paid by way of compensation to the owner of the property concerned a sum equal to the price which he might reasonably have been expected to have obtained upon a sale of the property effected by him immediately before the acquisition of the property by the Secretary of State, and any dispute as to the amount of such compensation shall be determined by arbitration, and the compensation shall accrue due at the time when the property vested in the Secretary of State.

5. Where property in respect of which compensation is payable as aforesaid was, immediately before the acquisition thereof by the Secretary of State, in the possession of some person by virtue of a hire purchase agreement, that person may, by a notice served on the Secretary of State, make a claim to have apportioned to him such part of the compensation as may be specified in his claim; and in default of agreement between the parties the claim shall be determined by arbitration and the arbiter may apportion the compensation between the owner and the other person in such manner as appears to him to be just.

6. Any such compensation shall carry interest, as from the time when it accrues due until payment, at such rate as the Treasury may from time to time by order prescribe.

7. Where any sum by way of compensation is paid in accordance with this Schedule in respect of any property and, at the time when the compensation accrues due, the property is subject to any pledge, lien or right in security, the sum so paid shall be deemed to be subject to that pledge, lien or right.

Section 11.

#### FOURTH SCHEDULE.

#### REGIONAL HOSPITAL BOARDS, MEDICAL EDUCATION COMMITTEES AND BOARDS OF MANAGEMENT.

##### PART I.

##### *Constitution of Regional Hospital Boards.*

A Regional Hospital Board shall consist of a chairman appointed by the Secretary of State and such number of other members so

appointed as the Secretary of State thinks fit, and the members, of whom at least one half shall be persons other than medical practitioners, shall include—

4TH SCH.  
—cont.

- (a) persons appointed after consultation with any university with which the provision of hospital and specialist services in the area of the Board is associated;
- (b) persons appointed after consultation with such organisations as the Secretary of State may recognise as representative of the medical profession in the said area or the medical profession generally;
- (c) persons appointed after consultation with the local health authorities in the said area;
- (d) persons appointed after consultation with such other organisations as appear to the Secretary of State to be concerned; and
- (e) such other persons as the Secretary of State may think fit; and the original members of the Board shall also include persons appointed after consultation with such organisations as the Secretary of State may recognise as representative of voluntary hospitals in the said area. Before making appointments to fill vacancies the Secretary of State shall also consult the Board.

At least two of the members of the Board shall be persons with experience in mental health services.

#### PART II.

##### *Constitution of Medical Education Committees.*

The Medical Education Committee for any area shall consist of such number of members as the Secretary of State thinks fit, and of those members—

- (a) not less than one-third shall be appointed by any university with which the provision of hospital and specialist services in the area is associated;
- (b) a number equal to the number appointed under the last foregoing sub-paragraph shall be appointed by the Regional Hospital Board for the area;
- (c) any other members shall be appointed in such manner as may be provided in the order constituting the Committee.

The Committee shall appoint one of their number to be chairman.

#### PART III.

##### *Constitution of Boards of Management.*

A Board of Management shall consist of members appointed in accordance with the scheme under section eleven of this Act for the time being in force, and the members, of whom at least one half shall be persons other than medical practitioners, shall include—

- (a) persons appointed after consultation with any local health authority whose area comprises the area or any part of the area served by the hospital or group;
- (b) persons appointed after consultation with any Executive Council (constituted under Part IV of this Act) whose area comprises the area or any part of the area served by the hospital or group;

4TH SCH.  
—cont.

- (c) persons appointed after consultation with the senior medical and dental staff employed at the hospital or the hospitals of the group, as the case may be;
- (d) persons appointed after consultation with such other organisations as appear to the Regional Hospital Board to be concerned;
- (e) such other persons as the Regional Hospital Board may think fit; and
- (f) in the case of a hospital providing facilities for under-graduate or post-graduate clinical teaching, persons, not exceeding in number one-fifth of the total number of members, nominated by any university with which those facilities are associated;

In the case of a hospital providing such facilities as aforesaid the persons appointed under sub-paragraph (c) of this paragraph shall include persons, not exceeding in number one-fifth of the total number of members, nominated by the medical and dental teaching staff employed at the hospital or the hospitals of the group as the case may be.

In the case of a Board of Management appointed before the appointed day for a voluntary hospital or for a group comprising any voluntary hospital, the original members of the Board shall also include persons appointed after consultation with the governing body of any voluntary hospital concerned. Before making appointments to fill vacancies the Regional Hospital Board shall also consult the Board of Management. The Board shall appoint one of their number to be chairman.

#### PART IV.

##### *Supplementary provisions.*

1. Regional Hospital Boards and Boards of Management shall be bodies corporate.

2. Regulations may make provision—

- (a) with respect to the appointment, tenure of office and vacation of office of the members of the bodies constituted under the foregoing provisions of this Schedule;
- (b) with respect to the appointment of committees consisting wholly or partly of members of those bodies and the delegation of functions to such committees;
- (c) for the making of payments to members of those bodies or committees in respect of any loss of remunerative time or, if the special circumstances of the body or committee concerned appear to the Secretary of State to justify it, in respect of any travelling or subsistence expenses; and
- (d) with respect to the procedure of those bodies or committees.

3. The proceedings of any body constituted under the foregoing provisions of this Schedule shall not be invalidated by any vacancy in the membership of the body or by any defect in the appointment or qualification of any member thereof.

4. It is hereby declared, for the avoidance of doubt, that a member or officer of any such body or of a committee thereof is not, by reason of his membership or office, rendered incapable of being elected, or of sitting and voting, as a Member of the House of Commons.

## FIFTH SCHEDULE.

Section 20.

PROVISIONS AS TO HEALTH COMMITTEES OF LOCAL HEALTH  
AUTHORITIES.

1. Every local health authority shall prepare and submit to the Secretary of State an administrative scheme for the discharge of their functions. Any such scheme shall provide for the constitution of a health committee and the provisions of subsections (8) to (10) of section fourteen of the Local Government (Scotland) Act, 1929, shall, with the substitution for the date therein mentioned of such date as the Secretary of State may fix and with any other necessary modifications, apply in relation to such schemes in like manner as those provisions apply in relation to the schemes therein mentioned.

2. Subject to the next following paragraph, all matters relating to the discharge of the functions of a local health authority shall stand referred to the health committee, and the authority, before exercising any such functions, shall consider a report of the health committee with respect thereto:

Provided that an authority may dispense with such a report if, in their opinion, the matter is urgent.

3. The last foregoing paragraph shall not prevent the council of a county or burgh from referring to any committee appointed by them any matter arising out of, and incidental to, their functions as local health authority which, by reason that it relates also to a general service of the council, ought, in the opinion of the council, to be so referred, and the last foregoing paragraph shall not apply to any matter which is so referred:

Provided that, before deciding on a proposal for a reference under this paragraph, the council shall receive and consider a report of the health committee on the proposal.

4. A local health authority may authorise the health committee to exercise on their behalf any of their functions except the power to borrow money or to levy a rate.

5. At least two-thirds of the members of the health committee shall be members of the local health authority, and any other members shall be persons who have special knowledge or experience in regard to the functions of a local health authority.

6. The minutes of proceedings of the health committee shall be open to the inspection of any local government elector for the area of the local health authority on payment of a fee not exceeding one shilling and any such local government elector may make a copy thereof or extract therefrom.

7. The health committee may, subject to any restrictions imposed by the local health authority, establish such sub-committees as the health committee may determine, and any sub-committee established under this paragraph shall be constituted in such manner as may, subject to any restrictions imposed by the local health authority, be determined by the health committee, and at least two-thirds of the

5TH SCH.  
—cont.

members of every sub-committee shall be members of the local health authority:

Provided that a person who is not a member of the local health authority or of the health committee shall not be appointed to any sub-committee except with the consent of the local health authority.

8. The health committee may, subject to any restrictions imposed by the local health authority, authorise any sub-committee to exercise on their behalf any functions of the health committee.

Section 32.

## SIXTH SCHEDULE.

### EXECUTIVE COUNCILS.

#### *Constitution of Executive Councils.*

1. An Executive Council shall consist of a chairman appointed by the Secretary of State and twenty-four other members of whom—

- (a) eight members shall be appointed by the local health authority for the area of the Executive Council or, where that area comprises in whole or in part the areas of more than one local health authority, by those authorities in such proportions as the Secretary of State may by order direct;
- (b) four members shall be appointed by the Secretary of State;
- (c) seven members shall be appointed by the Local Medical Committee;
- (d) three members shall be appointed by the Local Dental Committee;
- (e) two members shall be appointed by the Local Pharmaceutical Committee.

#### *Supplementary Provisions.*

- 2. Every Executive Council shall be a body corporate.
- 3. An Executive Council shall not acquire land except with the consent of the Secretary of State.
- 4. The Secretary of State may make regulations—
  - (a) with respect to the appointment, tenure of office and vacation of office of the members of an Executive Council;
  - (b) with respect to the appointment of committees consisting wholly or partly of members of the Council and the delegation of functions to such committees;
  - (c) for the making of payments to members of the Council or any such committee in respect of any loss of remunerative time or, if the special circumstances of the area of the Council appear to the Secretary of State to justify it, in respect of any travelling or subsistence expenses;
  - (d) with respect to the appointment of officers of the Council;



- (e) for payment by an Executive Council of sums, not exceeding such sums as may be prescribed, as subscriptions to the funds of any association of Executive Councils whose objects are approved by the Secretary of State, and for the payment at the prescribed rates of any expenses reasonably incurred by representatives in attending meetings of any such association;
- (f) with respect to the procedure of the Council or any such committee.

6TH SCH.  
—cont.

5. If the Local Medical Committee, the Local Dental Committee or the Local Pharmaceutical Committee fail within such period as the Secretary of State may determine to appoint any member of the Executive Council whom they are required to appoint, the appointment shall be made by the Secretary of State.

6. The proceedings of an Executive Council or of any committee of such a Council shall not be invalidated by any vacancy in the membership of the Council or committee or by any defect in the appointment or qualification of any member thereof.

7. It is hereby declared, for the avoidance of doubt, that a member or officer of any such Council or committee is not, by reason of his membership or office, rendered incapable of being elected, or of sitting and voting, as a Member of the House of Commons.

---

## SEVENTH SCHEDULE.

Section 35.

---

### SCOTTISH MEDICAL PRACTICES COMMITTEE.

1. The Scottish Medical Practices Committee shall consist of a chairman, who shall be a medical practitioner, and five other members of whom three shall be medical practitioners actively engaged in medical practice.

2. The chairman and members shall be appointed by the Secretary of State after consultation with such organisations as the Secretary of State may recognise as representative of the medical profession.

3. The Secretary of State may make regulations—

- (a) with respect to the appointment, tenure of office and vacation of office of the members of the Committee;
- (b) for the payment to members of the Committee of remuneration or travelling and subsistence allowances.

4. The Secretary of State may provide the services of such officers as the Committee may require.

5. The proceedings of the Committee shall not be invalidated by any vacancy in the membership of the Committee or by any defect in the appointment or qualification of any member thereof.

---

## EIGHTH SCHEDULE.

## CONSTITUTION OF TRIBUNAL.

1. The Tribunal shall consist of a chairman and two other members.
2. The chairman shall be a practising advocate or solicitor of not less than ten years' standing appointed by the Lord President of the Court of Session.
3. One of the other members shall be a person appointed by the Secretary of State after consultation with such associations of Executive Councils as the Secretary of State may recognise as representative of Executive Councils.
4. The other member (hereinafter referred to as the "practitioner member") shall be one of a panel of six persons appointed by the Secretary of State, after consultation with such organisations as the Secretary of State may recognise as representative of the several professions concerned, and consisting of a medical practitioner, a dental practitioner, a registered pharmacist, a medical practitioner practising as an oculist, an ophthalmic optician and a dispensing optician engaged in dispensing, and the practitioner member shall, for the purpose of the investigation of the case of any person, be such one of the six persons aforesaid as belongs to the same profession as the person whose case is being investigated.
5. If any of the members of the Tribunal is unable to act in any case, a deputy may be appointed in like manner and after the like consultations as in the case of the appointment of the member in question and, if the member was required to possess professional qualifications, the deputy shall possess the like qualifications.

*Supplementary Provisions.*

6. Regulations may make provision—
  - (a) with respect to the appointment, tenure of office and vacation of office of members of the Tribunal;
  - (b) for the payment to members of the Tribunal of remuneration or subsistence allowances and travelling allowances.
  - (c) with respect to the appointment of officers of the Tribunal.

## NINTH SCHEDULE.

AMENDMENT AND REPEAL OF ENACTMENTS RELATING TO LUNATICS  
AND MENTAL DEFECTIVES.

## PART I.

## AMENDMENTS.

*General Amendments.*

In all enactments relating to lunatics or mental defectives and in any documents issued thereunder references to a public asylum or to a district asylum shall be construed as references to a hospital vested in the Secretary of State and designated by him as a public mental hospital.

In all enactments relating to mental defectives, for references to parish councils there shall be substituted references to local health authorities; references to institutions shall be construed as including references to hospitals vested in the Secretary of State and designated

by him as mental deficiency institutions; and references to the managers in relation to an institution vested in the Secretary of State shall be construed as references to the Board of Management of the institution or, in the case of an institution for defectives of dangerous or violent propensities, to the General Board.

9TH SCH  
—cont.

*The Lunacy (Scotland) Act, 1857.*

20 & 21 Vict. c. 71.

In section three in the definition of the expression "private asylum" the words from "and kept for" to "lunatic therein" shall be omitted.

In section eight the words from "and the paid Commissioners" to the end of the section shall be omitted.

In section twenty-eight the following proviso shall be added at the end of the section:—

"Provided also that this section, so far as relating to the said duty of ten shillings or to sums payable to the Board shall not apply in the case of a licence to be granted in respect of a private mental hospital not carried on for profit."

In section thirty-two the words "and for orders of admission" shall be omitted and for the words from "paid to and divided" to "surplus arises" there shall be substituted the words "paid into the Exchequer".

Section forty-two in so far as it authorises transfer of a lunatic to a house or mental hospital other than a public mental hospital or relates to the expense of maintenance of a lunatic shall cease to have effect.

In section seventy-one, before the word "asylum" where first occurring there shall be inserted the word "private".

In section ninety-four for the reference to the clerk to the Board there shall be substituted a reference to the secretary of the Board.

In section ninety-seven, for the words "the party or parish by whom this expense of maintenance of the lunatic is defrayed" there shall be substituted the words "any party (other than the Secretary of State) who is making any payment towards the maintenance of the lunatic".

For section one hundred and twelve, the following section shall be substituted:—

Arrangements  
to secure  
necessary action  
regarding  
persons of  
unsound mind.

"112. (1).—It shall be the duty of the local health authority to make such arrangements as are necessary to secure that, when an officer authorised for the purposes of this section (hereinafter referred to as an authorised officer) has reason to believe that there is within their area a person of unsound mind in respect of whom action should be taken with a view to his detention in a mental hospital, a licensed house, or a private dwelling and that no relative or friend of such person is willing and able to take such action, the officer will—

(a) present a petition to the sheriff under section fourteen of the Lunacy (Scotland) Act, 1862; or

9TH SCH.  
—cont.

(b) present an application to the sheriff under section fifteen of the said Act; or

(c) arrange for the reception of the person into a private house under section thirteen of the Lunacy (Scotland) Act, 1866,

whichever of these courses shall seem to the officer most appropriate in the circumstances.

(2) Where an authorised officer takes any action under subsection (1) of this section, he shall within seven days thereafter inform the Board of such action giving particulars as to the person in relation to whom it is taken.

(3) Where a lunatic is detained in consequence of action taken under this section by an authorised officer, any provision in any Act requiring notice to be served on the person at whose instance an order for the detention of a lunatic was obtained, or authorising such a person to take steps for the transfer or release of the lunatic, shall not apply as regards the authorised officer.

(4) It shall be lawful for a local health authority to make payments to medical persons for the conduct of examinations with a view to furnishing certificates for the purposes of this section.

(5) In this section the expression "local health authority" has the like meaning as in the National Health Service (Scotland) Act, 1947."

*The Lunacy (Scotland) Act, 1862.*

25 & 26 Vict. c. 54.

In section one in the definition of the expression "superintendent" after the word "mean" there shall be inserted the words "in relation to a public mental hospital, the officer designated in that behalf by the Board of Management constituted under the National Health Service (Scotland) Act, 1947, and in relation to any other mental hospital" and for the words "any asylum" there shall be substituted the words "the mental hospital".

In section fifteen for references to an inspector of poor and to a parish there shall be respectively substituted references to an authorised officer under section one hundred and twelve of the Lunacy (Scotland) Act, 1857, and to the area of a local health authority; and the words from "and shall also grant" to "maintenance of such lunatic" and from "but the parish so decreed against" to the end of the section shall be omitted.

In section sixteen after the words "such lunatic" where they first occur there shall be inserted the words "or of the superintendent of the mental hospital or house in which he is detained".

For section eighteen the following section shall be substituted:—

Board may act  
if authorised  
officer fails to  
take action  
regarding person  
of unsound  
mind.

“ 18. If any authorised officer under section one hundred and twelve of the first recited Act shall after requisition by the Board, refuse or neglect for twenty-one days to take action under the said section with regard to a person of unsound mind, the Board may take such measures as are necessary for the removal of the person to a mental hospital or house, and may recover the expense of so doing from the local health authority within the meaning of the National Health Service (Scotland) Act, 1947, of the area in which the person was found.”

9TH SCH.  
—cont.

*The Lunacy (Scotland) Act, 1866.*

29 & 30 Vict. c. 51.

For section nine the following section shall be substituted:—

Discharge of  
Lunatics.

“ 9.—(1) Subject to the provisions of section ninety-three of the Lunacy (Scotland) Act, 1857, or of section twelve of this Act or of subsection (2) of this section—

(a) the Board of Management of any public mental hospital may direct that any lunatic detained therein be discharged;

(b) a lunatic detained in any mental hospital or house shall be discharged therefrom on the written request

(i) of the person at whose instance he is detained; or

(ii) if that person is dead or unable by reason of mental incapacity, absence from the United Kingdom or other cause to sign a request for discharge, of the husband or wife of the lunatic, or

(iii) if there is no husband or wife, or the husband or wife is unable as aforesaid, of the father of the lunatic, or

(iv) if there is no father or he is unable as aforesaid, of the mother of the lunatic; or

(v) if there is no mother, or she is unable as aforesaid, of any one or more of the next of kin.

(2) Where the discharge of a lunatic is directed or requested under the last foregoing subsection—

(a) the superintendent of the mental hospital or house may represent to the Board that the lunatic is not a fit person to be discharged, and in that event the lunatic shall not be discharged without the sanction of the Board;

9TH SCH.  
—cont

(b) the superintendent of the mental hospital or house shall send to the local health authority within whose area the place to which the lunatic is to be discharged is situated notice of the proposed discharge giving such particulars with regard to the mental condition of the lunatic, the person, if any, who has requested the discharge and such other matters as may be prescribed by the Secretary of State, and the lunatic shall not in any event be discharged before the expiry of ten days from the date when such notice is given, and, if within that period, a duly authorised officer of the local health authority represents that adequate arrangements have not been made for the welfare of the lunatic in the event of his discharge, he shall not be discharged without the sanction of the Board.

(3) In this section the expressions 'Board of Management,' and 'local health authority' have the like meaning as in the National Health Service (Scotland) Act, 1947."

After section thirteen there shall be inserted the following section—

Payments by  
Secretary  
of State  
towards main-  
tenance of  
lunatics in  
house or liber-  
ated on trial or  
probation.

" 13A.—(1) Where a lunatic is detained in any house it shall be lawful for the Secretary of State, if he considers it reasonable so to do, to make, on such conditions as he may determine, payments to the person responsible for the maintenance of the lunatic at such rate as the Secretary of State may think fit.

(2) Where a lunatic is liberated on trial or probation from any mental hospital or house it shall be lawful for the Secretary of State to make such payments as aforesaid to the lunatic or to the person responsible for his maintenance.

(3) Regulations or schemes under section twelve of the National Health Service (Scotland) Act, 1947, may provide for the exercise of the functions of the Secretary of State under this section as if those functions formed part of the hospital and specialist services under the said Act."

*The Criminal and Dangerous Lunatics (Scotland)  
Amendment Act, 1871.*

34 & 35 Vict. c. 55.

In section six, for the words "lunatic asylum" there shall be substituted the words "public mental hospital".

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

3 & 4 Geo. 5. c. 38.

In section twenty-five, paragraph (c) of subsection (1) shall, except in so far as it relates to inspection, not apply to hospitals vested in

the Secretary of State; and for paragraph (e) of the said subsection the following paragraph shall be substituted:—

“(e) undertake the management of institutions established under section twenty-eight of this Act or under Part II of the National Health Service (Scotland) Act, 1947, for defectives of dangerous or violent propensities.”

9TH SCH.  
—cont.

For section twenty-six there shall be substituted the following section:—

Expense of  
guardianship  
of defectives.

“26.—(1) It shall be the duty of the local authority concerned under this Act to defray the expenditure incurred in the maintenance and guardianship of defectives placed under guardianship in pursuance of an order under this Act or by the authority with the consent of the parents or guardians of the defectives, and the local authority concerned may if they think fit defray in whole or in part the expenditure incurred in the guardianship of any defectives other than as aforesaid.

(2) Expenditure incurred by an education authority under this section shall be defrayed in like manner as expenditure under the Education (Scotland) Act, 1946.”

In section twenty-nine, the following subsection shall be added at the end of the section:—

“(4) Nothing in this section shall apply to any premises vested in the Secretary of State”.

In section thirty-one, paragraphs (a), (b) and (c), paragraph (d) (except as regards reports as to patients) and paragraph (j) (except as regards the deaths of patients) shall not apply to institutions vested in the Secretary of State, and for paragraph (g) there shall be substituted the following paragraph:—

“(g) the transfer of patients from one institution to another.”

For section thirty-three there shall be substituted the following section:—

Ascertainment  
of local  
authority  
responsible for  
defective  
placed under  
guardianship.

“33.—(1) Where a defective is ordered to be placed under guardianship, the local authority concerned shall be the education authority or the local health authority within the meaning of the National Health Service (Scotland) Act, 1947, as the case may be for the area (to be specified in the order) in which the defective resided.

(2) An order that a defective be placed under guardianship shall not, where any such authority as aforesaid will by virtue of this Act incur liabilities on account of the defective, be made unless that authority have been given an opportunity of being heard or, if the order is made by the Secretary of State, of making representations to him.”

In section fifty-seven for the words “shall give decree for” there shall be substituted the words “may make such order as he shall think fit with regard to” and the words from “and also” to the end of the section shall be omitted.

9TH SCH.  
—cont.*The Mental Deficiency (Scotland) Act, 1940.*

3 &amp; 4 Geo. 6. c. 8.

Sections one, two and three shall, in their application to any case where a defective is detained in an institution, have effect as if references to the local authority concerned were omitted.

## PART II.

## REPEALS OF ENACTMENTS RELATING TO LUNATICS AND MENTAL DEFECTIVES.

Session and Chapter.	Short Title.	Extent of Repeal.
8 & 9 Vict. c. 83. 20 & 21 Vict. c. 71.	The Poor Law (Scotland) Act, 1845. The Lunacy (Scotland) Act, 1857.	Section fifty-nine. In section three the definitions of the expressions "public asylum", "district asylum", "superintendent", "burgh", "magistrates of burghs" and "landward part of a county"; section five (except in so far as it relates to the quorum); in section nine the word "public", the word "district", the word "inspectors", the words "clerk officers and servants appointed under the authority of this Act", and the second proviso; in section seventeen the words "and of the medical inspectors hereinafter appointed under this Act"; section nineteen; section twenty-four so far as relating to clerks or medical or district inspectors; section twenty-six; in section twenty-eight the words "not being a pauper, and the sum of two shillings and sixpence and no more for every patient being a pauper" and the words from "in proportion" to "two shillings and sixpence"; section thirty-one; in section forty-seven the words from "or when such patient" to "maintain such patient"; sections forty-nine to seventy; in section seventy-one the second proviso; in section seventy-two, the words from the beginning of the section to "respectively, or"; sections seventy-three to eighty; section eighty-six; in section ninety the words "or persons in pauper or reduced circumstances alleged to be lunatics" and the words "a lunatic or"; in section ninety-one the words "either in his own or in some adjoining



Session and Chapter.	Short Title.	Extent of Repeal.
20 & 21 Vict. c. 71. —cont.	The Lunacy (Scotland) Act, 1857—cont.	county" and the words from "and the expenses" to the end of the section; in section ninety-two the words from "and, in the case" to "was defrayed"; section ninety-five; in section ninety-seven the words "or parish"; in section one hundred and two the words "public" and "district"; section one hundred and three; section one hundred and seven from the words "and the penalties" to the end of the section; in Schedule (B) the words from "whereof" to "paupers"; in Schedule (C), paragraph 17; and Schedules (H) and (K).
25 & 26 Vict. c. 54.	The Lunacy (Scotland) Act, 1862.	In section one, the definitions of the expressions "lunatic wards of a poor-house" and "pauper lunatic"; in the definition of "superintendent" the words from "and also" to "are kept"; sections three and four; in section five the words from "in the case" to "any other case"; sections eight to ten and twelve and thirteen; in section fourteen the words "lunatic ward of a poorhouse" and "lunatic ward"; in section sixteen the words from "and in the case" to "is defrayed"; in section seventeen the words from "and in the case" to "defrayed".
29 & 30 Vict. c. 51.	The Lunacy (Scotland) Act, 1866.	In section four, the words "not a pauper lunatic"; in section eight, the word "pauper", and the words from "and it shall not" to the end of the section; sections ten and eleven; in section twelve, the words "not being a pauper"; in section thirteen the words from "Provided always" to "medical certificate"; sections twenty-two and twenty-five to twenty-seven.
34 & 35 Vict. c. 55.	The Criminal and Dangerous Lunatics (Scotland) Amend- ment Act, 1871.	In section four, the words from "or to any chartered" to the end of the section; in section six, the words from "and if the asylum" to the end of the section; section eight.
50 & 51 Vict. c. 39.	The Lunacy Districts (Scotland) Act, 1887.	The whole Act.

9TH SCH.  
—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
3 & 4 Geo. 5. c. 38.	The Mental Deficiency and Lunacy (Scotland) Act, 1913.	In section four in subsection (1) the words from "and he shall not be so placed by a school board" to the end of the subsection; section fourteen; in section fifteen, in subsection (3) the words from "but shall" to the end of the subsection; section twenty-three; in section twenty-five, in subsection (1), paragraphs (b) and (h) and the words "or inspectors" in paragraph (d), and in subsection (2) the words "or inspectors"; section twenty-seven; in section twenty-eight subsection (2); section thirty; in section thirty-one, in paragraph (b) the words from "the number of private patients" to "district board"; section thirty-five; in section thirty-nine, in subsection (2) paragraph (c) of the proviso; sections forty-one and forty-two; section forty-nine; section fifty-one, except as regards private mental hospitals; sections fifty-two and fifty-three; in section fifty-five, in subsection (1), the words "to the lunatic wards of a poorhouse or"; subsections (3) and (4); section fifty-eight; section sixty-three; in section sixty-four subsection (4); section sixty-eight; in section seventy from the beginning to the words "district asylums and," the words "that or" and the word "other"; in section seventy-one subsection (1); section seventy-two.
9 & 10 Geo. 5. c. 85.	The Mental Deficiency and Lunacy Amend- ment Act, 1919.	The whole Act so far as un- repealed.
26 Geo. 5. & 1 Edw. 8. c. 31.	The Old Age Pensions Act, 1936.	In section thirteen, in paragraph (c) of subsection (1) the words "the expression 'mental hospital' means 'asylum'".
26 Geo. 5. & 1 Edw. 8. c. 33.	The Widows' Orphans' and Old Age Contrib- utory Pensions Act, 1936.	In section forty-four in paragraph (3) the words "the expression 'mental hospital' means 'asylum'".

## TENTH SCHEDULE.

Section 69

## PROVISIONS AS TO INQUIRIES.

1. The Secretary of State shall appoint a person to hold the inquiry and to report thereon to him.

2. Notification shall be sent to any persons appearing to the Secretary of State or the person appointed to hold the inquiry to be interested, of the time when and the place where the inquiry is to be held.

3. The person appointed to hold the inquiry may by notice require any person—

(a) to attend at the time and place set forth in the notice, to give evidence or to produce any books or documents in his custody or under his control which relate to any matter in question at the inquiry; or

(b) to furnish within such reasonable period as is specified in the notice such information relating to any matter in question at the inquiry as the person appointed to hold the inquiry may think fit and as the person so required is able to furnish:

Provided that—

(i) no person shall be required in obedience to such a notice to attend at any place which is more than ten miles from the place where he resides unless the necessary expenses are paid or tendered to him; and

(ii) nothing in this paragraph shall empower the person appointed to hold the inquiry to require any person to produce any book or document or to answer any question which he would be entitled, on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.

4. The person appointed to hold the inquiry may administer oaths and examine witnesses on oath and may accept in lieu of evidence on oath by any person a statement in writing by that person.

5. Any person who refuses or wilfully neglects to attend in obedience to a notice under paragraph 3 of this Schedule, or to give evidence, or who wilfully alters, suppresses, conceals, destroys or refuses to produce any book or document which he may be required to produce by any such notice or who refuses or wilfully neglects to furnish any information which he is required to furnish under sub-paragraph (b) of paragraph 3 of this Schedule shall be liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a period not exceeding three months.

6. The expenses incurred by the Secretary of State in relation to any inquiry held under this Act (including such reasonable sum not exceeding five guineas a day for the services of any officer engaged in the inquiry) shall be paid by such of the parties to the inquiry in such proportions as the Secretary of State may order.

7. The Secretary of State may make orders as to the expenses incurred by the parties appearing at any such inquiry and as to the parties by whom such expenses shall be paid.

8. Any order by the Secretary of State under paragraph 6 or paragraph 7 of this Schedule may be enforced in like manner as a recorded decree arbitral.

## Section 74.

## ELEVENTH SCHEDULE.

## CONSEQUENTIAL AMENDMENTS AND REPEALS.

## PART I.

## AMENDMENTS.

*The Infectious Disease (Notification) Act, 1889.*  
52 & 53 Vict. c. 72.

In section seventeen, for the definition of "local authority" there shall be substituted the following definition—

"The expression 'local authority' shall mean the local health authority as defined in the National Health Service (Scotland) Act, 1947."

*The Public Health (Scotland) Act, 1897.*  
60 & 61 Vict. c. 38.

For the purposes of the following sections, namely sections forty-five to fifty-one, fifty-three to fifty-seven, fifty-nine, sixty-two to sixty-four, sixty-six, sixty-nine (so far as relating to infectious diseases), seventy, ninety-six and ninety-seven, the local health authority shall be the local authority, and any functions exercised under any of the said sections by the medical officer or any other officer of the local authority shall be deemed to be exercised by an officer of the local health authority.

In section fifty-four for any reference to the superintending body of a hospital, there shall be substituted a reference to the Board of Management of the hospital; the words "and at the cost" shall be omitted; for the words from "to any hospital" to "of the combined district" there shall be substituted the words "to any hospital vested in the Secretary of State"; and after subsection (2) the following subsection shall be added:—

"(3) A sheriff, magistrate or justice may order that a person removed to a hospital under this section be transferred to any other hospital vested in the Secretary of State, and any person so transferred may be detained in that other hospital so long as he continues in an infected condition. The provisions of subsection (2) of this section shall apply to any such order in like manner as they apply to an order under subsection (1) of this section."

In section fifty-five, the words "at the cost of the local authority" shall be omitted; and after subsection (2) the following subsection shall be added:—

"(3) A person detained in a hospital under this section may if a sheriff, magistrate or justice so directs be removed to any other hospital vested in the Secretary of State, and may be detained therein during the time limited or enlarged under subsection (1) of this section. The provisions of subsection (2) of this section shall apply to any such direction in like manner as they apply to a direction under subsection (1) of this section."

In section fifty-nine, after the words "provided or approved" there shall be inserted the words "by the Secretary of State or".

In section ninety-six for the words from "or infirmary" to "from the local authority" there shall be substituted the words "vested in the Secretary of State with the consent of the Board of Management thereof".

*The Notification of Births Act, 1907.*

7 Edw. 7. c. 40.

In section four in paragraph (3) for the reference to the local authority under the Public Health (Scotland) Act, 1897, there shall be substituted a reference to the local health authority.

*The Midwives (Scotland) Act, 1915.*

5 &amp; 6 Geo. 5. c. 91.

For any reference to the district of a local supervising authority there shall be substituted a reference to the area of a local health authority.

In section sixteen for the words from "The local authority" to "such district" there shall be substituted the words "The local health authority within the meaning of the National Health Service (Scotland) Act, 1947, shall be the local supervising authority over midwives in their area."

*The Local Government (Emergency Provisions) Act, 1916.*

6 &amp; 7 Geo. 5. c. 12.

In section five in paragraph (b) for the words "local authority" there shall be substituted the words "the local health authority within the meaning of the National Health Service (Scotland) Act, 1947."

*The Local Government (Scotland) Act, 1929.*

19 &amp; 20 Geo. 5. c. 25.

In section fourteen for the second paragraph of subsection (4) the following paragraph shall be substituted:—

"The assistance to which this subsection applies shall be the arrangements made for the care of expectant and nursing mothers and children who are not attending a school under the management of an education authority and who have not attained, or are deemed under section thirty-three of the Education (Scotland) Act, 1946 not to have attained, the age of five years, or of blind persons, or the feeding, clothing and treatment of pupils attending schools, junior colleges and other educational establishments, or the care and after care under section twenty-seven of the National Health Service (Scotland) Act, 1947, of persons suffering from illness or mental deficiency, or the maintenance and guardianship of mental defectives placed under guardianship."

In section twenty-nine, the reference to a county council or to the town council of a large burgh shall include a reference to such a council in their capacity as a local health authority.

Section sixty-eight shall apply in like manner as it applies to the contributions therein mentioned to contributions under subsection (3) of section twenty-two, subsection (3) of section twenty-seven, or subsection (3) of section fifty-one of this Act with the substitution for references to the councils therein mentioned of references to local health authorities, and for any reference to the General Exchequer Grant of a reference to the grant payable under section fifty-three of this Act.

11TH SCH.  
—cont.

*The Road Traffic Acts, 1930 and 1934.*

23 & 24 Geo. 5. c. 53; 24 & 25 Geo. 5. c. 50.

Subsection (2) of section thirty-six of the Road Traffic Act, 1930, and section sixteen of the Road Traffic Act, 1934, shall have effect as if any requirement therein for the payment of money to a hospital were construed in the case of a hospital vested in the Secretary of State as requiring the payment to be made to the Secretary of State or on his behalf to any Regional Hospital Board or Board of Management authorised by him for the purpose, and section seventeen of the last-mentioned Act shall have effect accordingly.

*The Pharmacy and Poisons Act, 1933.*

23 & 24 Geo. 5. c. 25.

In section nineteen, in proviso (a) to subsection (3), for the words "Acts relating to national health insurance" there shall be substituted the words "National Health Service (Scotland) Act, 1947."

*The Maternity Services (Scotland) Act, 1937.*

1 Edw. 8 & 1 Geo. 6. c. 30.

In section six, for subsection (2) there shall be substituted the following subsection:—

"(2) The Secretary of State may by order apply this section to the area of any local authority when he is satisfied that proposals approved by him for carrying out the duties of the local authority in their capacity as local health authority under subsection (2) of section twenty-three of the National Health Service (Scotland) Act, 1947, are in full operation".

In section nine, for the definition of "local authority" there shall be substituted the following definition:—

"'local authority' means the local health authority as defined in the National Health Service (Scotland) Act, 1947."

*The Public Health (Scotland) Act, 1945.*

9 & 10 Geo. 6. c. 15.

In section one in subsection (8) there shall be added at the end of the definition of local authority the following words:—

"and includes any such council in their capacity as a local health authority within the meaning of the National Health Service (Scotland) Act, 1947."

*The Education (Scotland) Act, 1946.*

9 & 10 Geo. 6. c. 72.

In sections fifty-six, fifty-seven and fifty-eight for any reference to the local authority for the purposes of the Mental Deficiency Acts there shall be substituted a reference to the local health authority. In section one hundred and forty after the word "sections," where it first occurs there shall be inserted the words "fifty-four, fifty-five."

PART II.  
REPEALS.IITH SCH.  
—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
8 & 9 Vict. c. 83.	The Poor Law (Scotland) Act, 1845.	Sections fifty-nine and sixty-six ; in section sixty-seven, the words from "public infirmary" to "asylum or" ; in section sixty-nine the words "medicines, medical attendance".
26 & 27 Vict. c. 108.	The Vaccination (Scotland) Act, 1863.	The whole Act.
60 & 61 Vict. c. 38.	The Public Health (Scotland) Act, 1897.	Section sixty-six (except so far as relating to houses of reception for persons who have been exposed to infection) ; sections sixty-seven and seventy-seven ; in section one hundred and forty-one the words "permanent hospitals" ; sections one hundred and seventy-nine and one hundred and eighty.
7 Edw. 7. c. 40.	The Notification of Births Act, 1907.	In section one, paragraph (6).
7 Edw. 7. c. 49.	The Vaccination (Scotland) Act, 1907.	The whole Act.
1 & 2 Geo. 5. c. 55.	The National Insurance Act, 1911.	Section sixty-four.
3 & 4 Geo. 5. c. 26.	The Highlands and Islands (Medical Service) Grant Act, 1913.	The whole Act.
5 & 6 Geo. 5. c. 64.	The Notification of Births (Extension) Act, 1915.	Section two ; in section three paragraph (b) of subsection (1).
5 & 6 Geo. 5. c. 91.	The Midwives (Scotland) Act, 1915.	In section twenty-two, subsection (4) ; in section twenty-eight the definitions of "local authority," and "district".
6 & 7 Geo. 5. c. 12.	The Local Government (Emergency Provisions) Act, 1916.	Section sixteen.
8 & 9 Geo. 5. c. 29.	The Maternity and Child Welfare Act, 1918.	In section four, the words "paragraph (b) of subsection (1) and" ; in section five in subsection (2) the words "Scotland or".
15 & 16 Geo. 5. c. 75.	The Public Health (Scotland) Amendment Act, 1925.	The whole Act.
17 & 18 Geo. 5. c. 17.	The Midwives (Scotland) Act, 1927.	In section four, subsection (3) ; section five ; in section sixteen subsection (2).

11TH SCH.  
—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
19 & 20 Geo. 5. c. 25.	The Local Government (Scotland) Act, 1929.	In section eleven, subsection (8); in section fourteen, subsection (1) so far as relating to public health and lunacy and mental deficiency; in section eighteen, subsection (3); sections twenty-seven and twenty-eight; in section sixty-four, paragraph (b); in the First Schedule the references to the following Acts:— the Infectious Disease (Notification) Act, 1889; the Public Health (Scotland) Act, 1897 (so far as relating to functions vested by this Act in the Secretary of State or in local health authorities); the Notification of Births Acts, 1907 and 1915; the Midwives (Scotland) Act, 1915; the Local Government (Emergency Provisions) Act, 1916; the Maternity and Child Welfare Act, 1918; the Public Health (Scotland) Amendment Act, 1925; the Midwives (Scotland) Act, 1927.
20 & 21 Geo. 5. c. 13.	The Highlands and Islands (Medical Service) Additional Grant Act, 1929.	The whole Act.
24 & 25 Geo. 5. c. 29.	The Unemployment Assistance Act, 1934.	In section fifty-three, in subsection (2) the words "to medical needs or" and "to mental or bodily health or"; in section fifty-four, in subsection (1), the definitions of "Medical needs" and "Medical or Surgical" and in Part II of the Eighth Schedule, proviso (iii) to paragraph 1, and in paragraph 3 the words "not being relief in respect of medical needs" in both places where they occur.
1 Edw. 8. & 1 Geo. 6. c. 30.	The Maternity Services (Scotland) Act, 1937.	Sections one to three and five; the First Schedule.



Session and Chapter.	Short Title.	Extent of Repeal.
1 & 2 Geo. 6. c. 11.	The Blind Persons Act, 1938.	In section two, in subsection (2) the word "either" in the second place where it occurs and the words "or medical assistance".
1 & 2 Geo. 6. c. 32.	The Prevention and Treatment of Blindness (Scotland) Act, 1938.	The whole Act.
2 & 3 Geo. 6. c. 13.	The Cancer Act, 1939	Sections one and two; in section seven, paragraphs (a), (c), (d) and (e).
3 & 4 Geo. 6. c. 13.	The Old Age and Widows' Pensions Act, 1940.	In Part III of the Eighth Schedule to the Unemployment Assistance Act, 1934, as applied with modifications by the Second Schedule to the Old Age and Widows' Pensions Act, 1940, proviso (ii) to paragraph 1 and in paragraph 2 the words "not being relief in respect of medical needs" in both places where they occur.
6 & 7 Geo. 6. c. 33.	The Nurses (Scotland) Act, 1943.	In section two, subsection (3).
8 & 9 Geo. 6. c. 37.	The Education (Scotland) Act, 1945.	The Fourth Schedule in so far as it relates to subsection (4) of section fourteen of the Local Government (Scotland) Act, 1929.
9 & 10 Geo. 6. c. 49.	The Acquisition of Land (Authorisation Procedure) Act, 1946.	In section nine, in paragraph (i) of subsection (7), the words "section three of the Highlands and Islands (Medical Service) Grant Act, 1913".
9 & 10 Geo. 6. c. 72.	The Education (Scotland) Act, 1946.	Section nineteen.

**CHAPTER 28.**

An Act to dissolve the Isle of Man Harbour Commissioners and to transfer to a body specified or constituted by Act of Tynwald the functions, property, rights and liabilities of those Commissioners and of His Majesty's Receiver-General for the Isle of Man in his capacity as such. [18th July 1947.]

**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 :—

Reconsti-  
tution of  
Harbour  
Com-  
missioners,  
etc.  
35 & 36 Vict.  
c. 23.

1.—(1) As from such date as may be determined by Act of Tynwald—

- (a) the Isle of Man Harbour Commissioners constituted under the Isle of Man Harbours Act, 1872, shall cease to exist ; and
- (b) their functions, property, rights and liabilities, whether vested or contingent, and those of His Majesty's Receiver-General for the Isle of Man in his capacity as such, shall, by virtue of this Act, be transferred to such body as may be constituted or specified in that behalf by Act of Tynwald,

and any reference in any enactment or other document to the said Commissioners shall be construed accordingly.

(2) Provision may be made by Act of Tynwald for any matter incidental to the transfers effected by subsection (1) of this section or for any matter incidental to or arising in connection with the constitution of any body constituted thereunder.

(3) As from the said date, the enactments specified in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

Short title,  
citation and  
construction.

2. This Act may be cited as the Isle of Man Harbours Act, 1947, and this Act and the Isle of Man Harbours Acts, 1872 to 1911, may be cited together as the Isle of Man Harbours Acts, 1872 to 1947, and those Acts and this Act shall be construed together as one Act.

## SCHEDULE.

---

Section 1.

### ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
29 & 30 Vict. c. 23.	The Isle of Man Customs, Harbours, and Public Purposes Act, 1866.	In section four, the words "to Her Majesty's Receiver-General in the Isle of Man, and" and in section six, the words "or the major part of them (of whom Her Majesty's Receiver-General in the Isle of Man or his deputy for the time being shall be one)".
35 & 36 Vict. c. 23.	The Isle of Man Harbours Act, 1872.	Sections four to seven; in section twenty-two, the words "or the receiver-general as such", the words "or the hands of the receiver-general" and the words "or receiver-general"; and the First Schedule.

---

## CHAPTER 29.

An Act to control the sale and supply of penicillin  
and certain other substances. [18th July 1947.]

**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.—(1) Subject to the provisions of this section, no person shall sell or otherwise supply any substance to which this Act applies or any preparation of which any such substance is an ingredient or part unless—

Control of sale and supply of substances to which this Act applies.

- (a) he is a duly qualified medical practitioner, a registered dental practitioner or a registered veterinary surgeon, or a person acting in accordance with the directions of any such practitioner or surgeon, and the substance or preparation is sold or supplied for the purposes of treatment by or in accordance with the directions of that practitioner or surgeon; or

(b) he is a registered pharmacist or an authorised seller of poisons, and the substance or preparation is sold or supplied under the authority of a prescription signed and dated by any such practitioner or surgeon as aforesaid.

(2) No person shall administer by way of treatment any such substance or preparation unless he is such a practitioner or surgeon as aforesaid or is acting in accordance with the directions of such a practitioner or surgeon.

(3) Subsection (1) of this section shall not apply to the sale or supply of any such substance or preparation—

- (a) by way of wholesale dealing ;
- (b) for the purpose of being exported ;
- (c) to any such practitioner or surgeon as aforesaid ;
- (d) to any authority or person carrying on a hospital, clinic, nursing home or other institution providing medical, surgical, dental or veterinary treatment ;
- (e) to any person carrying on an institution or business which has among its recognised activities the conduct of scientific education or research, for use by persons engaged in that education or research ; or
- (f) to any Minister of the Crown or Government department.

(4) A prescription signed by any such practitioner or surgeon authorising the sale or supply of any such substance or preparation shall not, subject as hereinafter provided, be dispensed on more than one occasion or more than three months after the date on which it was signed :

Provided that, if the prescription expressly directs that it may be dispensed on a specified number of occasions or at specified intervals in a specified period, it may be dispensed in accordance with that direction.

Substances  
to which this  
Act applies.

2.—(1) The substances to which this Act applies are penicillin and such other anti-microbial organic substances produced by living organisms as may be prescribed by regulations made by the Minister of Health, the Secretary of State for Scotland and the Minister of Health and Local Government for Northern Ireland, jointly, after consultation with the Medical Research Council and, where such regulations prescribe a substance produced by living organisms, the regulations may include any substance the chemical properties of which are identical with or similar to those of the substance so prescribed but which is not produced by living organisms.

(2) All regulations made under this section shall be laid before Parliament forthwith after they are made and if either House of Parliament, within a period of forty days beginning with the

day on which any such regulations are laid before it, resolves that the regulations be annulled, the regulations shall cease to have effect, but without prejudice to anything previously done thereunder or to the making of new regulations.

(3) In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(4) Section one of the Rules Publication Act, 1893, (which 56 & 57 Vict. requires a notice to be given of a proposal to make statutory rules) shall not apply to any such regulations as aforesaid.

3.—(1) Any person who contravenes any provision of section one of this Act shall be guilty of an offence under this Act and shall be liable, on summary conviction, to a fine not exceeding one hundred pounds, or, in the case of a second or subsequent conviction, to such a fine or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment. Offences and penalties.

(2) Where an 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 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.

4. The Pharmaceutical Society of Great Britain shall have power to enforce the provisions of this Act, and for that purpose may employ the inspectors appointed by them under section twenty-five of the Pharmacy and Poisons Act, 1933, but nothing in this section shall be construed as authorising the Society to institute proceedings in Scotland for any offence under this Act. Enforcement by Pharmaceutical Society.  
23 & 24  
Geo. 5. c. 25.

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

“ authorised seller of poisons ” has the meaning assigned to it by the Pharmacy and Poisons Act, 1933 ;

“ penicillin ” has the meaning assigned to it by regulations for the time being in force under the Therapeutic Substances Act, 1925 ; 15 & 16  
Geo. 5. c. 60.

“ registered dental practitioner ” means a person registered in the dentists register under the Dentists Acts, 1878 to 1923 ;

“ registered pharmacist ” means a person registered in the register of pharmaceutical chemists or the register of chemists and druggists ;

44 & 45 Vict.  
c. 62.

“ registered veterinary surgeon ” means a veterinary surgeon registered in pursuance of the Veterinary Surgeons Act, 1881, either in the register of veterinary surgeons or in the register of existing practitioners ;

“ sale by way of wholesale dealing ” means sale to a person who buys for the purpose of selling again ;

Application  
to Northern  
Ireland.

6.—(1) In the application of this Act to Northern Ireland, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“ authorised seller of poisons ” has the meaning assigned to it by the Medicines, Pharmacy and Poisons Act (Northern Ireland) 1945, as amended by any other enactment of the Parliament of Northern Ireland ;

“ registered pharmacist ” means a person registered in the register of pharmaceutical chemists in pursuance of the Pharmacy and Poisons Acts (Northern Ireland) 1925 and 1945, or any enactment of the Parliament of Northern Ireland amending those Acts ;

14 & 15 Vict.  
c. 93.

“ summary conviction ” means conviction subject to, and in accordance with, the Petty Sessions (Ireland) Act, 1851, and any enactment (including an enactment of the Parliament of Northern Ireland) amending that Act.

(2) The Ministry of Home Affairs for Northern Ireland shall have power to enforce the provisions of this Act in Northern Ireland, and for that purpose may employ the inspector appointed by the Ministry under section eight of the Pharmacy and Poisons Act (Northern Ireland), 1925.

Short title.

7. This Act may be cited as the Penicillin Act, 1947.

---

## CHAPTER 30.

### *Indian Independence Act, 1947.*

ARRANGEMENT OF SECTIONS.

Section.

1. The new Dominions.
2. Territories of the new Dominions.
3. Bengal and Assam.
4. The Punjab.
5. The Governor-General of the new Dominions.
6. Legislation for the new Dominions.
7. Consequences of the setting up of the new Dominions.
8. Temporary provision as to government of each of the new Dominions.

## Section.

9. Orders for bringing this Act into force.
10. Secretary of State's services, etc.
11. Indian armed forces.
12. British forces in India.
13. Naval forces.
14. Provisions as to the Secretary of State and the Auditor of Indian Home Accounts.
15. Legal proceedings by and against the Secretary of State.
16. Aden.
17. Divorce jurisdiction.
18. Provisions as to existing laws, etc.
19. Interpretation, etc.
20. Short title.

## SCHEDULES :

First Schedule.—Bengal Districts provisionally included in the new Province of East Bengal.

Second Schedule.—Districts provisionally included in the new Province of West Punjab.

Third Schedule.—Modifications of Army Act and Air Force Act in relation to British forces.

An Act to make provision for the setting up in India of two independent Dominions, to substitute other provisions for certain provisions of the Government of India Act, 1935, which apply outside those Dominions, and to provide for other matters consequential on or connected with the setting up of those Dominions.

[18th July 1947.]

**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.—(1) As from the fifteenth day of August, nineteen hundred and forty-seven, two independent Dominions shall be set up in India, to be known respectively as India and Pakistan. The new Dominions.

(2) The said Dominions are hereafter in this Act referred to as "the new Dominions", and the said fifteenth day of August is hereafter in this Act referred to as "the appointed day".

2.—(1) Subject to the provisions of subsections (3) and (4) of this section, the territories of India shall be the territories under the sovereignty of His Majesty which, immediately before the appointed day, were included in British India except the territories which, under subsection (2) of this section, are to be the territories of Pakistan. Territories of the new Dominions.

(2) Subject to the provisions of subsections (3) and (4) of this section, the territories of Pakistan shall be—

- (a) the territories which, on the appointed day, are included in the Provinces of East Bengal and West Punjab, as constituted under the two following sections ;

- (b) the territories which, at the date of the passing of this Act, are included in the Province of Sind and the Chief Commissioner's Province of British Baluchistan ; and
- (c) if, whether before or after the passing of this Act but before the appointed day, the Governor-General declares that the majority of the valid votes cast in the referendum which, at the date of the passing of this Act, is being or has recently been held in that behalf under his authority in the North West Frontier Province are in favour of representatives of that Province taking part in the Constituent Assembly of Pakistan, the territories which, at the date of the passing of this Act, are included in that Province.

(3) Nothing in this section shall prevent any area being at any time included in or excluded from either of the new Dominions, so, however, that—

- (a) no area not forming part of the territories specified in subsection (1) or, as the case may be, subsection (2), of this section shall be included in either Dominion without the consent of that Dominion ; and
- (b) no area which forms part of the territories specified in the said subsection (1) or, as the case may be, the said subsection (2), or which has after the appointed day been included in either Dominion, shall be excluded from that Dominion without the consent of that Dominion.

(4) Without prejudice to the generality of the provisions of subsection (3) of this section, nothing in this section shall be construed as preventing the accession of Indian States to either of the new Dominions.

Bengal and  
Assam.

26 Geo. 5 &  
1 Edw. 8. c. 2.

3.—(1) As from the appointed day—

- (a) the Province of Bengal, as constituted under the Government of India Act, 1935, shall cease to exist ; and
- (b) there shall be constituted in lieu thereof two new Provinces, to be known respectively as East Bengal and West Bengal.

(2) If, whether before or after the passing of this Act, but before the appointed day, the Governor-General declares that the majority of the valid votes cast in the referendum which, at the date of the passing of this Act, is being or has recently been held in that behalf under his authority in the District of Sylhet are in favour of that District forming part of the new Province of East Bengal, then, as from that day, a part of the Province of Assam shall, in accordance with the provisions of subsection (3) of this section, form part of the new Province of East Bengal.



(3) The boundaries of the new Provinces aforesaid and, in the event mentioned in subsection (2) of this section, the boundaries after the appointed day of the Province of Assam, shall be such as may be determined, whether before or after the appointed day, by the award of a boundary commission appointed or to be appointed by the Governor-General in that behalf, but until the boundaries are so determined—

- (a) the Bengal Districts specified in the First Schedule to this Act, together with, in the event mentioned in subsection (2) of this section, the Assam District of Sylhet, shall be treated as the territories which are to be comprised in the new Province of East Bengal ;
- (b) the remainder of the territories comprised at the date of the passing of this Act in the Province of Bengal shall be treated as the territories which are to be comprised in the new Province of West Bengal ; and
- (c) in the event mentioned in subsection (2) of this section, the District of Sylhet shall be excluded from the Province of Assam.

(4) In this section, the expression “award” means, in relation to a boundary commission, the decisions of the chairman of that commission contained in his report to the Governor-General at the conclusion of the commission’s proceedings.

4.—(1) As from the appointed day—

The Punjab.

- (a) the Province of the Punjab, as constituted under the Government of India Act, 1935, shall cease to exist ; and
- (b) there shall be constituted two new Provinces, to be known respectively as West Punjab and East Punjab.

(2) The boundaries of the said new Provinces shall be such as may be determined, whether before or after the appointed day, by the award of a boundary commission appointed or to be appointed by the Governor-General in that behalf, but until the boundaries are so determined—

- (a) the Districts specified in the Second Schedule to this Act shall be treated as the territories to be comprised in the new Province of West Punjab ; and
- (b) the remainder of the territories comprised at the date of the passing of this Act in the Province of the Punjab shall be treated as the territories which are to be comprised in the new Province of East Punjab.

(3) In this section, the expression “award,” means, in relation to a boundary commission, the decisions of the chairman of that commission contained in his report to the Governor-General at the conclusion of the commission’s proceedings.

5. For each of the new Dominions, there shall be a Governor-General who shall be appointed by His Majesty and shall represent His Majesty for the purposes of the government of the Dominion : The Governor-General of the new Dominions.

Provided that, unless and until provision to the contrary is made by a law of the Legislature of either of the new Dominions, the same person may be Governor-General of both the new Dominions.

Legislation  
for the new  
Dominions.

6.—(1) The Legislature of each of the new Dominions shall have full power to make laws for that Dominion, including laws having extra-territorial operation.

(2) No law and no provision of any law made by the Legislature of either of the new Dominions shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of this or any existing or future Act of Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of the Legislature of each Dominion include the power to repeal or amend any such Act, order, rule or regulation in so far as it is part of the law of the Dominion.

(3) The Governor-General of each of the new Dominions shall have full power to assent in His Majesty's name to any law of the Legislature of that Dominion and so much of any Act as relates to the disallowance of laws by His Majesty or the reservation of laws for the signification of His Majesty's pleasure thereon or the suspension of the operation of laws until the signification of His Majesty's pleasure thereon shall not apply to laws of the Legislature of either of the new Dominions.

(4) No Act of Parliament of the United Kingdom passed on or after the appointed day shall extend, or be deemed to extend, to either of the new Dominions as part of the law of that Dominion unless it is extended thereto by a law of the Legislature of the Dominion.

(5) No Order in Council made on or after the appointed day under any Act passed before the appointed day, and no order, rule or other instrument made on or after the appointed day under any such Act by any United Kingdom Minister or other authority, shall extend, or be deemed to extend, to either of the new Dominions as part of the law of that Dominion.

(6) The power referred to in subsection (1) of this section extends to the making of laws limiting for the future the powers of the Legislature of the Dominion.

Consequences  
of the setting  
up of the new  
Dominions.

7.—(1) As from the appointed day—

- (a) His Majesty's Government in the United Kingdom have no responsibility as respects the government of any of the territories which, immediately before that day, were included in British India ;
- (b) the suzerainty of His Majesty over the Indian States lapses, and with it, all treaties and agreements in force at the date of the passing of this Act between His Majesty and the rulers of Indian States, all functions

exercisable by His Majesty at that date with respect to Indian States, all obligations of His Majesty existing at that date towards Indian States or the rulers thereof, and all powers, rights, authority or jurisdiction exercisable by His Majesty at that date in or in relation to Indian States by treaty, grant, usage, sufferance or otherwise ; and

- (c) there lapse also any treaties or agreements in force at the date of the passing of this Act between His Majesty and any persons having authority in the tribal areas, any obligations of His Majesty existing at that date to any such persons or with respect to the tribal areas, and all powers, rights, authority or jurisdiction exercisable at that date by His Majesty in or in relation to the tribal areas by treaty, grant, usage, sufferance or otherwise :

Provided that, notwithstanding anything in paragraph (b) or paragraph (c) of this subsection, effect shall, as nearly as may be, continue to be given to the provisions of any such agreement as is therein referred to which relate to customs, transit and communications, posts and telegraphs, or other like matters, until the provisions in question are denounced by the Ruler of the Indian State or person having authority in the tribal areas on the one hand, or by the Dominion or Province or other part thereof concerned on the other hand, or are superseded by subsequent agreements.

(2) The assent of the Parliament of the United Kingdom is hereby given to the omission from the Royal Style and Titles of the words " Indiae Imperator " and the words " Emperor of India " and to the issue by His Majesty for that purpose of His Royal Proclamation under the Great Seal of the Realm.

8.—(1) In the case of each of the new Dominions, the powers of the Legislature of the Dominion shall, for the purpose of making provision as to the constitution of the Dominion, be exercisable in the first instance by the Constituent Assembly of that Dominion, and references in this Act to the Legislature of the Dominion shall be construed accordingly. Temporary provision as to government of each of the new Dominions.

(2) Except in so far as other provision is made by or in accordance with a law made by the Constituent Assembly of the Dominion under subsection (1) of this section, each of the new Dominions and all Provinces and other parts thereof shall be governed as nearly as may be in accordance with the Government of India Act, 1935 ; and the provisions of that Act, and of the Orders in Council, rules and other instruments made thereunder, shall, so far as applicable, and subject to any express provisions of this Act, and with such omissions, additions, adaptations and modifications as may be specified in orders of the Governor-General under the next succeeding section, have effect accordingly:

Provided that—

- (a) the said provisions shall apply separately in relation to each of the new Dominions and nothing in this subsection shall be construed as continuing on or after the appointed day any Central Government or Legislature common to both the new Dominions ;
- (b) nothing in this subsection shall be construed as continuing in force on or after the appointed day any form of control by His Majesty's Government in the United Kingdom over the affairs of the new Dominions or of any Province or other part thereof ;
- (c) so much of the said provisions as requires the Governor-General or any Governor to act in his discretion or exercise his individual judgment as respects any matter shall cease to have effect as from the appointed day ;
- (d) as from the appointed day, no Provincial Bill shall be reserved under the Government of India Act, 1935, for the signification of His Majesty's pleasure, and no Provincial Act shall be disallowed by His Majesty thereunder ; and
- (e) the powers of the Federal Legislature or Indian Legislature under that Act, as in force in relation to each Dominion, shall, in the first instance, be exercisable by the Constituent Assembly of the Dominion in addition to the powers exercisable by that Assembly under subsection (1) of this section.

(3) Any provision of the Government of India Act, 1935, which, as applied to either of the new Dominions by subsection (2) of this section and the orders therein referred to, operates to limit the power of the legislature of that Dominion shall, unless and until other provision is made by or in accordance with a law made by the Constituent Assembly of the Dominion in accordance with the provisions of subsection (1) of this section, have the like effect as a law of the Legislature of the Dominion limiting for the future the powers of that Legislature.

Orders for  
bringing this  
Act into force.

9.—(1) The Governor-General shall by order make such provision as appears to him to be necessary or expedient—

- (a) for bringing the provisions of this Act into effective operation ;
- (b) for dividing between the new Dominions, and between the new Provinces to be constituted under this Act, the powers, rights, property, duties and liabilities of the Governor-General in Council or, as the case may be, of the relevant Provinces which, under this Act, are to cease to exist ;

- (c) for making omissions from, additions to, and adaptations and modifications of, the Government of India Act, 1935, and the Orders in Council, rules and other instruments made thereunder, in their application to the separate new Dominions ;
- (d) for removing difficulties arising in connection with the transition to the provisions of this Act ;
- (e) for authorising the carrying on of the business of the Governor-General in Council between the passing of this Act and the appointed day otherwise than in accordance with the provisions in that behalf of the Ninth Schedule to the Government of India Act, 1935 ;
- (f) for enabling agreements to be entered into, and other acts done, on behalf of either of the new Dominions before the appointed day ;
- (g) for authorising the continued carrying on for the time being on behalf of the new Dominions, or on behalf of any two or more of the said new Provinces, of services and activities previously carried on on behalf of British India as a whole or on behalf of the former Provinces which those new Provinces represent ;
- (h) for regulating the monetary system and any matters pertaining to the Reserve Bank of India ; and
- (i) so far as it appears necessary or expedient in connection with any of the matters aforesaid, for varying the constitution, powers or jurisdiction of any legislature, court or other authority in the new Dominions and creating new legislatures, courts or other authorities therein.

(2) The powers conferred by this section on the Governor-General shall, in relation to their respective Provinces, be exercisable also by the Governors of the Provinces which, under this Act, are to cease to exist ; and those powers shall, for the purposes of the Government of India Act, 1935, be deemed to be matters as respects which the Governors are, under that Act, to exercise their individual judgment.

(3) This section shall be deemed to have had effect as from the third day of June, nineteen hundred and forty-seven, and any order of the Governor-General or any Governor made on or after that date as to any matter shall have effect accordingly, and any order made under this section may be made so as to be retrospective to any date not earlier than the said third day of June :

Provided that no person shall be deemed to be guilty of an offence by reason of so much of any such order as makes any provision thereof retrospective to any date before the making thereof.

(4) Any orders made under this section, whether before or after the appointed day, shall have effect—

- (a) up to the appointed day, in British India ;
- (b) on and after the appointed day, in the new Dominion or Dominions concerned ; and
- (c) outside British India, or, as the case may be, outside the new Dominion or Dominions concerned, to such extent, whether before, on or after the appointed day, as a law of the Legislature of the Dominion or Dominions concerned would have on or after the appointed day,

but shall, in the case of each of the Dominions, be subject to the same powers of repeal and amendment as laws of the Legislature of that Dominion.

(5) No order shall be made under this section, by the Governor of any Province, after the appointed day, or, by the Governor-General, after the thirty-first day of March, nineteen hundred and forty-eight, or such earlier date as may be determined, in the case of either Dominion, by any law of the Legislature of that Dominion.

(6) If it appears that a part of the Province of Assam is, on the appointed day, to become part of the new Province of East Bengal, the preceding provisions of this section shall have effect as if, under this Act, the Province of Assam was to cease to exist on the appointed day and be reconstituted on that day as a new Province.

Secretary  
of State's  
services, etc.

**10.—(1)** The provisions of this Act keeping in force provisions of the Government of India Act, 1935, shall not continue in force the provisions of that Act relating to appointments to the civil services of, and civil posts under, the Crown in India by the Secretary of State, or the provisions of that Act relating to the reservation of posts.

(2) Every person who—

- (a) having been appointed by the Secretary of State, or Secretary of State in Council, to a civil service of the Crown in India continues on and after the appointed day to serve under the Government of either of the new Dominions or of any Province or part thereof ; or
- (b) having been appointed by His Majesty before the appointed day to be a judge of the Federal Court or of any court which is a High Court within the meaning of the Government of India Act, 1935, continues on and after the appointed day to serve as a judge in either of the new Dominions,

shall be entitled to receive from the Governments of the Dominions and Provinces or parts which he is from time to time serving or,

as the case may be, which are served by the courts in which he is from time to time a judge, the same conditions of service as respects remuneration, leave and pension, and the same rights as respects disciplinary matters or, as the case may be, as respects the tenure of his office, or rights as similar thereto as changed circumstances may permit, as that person was entitled to immediately before the appointed day.

(3) Nothing in this Act shall be construed as enabling the rights and liabilities of any person with respect to the family pension funds vested in Commissioners under section two hundred and seventy-three of the Government of India Act, 1935, to be governed otherwise than by Orders in Council made (whether before or after the passing of this Act or the appointed day) by His Majesty in Council and rules made (whether before or after the passing of this Act or the appointed day) by a Secretary of State or such other Minister of the Crown as may be designated in that behalf by Order in Council under the Ministers of the Crown (Transfer of Functions) Act, 1946.

9 & 10 Geo. 6.  
c. 31.

11.—(1) The orders to be made by the Governor-General under the preceding provisions of this Act shall make provision for the division of the Indian armed forces of His Majesty between the new Dominions, and for the command and governance of those forces until the division is completed.

Indian  
armed forces.

(2) As from the appointed day, while any member of His Majesty's forces, other than His Majesty's Indian forces, is attached to or serving with any of His Majesty's Indian forces—

- (a) he shall, subject to any provision to the contrary made by a law of the Legislature of the Dominion or Dominions concerned or by any order of the Governor-General under the preceding provisions of this Act, have, in relation to the Indian forces in question, the powers of command and punishment appropriate to his rank and functions; but
- (b) nothing in any enactment in force at the date of the passing of this Act shall render him subject in any way to the law governing the Indian forces in question.

12.—(1) Nothing in this Act affects the jurisdiction or authority of His Majesty's Government in the United Kingdom, or of the Admiralty, the Army Council, or the Air Council or of any other United Kingdom authority, in relation to any of His Majesty's forces which may, on or after the appointed day, be in either of the new Dominions or elsewhere in the territories which, before the appointed day, were included in India, not being Indian forces.

British forces  
in India.

(2) In its application in relation to His Majesty's military forces, other than Indian forces, the Army Act shall have effect on or after the appointed day—

- (a) as if His Majesty's Indian forces were not included in the expressions "the forces", "His Majesty's forces" and "the regular forces"; and
- (b) subject to the further modifications specified in Parts I and II of the Third Schedule to this Act.

(3) Subject to the provisions of subsection (2) of this section, and to any provisions of any law of the Legislature of the Dominion concerned, all civil authorities in the new Dominions, and, subject as aforesaid and subject also to the provisions of the last preceding section, all service authorities in the new Dominions, shall, in those Dominions and in the other territories which were included in India before the appointed day, perform in relation to His Majesty's military forces, not being Indian forces, the same functions as were, before the appointed day, performed by them, or by the authorities corresponding to them, whether by virtue of the Army Act or otherwise, and the matters for which provision is to be made by orders of the Governor-General under the preceding provisions of this Act shall include the facilitating of the withdrawal from the new Dominions and other territories aforesaid of His Majesty's military forces, not being Indian forces.

(4) The provisions of subsections (2) and (3) of this section shall apply in relation to the air forces of His Majesty, not being Indian air forces, as they apply in relation to His Majesty's military forces, subject, however, to the necessary adaptations, and, in particular, as if—

- (a) for the references to the Army Act there were substituted references to the Air Force Act; and
- (b) for the reference to Part II of the Third Schedule to this Act there were substituted a reference to Part III of that Schedule.

Naval forces.

**13.—**(1) In the application of the Naval Discipline Act to His Majesty's naval forces, other than Indian naval forces, references to His Majesty's navy and His Majesty's ships shall not, as from the appointed day, include references to His Majesty's Indian navy or the ships thereof.

(2) In the application of the Naval Discipline Act by virtue of any law made in India before the appointed day to Indian naval forces, references to His Majesty's navy and His Majesty's ships shall, as from the appointed day, be deemed to be, and to be only, references to His Majesty's Indian navy and the ships thereof.



(3) In section ninety B of the Naval Discipline Act (which, in certain cases, subjects officers and men of the Royal Navy and Royal Marines to the law and customs of the ships and naval forces of other parts of His Majesty's dominions) the words " or of India " shall be repealed as from the appointed day, wherever those words occur.

14.—(1) A Secretary of State, or such other Minister of the Crown as may be designated in that behalf by Order in Council under the Ministers of the Crown (Transfer of Functions) Act, 1946, is hereby authorised to continue for the time being the performance, on behalf of whatever government or governments may be concerned, of functions as to the making of payments and other matters similar to the functions which, up to the appointed day, the Secretary of State was performing on behalf of governments constituted or continued under the Government of India Act, 1935.

Provisions  
as to the  
Secretary of  
State and the  
Auditor of  
Indian Home  
Accounts.

(2) The functions referred to in subsection (1) of this section include functions as respects the management of, and the making of payments in respect of, government debt, and any enactments relating to such debt shall have effect accordingly :

Provided that nothing in this subsection shall be construed as continuing in force so much of any enactment as empowers the Secretary of State to contract sterling loans on behalf of any such Government as aforesaid or as applying to the Government of either of the new Dominions the prohibition imposed on the Governor-General in Council by section three hundred and fifteen of the Government of India Act, 1935, as respects the contracting of sterling loans.

(3) As from the appointed day, there shall not be any such advisers of the Secretary of State as are provided for by section two hundred and seventy-eight of the Government of India Act, 1935, and that section, and any provisions of that Act which require the Secretary of State to obtain the concurrence of his advisers, are hereby repealed as from that day.

(4) The Auditor of Indian Home Accounts is hereby authorised to continue for the time being to exercise his functions as respects the accounts of the Secretary of State or any such other Minister of the Crown as is mentioned in subsection (1) of this section, both in respect of activities before, and in respect of activities after, the appointed day, in the same manner, as nearly as may be as he would have done if this Act had not passed.

15.—(1) Notwithstanding anything in this Act, and, in particular, notwithstanding any of the provisions of the last preceding section, any provision of any enactment which, but for the passing of this Act, would authorise legal proceedings to be taken, in India or elsewhere, by or against the Secretary of State in respect

Legal  
proceedings  
by and  
against the  
Secretary of  
State.

of any right or liability of India or any part of India shall cease to have effect on the appointed day, and any legal proceedings pending by virtue of any such provision on the appointed day shall, by virtue of this Act, abate on the appointed day, so far as the Secretary of State is concerned.

(2) Subject to the provisions of this subsection, any legal proceedings which, but for the passing of this Act, could have been brought by or against the Secretary of State in respect of any right or liability of India, or any part of India, shall instead be brought—

(a) in the case of proceedings in the United Kingdom, by or against the High Commissioner ;

(b) in the case of other proceedings, by or against such person as may be designated by order of the Governor-General under the preceding provisions of this Act or otherwise by the law of the new Dominion concerned,

and any legal proceedings by or against the Secretary of State in respect of any such right or liability as aforesaid which are pending immediately before the appointed day shall be continued by or against the High Commissioner or, as the case may be, the person designated as aforesaid :

Provided that, at any time after the appointed day, the right conferred by this subsection to bring or continue proceedings may, whether the proceedings are by, or are against, the High Commissioner or person designated as aforesaid, be withdrawn by a law of the Legislature of either of the new Dominions so far as that Dominion is concerned, and any such law may operate as respects proceedings pending at the date of the passing of the law.

(3) In this section, the expression “ the High Commissioner ” means, in relation to each of the new Dominions, any such officer as may for the time being be authorised to perform in the United Kingdom, in relation to that Dominion, functions similar to those performed before the appointed day, in relation to the Governor-General in Council, by the High Commissioner referred to in section three hundred and two of the Government of India Act, 1935 ; and any legal proceedings which, immediately before the appointed day, are the subject of an appeal to His Majesty in Council, or of a petition for special leave to appeal to His Majesty in Council, shall be treated for the purposes of this section as legal proceedings pending in the United Kingdom.

Aden.

16.—(1) Subsections (2) to (4) of section two hundred and eighty-eight of the Government of India Act, 1935 (which confer on His Majesty power to make by Order in Council provision for the government of Aden) shall cease to have effect and the British Settlements Acts, 1887 and 1945, (which authorise His

Majesty to make laws and establish institutions for British Settlements as defined in those Acts) shall apply in relation to Aden as if it were a British Settlement as so defined.

(2) Notwithstanding the repeal of the said subsections (2) to (4), the Orders in Council in force thereunder at the date of the passing of this Act shall continue in force, but the said Orders in Council, any other Orders in Council made under the Government of India Act, 1935, in so far as they apply to Aden, and any enactments applied to Aden or amended in relation to Aden by any such Orders in Council as aforesaid, may be repealed, revoked or amended under the powers of the British Settlements Acts, 1887 and 1945.

(3) Unless and until provision to the contrary is made as respects Aden under the powers of the British Settlements Acts, 1887 and 1945, or, as respects the new Dominion in question, by a law of the Legislature of that Dominion, the provisions of the said Orders in Council and enactments relating to appeals from any courts in Aden to any courts which will, after the appointed day, be in either of the new Dominions, shall continue in force in their application both to Aden and to the Dominion in question, and the last mentioned courts shall exercise their jurisdiction accordingly.

17.—(1) No court in either of the new Dominions shall, by virtue of the Indian and Colonial Divorce Jurisdiction Acts, 1926 and 1940, have jurisdiction in or in relation to any proceedings for a decree for the dissolution of a marriage, unless those proceedings were instituted before the appointed day, but, save as aforesaid and subject to any provision to the contrary which may hereafter be made by any Act of the Parliament of the United Kingdom or by any law of the Legislature of the new Dominion concerned, all courts in the new Dominions shall have the same jurisdiction under the said Acts as they would have had if this Act had not been passed. Divorce jurisdiction.

(2) Any rules made on or after the appointed day under subsection (4) of section one of the Indian and Colonial Divorce Jurisdiction Act, 1926, for a court in either of the new Dominions shall, instead of being made by the Secretary of State with the concurrence of the Lord Chancellor, be made by such authority as may be determined by the law of the Dominion concerned, and so much of the said subsection and of any rules in force thereunder immediately before the appointed day as require the approval of the Lord Chancellor to the nomination for any purpose of any judges of any such court shall cease to have effect. 16 & 17  
Geo. 5. c. 40.

(3) The reference in subsection (1) of this section to proceedings for a decree for the dissolution of a marriage include references

1 Edw. 8 & 1  
Geo. 6. c. 57.

to proceedings for such a decree of presumption of death and dissolution of a marriage as is authorised by section eight of the Matrimonial Causes Act, 1937.

(4) Nothing in this section affects any court outside the new Dominions, and the power conferred by section two of the Indian and Colonial Divorce Jurisdiction Act, 1926, to apply certain provisions of that Act to other parts of His Majesty's dominions as they apply to India shall be deemed to be power to apply those provisions as they would have applied to India if this Act had not passed.

Provisions as  
to existing  
laws, etc.

18.—(1) In so far as any Act of Parliament, Order in Council, order, rule, regulation or other instrument passed or made before the appointed day operates otherwise than as part of the law of British India or the new Dominions, references therein to India or British India, however worded and whether by name or not, shall, in so far as the context permits and except so far as Parliament may hereafter otherwise provide, be construed as, or as including, references to the new Dominions, taken together, or taken separately, according as the circumstances and subject matter may require :

Provided that nothing in this subsection shall be construed as continuing in operation any provision in so far as the continuance thereof as adapted by this subsection is inconsistent with any of the provisions of this Act other than this section.

(2) Subject to the provisions of subsection (1) of this section and to any other express provision of this Act, the Orders in Council made under subsection (5) of section three hundred and eleven of the Government of India Act, 1935, for adapting and modifying Acts of Parliament shall, except so far as Parliament may hereafter otherwise provide, continue in force in relation to all Acts in so far as they operate otherwise than as part of the law of British India or the new Dominions.

(3) Save as otherwise expressly provided in this Act, the law of British India and of the several parts thereof existing immediately before the appointed day shall, so far as applicable and with the necessary adaptations, continue as the law of each of the new Dominions and the several parts thereof until other provision is made by laws of the Legislature of the Dominion in question or by any other Legislature or other authority having power in that behalf.

(4) It is hereby declared that the Instruments of Instructions issued before the passing of this Act by His Majesty to the Governor-General and the Governors of Provinces lapse as from the appointed day, and nothing in this Act shall be construed as continuing in force any provision of the Government of India Act, 1935, relating to such Instruments of Instructions.

(5) As from the appointed day, so much of any enactment as requires the approval of His Majesty in Council to any rules of court shall not apply to any court in either of the new Dominions.

19.—(1) References in this Act to the Governor-General shall, in relation to any order to be made or other act done on or after the appointed day, be construed— Interpretation, etc.

- (a) where the order or other act concerns one only of the new Dominions, as references to the Governor-General of that Dominion ;
- (b) where the order or other act concerns both of the new Dominions and the same person is the Governor-General of both those Dominions, as references to that person ; and
- (c) in any other case, as references to the Governors-General of the new Dominions, acting jointly.

(2) References in this Act to the Governor-General shall, in relation to any order to be made or other act done before the appointed day, be construed as references to the Governor-General of India within the meaning of the Government of India Act, 1935, and so much of that or any other Act as requires references to the Governor-General to be construed as references to the Governor-General in Council shall not apply to references to the Governor-General in this Act.

(3) References in this Act to the Constituent Assembly of a Dominion shall be construed as references—

- (a) in relation to India, to the Constituent Assembly, the first sitting whereof was held on the ninth day of December, nineteen hundred and forty-six, modified—
  - (i) by the exclusion of the members representing Bengal, the Punjab, Sind and British Baluchistan ; and
  - (ii) should it appear that the North West Frontier Province will form part of Pakistan, by the exclusion of the members representing that Province ; and
  - (iii) by the inclusion of members representing West Bengal and East Punjab ; and
  - (iv) should it appear that, on the appointed day, a part of the Province of Assam is to form part of the new Province of East Bengal, by the exclusion of the members theretofore representing the Province of Assam and the inclusion of members chosen to represent the remainder of that Province ;

- (b) in relation to Pakistan, to the Assembly set up or about to be set up at the date of the passing of this Act under the authority of the Governor-General as the Constituent Assembly for Pakistan :

Provided that nothing in this subsection shall be construed as affecting the extent to which representatives of the Indian States take part in either of the said Assemblies, or as preventing the filling of casual vacancies in the said Assemblies, or as preventing the participation in either of the said Assemblies, in accordance with such arrangements as may be made in that behalf, of representatives of the tribal areas on the borders of the Dominion for which that Assembly sits, and the powers of the said Assemblies shall extend and be deemed always to have extended to the making of provision for the matters specified in this proviso.

- (4) In this Act, except so far as the context otherwise requires—

references to the Government of India Act, 1935, include references to any enactments amending or supplementing that Act, and, in particular, references to the India (Central Government and Legislature) Act, 1946 ;

“ India ”, where the reference is to a state of affairs existing before the appointed day or which would have existed but for the passing of this Act, has the meaning assigned to it by section three hundred and eleven of the Government of India Act, 1935 ;

“ Indian forces ” includes all His Majesty’s Indian forces existing before the appointed day and also any forces of either of the new Dominions ;

“ pension ” means, in relation to any person, a pension whether contributory or not, of any kind whatsoever payable to or in respect of that person, and includes retired pay so payable, a gratuity so payable and any sum or sums so payable by way of the return, with or without interest thereon or other additions thereto, of subscriptions to a provident fund ;

“ Province ” means a Governor’s Province ;

“ remuneration ” includes leave pay, allowances and the cost of any privileges or facilities provided in kind.

- (5) Any power conferred by this Act to make any order includes power to revoke or vary any order previously made in the exercise of that power.

Short title.

20. This Act may be cited as the Indian Independence Act, 1947.

## SCHEDULES.

### FIRST SCHEDULE.

Section 3.

#### BENGAL DISTRICTS PROVISIONALLY INCLUDED IN THE NEW PROVINCE OF EAST BENGAL.

- In the Chittagong Division, the districts of Chittagong, Noakhali and Tippera.
- In the Dacca Division, the districts of Bakarganj, Dacca, Faridpur and Mymensingh.
- In the Presidency Division, the districts of Jessore, Murshidabad and Nadia.
- In the Rajshahi Division, the districts of Bogra, Dinajpur, Malda, Pabna, Rajshahi and Rangpur.

### SECOND SCHEDULE.

Section 4.

#### DISTRICTS PROVISIONALLY INCLUDED IN THE NEW PROVINCE OF WEST PUNJAB.

- In the Lahore Division, the districts of Gujranwala, Gurdaspur, Lahore, Sheikhpura and Sialkot.
- In the Rawalpindi Division, the districts of Attock, Gujrat, Jhelum, Mianwali, Rawalpindi and Shahpur.
- In the Multan Division, the districts of Dera Ghazi Khan, Jhang, Lyallpur, Montgomery, Multan and Muzaffargarh.

### THIRD SCHEDULE.

Section 12.

#### MODIFICATIONS OF ARMY ACT AND AIR FORCE ACT IN RELATION TO BRITISH FORCES.

##### PART I.

#### MODIFICATIONS OF ARMY ACT APPLICABLE ALSO TO AIR FORCE ACT.

1. The proviso to section forty-one (which limits the jurisdiction of courts martial) shall not apply to offences committed in either of the new Dominions or in any of the other territories which were included in India before the appointed day.
2. In section forty-three (which relates to complaints), the words "with the approval of the Governor-General of India in Council" shall be omitted.
3. In subsections (8) and (9) of section fifty-four (which, amongst other things, require certain sentences to be confirmed by the Governor-General in Council), the words "India or", the words "by the

3RD SCH.  
—cont.

Governor-General, or, as the case may be " and the words " in India, by the Governor-General, or, if he has been tried " shall be omitted.

4. In subsection (3) of section seventy-three (which provides for the nomination of officers with power to dispense with courts martial for desertion and fraudulent enlistment) the words " with the approval of the Governor-General " shall be omitted.

5. The powers conferred by subsection (5) of section one hundred and thirty (which provides for the removal of insane persons) shall not be exercised except with the consent of the officer commanding the forces in the new Dominions.

6. In subsection (2) of section one hundred and thirty-two (which relates to rules regulating service prisons and detention barracks) the words " and in India for the Governor-General " and the words " the Governor-General " shall be omitted except as respects rules made before the appointed day.

7. In the cases specified in subsection (1) of section one hundred and thirty-four, inquests shall be held in all cases in accordance with the provisions of subsection (3) of that section.

8. In section one hundred and thirty-six (which relates to deductions from pay), in subsection (1) the words " India or " and the words " being in the case of India a law of the Indian legislature ", and the whole of subsection (2), shall be omitted.

9. In paragraph (4) of section one hundred and thirty-seven (which relates to penal stoppages from the ordinary pay of officers), the words " or in the case of officers serving in India the Governor-General " the words " India or " and the words " for India or, as the case may be " shall be omitted.

10. In paragraph (12) of section one hundred and seventy-five and paragraph (11) of section one hundred and seventy-six (which apply the Act to certain members of His Majesty's Indian Forces and to certain other persons) the word " India " shall be omitted wherever it occurs.

11. In subsection (1) of section one hundred and eighty (which provides for the punishment of misconduct by civilians in relation to courts martial) the words " India or " shall be omitted wherever they occur.

12. In the provisions of section one hundred and eighty-three relating to the reduction in rank of non-commissioned officers, the words " with the approval of the Governor-General " shall be omitted in both places where they occur.

## PART II.

### MODIFICATIONS OF ARMY ACT.

Section 184B (which regulates relations with the Indian Air Force) shall be omitted.



## PART III.

3RD SCHEDULE  
—cont.

## MODIFICATIONS OF AIR FORCE ACT.

1. In section 179D (which relates to the attachment of officers and airmen to Indian and Burma Air Forces), the words " by the Air Council and the Governor-General of India or, as the case may be," and the words " India or ", wherever those words occur, shall be omitted.

2. In section 184B (which regulates relations with Indian and Burma Air Forces) the words " India or " and the words " by the Air Council and the Governor-General of India or, as the case may be," shall be omitted.

3. Sub-paragraph (e) of paragraph (4) of section one hundred and ninety (which provides that officers of His Majesty's Indian Air Force are to be officers within the meaning of the Act) shall be omitted.

---

## CHAPTER 31.

*National Service Act, 1947.*

## ARRANGEMENT OF SECTIONS.

*Service in the armed forces.*

## Section.

1. Liability to be called up for service.
2. Whole-time and part-time service.
3. Volunteer service in lieu of part-time service.
4. Transfer.
5. Liability to complete interrupted service.
6. Calling up for training during part-time service.
7. Modifications of enactments relating to persons called up for service.
8. Transitional provisions.
9. Special provision as to medical and dental practitioners.

*Education and Education Authorities.*

10. Further education during whole-time service.
11. Information to be furnished by education authorities.

*Safeguarding of employment.*

12. Reinstatement in civil employment after whole-time service.
13. Prohibition of dismissal of employees by reason of liability for service.
14. Adjustment of contracts of service and apprenticeship affected by annual training.

*Miscellaneous amendments of the National Service Acts,  
1939 to 1946.*

15. Early registration and calling up.
16. Enforcement of requirement to submit to medical examination.
17. Other amendments.

*Supplemental.*

18. Postponement of liability to be called up for service.
19. Termination of reserve or auxiliary service by enlistment notice.
20. Candidates for commissions.
21. Termination of power to make up civil remuneration.
22. Orders and regulations.
23. Expenses.

## Section.

- 24. Interpretation.
- 25. Application to Scotland.
- 26. Application of National Service Acts to Isle of Man.
- 27. Duration of National Service Acts.
- 28. Commencement, citation and repeal.

## SCHEDULES.

First Schedule.—Length of whole-time service.

Second Schedule.—The Reinstatement Act.

Part I.—Modifications of the Act in relation to persons entering whole-time service after the commencement of this Act.

Part II.—Modifications of the Act in relation to persons entering whole-time service on or after the first day of January nineteen hundred and forty-seven taking effect on the passing of this Act.

Third Schedule.—Minor and consequential amendments of the National Service Acts, 1939 to 1946.

Fourth Schedule.—Local and Appellate Tribunals.

Fifth Schedule.—Enactments repealed.

An Act to confine the operation of the National Service Acts to male British subjects and to service in the armed forces of the Crown ; to make provision as to the terms and conditions of such service and as to the period for which those Acts shall continue in operation ; and for purposes connected with the matters aforesaid.

[18th July 1947.]

**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 :—

*Service in the armed forces.*

Liability to be called up for service.

1.—(1) Subject to the provisions of the National Service Acts, 1939 to 1946, and this Act (which Acts are hereinafter collectively referred to as the National Service Acts), every male British subject who has attained the age of eighteen years and has not attained the age of twenty-six years and is ordinarily resident in Great Britain shall, by virtue of this Act, be liable to be called upon to serve in the armed forces of the Crown for two terms of service that is to say—

(a) a term of whole-time service, that is to say, service in the regular forces for a period of twelve months or such shorter period as His Majesty may by Order in Council appoint ; and

(b) a term of part-time service as defined by this Act ;

and save as aforesaid no person shall be liable to be called up for service under the National Service Acts.

(2) The provisions of the National Service Acts, 1939 to 1946, as amended by this Act shall apply with respect to a person liable to be called up for service by virtue of this Act and to a

person called up thereunder ; and references in those Acts to a person liable to be called up for service under the National Service (Armed Forces) Act, 1939 (in this Act referred to as "the principal Act"), and to a person called up therefor shall be construed accordingly.

2.—(1) Where an enlistment notice is served under section four of the principal Act upon any person liable to be called up for service by virtue of this Act, the term or period for which he shall be deemed to have been entered or enlisted shall begin with the day on which he is required by the notice to present himself to the authority specified therein and shall end when his term of whole-time service is completed in accordance with the provisions of the First Schedule to this Act.

(2) On the day next after that on which the term of a person's whole-time service is completed he shall, subject to the provisions of the next following section, be deemed—

- (a) if his last service during that term was in the royal navy or the royal marines, to be entered for service in a royal naval special reserve which the Admiralty shall raise and maintain for the purposes of this Act ; or
- (b) if that last service was in the regular army, to be enlisted for service in the territorial army or the army reserve, as the Army Council may direct ; or
- (c) if that last service was in the regular air force, to be enlisted for service in the air force reserve ;

for a term of part-time service ending with the expiration of the seventh year after the beginning of his term of whole-time service ; so, however, that the end of a person's part-time service shall be postponed by any period by which the term of his whole-time service was extended by virtue of proviso (b) to paragraph 1 of the First Schedule to this Act.

(3) During his term of part-time service a person may be required to undergo training for any periods not exceeding in the aggregate—

- (a) sixty days during the whole of his term of part-time service ;
- (b) twenty-one days in any year of that service.

(4) The Service Authorities shall by regulations make provision for defining what constitutes a day's training for the purposes of this Act ; and such regulations may in particular allow, within such limitations as may be prescribed, hourly periods of instruction to be aggregated so that four such periods may be reckoned as a day's training.

(5) The provisions of this Act and of any regulations made thereunder relating to the terms and conditions of service of a person serving in any auxiliary force during his part-time service shall be subject to the provisions of any enactment

whereby reservists may be called into actual service or called out on permanent service or to aid the civil power, or the territorial army or the auxiliary air force may be embodied, or whereby men of the air force reserve or the auxiliary air force may be called out to serve in defence of the British Islands.

Volunteer  
service in  
lieu of part-  
time service.

3.—(1) If, during his whole-time service, any person is accepted by a Service Authority as a volunteer for service in the royal naval reserve, the royal naval volunteer reserve, the territorial army, the army reserve, the royal air force volunteer reserve or the auxiliary air force, and enters into an engagement whereby he will, on the day next after that on which his term of whole-time service is completed, be entered or enlisted in one of those auxiliary forces as a volunteer for a term not less than the term of part-time service which he would otherwise be required to serve under this Act, he shall be entered or enlisted in accordance with that engagement and shall not be deemed to be entered or enlisted in accordance with the provisions of subsection (2) of the last foregoing section.

(2) A person who is entered or enlisted for service as a volunteer in one of the forces aforesaid in accordance with the provisions of this section shall perform the service required of members of that force in lieu of the part-time service required by this Act.

Transfer.

4. The Service Authorities shall by regulations make provision for enabling or requiring a person serving in any auxiliary force during his part-time service, or during service performed in lieu thereof, to be transferred to any other auxiliary force; so however that such regulations shall not provide for the transfer of any person to the royal naval reserve, the royal naval volunteer reserve, the royal air force volunteer reserve or the auxiliary air force except at his own request.

Liability to  
complete  
interrupted  
service.

5.—(1) If any person serving in the armed forces of the Crown ceases to serve therein before he has completed his whole-time and part-time service, or terms of service equivalent thereto, he shall unless he has attained the age of thirty-six years or has ceased to be liable under this Act to be called up for service otherwise than by reason of his having attained the age of twenty-six years, be liable to be called upon to serve for such terms of whole-time or part-time service as will, with the service completed by him, be equivalent to the terms of service for which persons are liable under section one of this Act.

(2) The Service Authorities shall by regulations make provision for defining what terms of service shall be treated as equivalent to terms of whole-time and part-time service for the purposes of this section and for prescribing the terms of whole-time or part-time service which will, with any service completed by any person, be equivalent to the terms of service for which persons are liable under section one of this Act; so, however, that with

respect to service as a volunteer in lieu of part-time service in pursuance of subsection (1) of section three of this Act, such regulations shall not permit more than fifteen days' training in any year to be reckoned towards the total of sixty days' training which a person is required to undergo during the whole of his term of part-time service.

(3) The Minister may cause to be served on any person liable under this section to be called upon to undertake part-time service a written notice specifying the term of part-time service which he is liable to perform, and, subject as hereinafter provided, that person shall after the expiration of the period of fourteen days after the service of the notice be deemed to be entered or enlisted for service in such force as may be specified in the notice :

Provided that if within the said period of fourteen days that person applies in the prescribed manner to the Minister for the cancellation or variation of the notice on the ground that he is not liable to be called upon to undertake part-time service under this section or is liable to undertake a term of part-time service shorter than that specified in the notice, the Minister shall, unless he grants the application, refer it to a referee selected by the Minister from a panel of persons nominated by the Lord Chancellor ; and the notice shall not become operative to enter or enlist the applicant for service except as from such date and for such a term as may be determined by the Minister or the referee as aforesaid.

6.—(1) The Service Authority may cause to be served on any person during his term of part-time service a training notice which shall state that he is called up for training and the period for which he is called up and shall require him to present himself at such place and time on such day (not earlier than the thirtieth day after the date of the service of the notice), and to such authority, as may be specified in the notice.

Calling up  
for training  
during part-  
time service.

(2) Where a training notice has been served on any person, the Service Authority may at any time before the day on which he is thereby required to present himself cause to be served on him a supplementary notice varying the training notice by altering the place or time at which but not the date on which he is thereby required to present himself.

(3) Every training notice served otherwise than by registered post shall require the person upon whom it is served to acknowledge receipt thereof within such time as may be specified in the requirement ; and if acknowledgment is not received the Service Authority may cause a further training notice to be served on him by registered post and may by that notice direct that the former notice shall be deemed never to have had effect.

(4) A person who fails to comply with a training notice shall be liable to be apprehended and unless he has some reasonable excuse punished in the same manner as a person belonging to

an auxiliary force failing to appear when called into actual or permanent service or on embodiment so, however, that the maximum punishment that may be awarded in respect of any such offence shall be, in the case of a person convicted by a court of summary jurisdiction, a fine of twenty-five pounds, and in any other case detention or imprisonment for a term not exceeding two years.

(5) If at any time during a person's term of part-time service any change occurs in his name or address, he shall forthwith notify the change to such person and in such manner as may be notified to him under regulations of the Service Authority ; and if he fails to do so, he shall be guilty of an offence under the principal Act.

(6) A person shall not during his term of part-time service be required to perform any duty under this Act so long as he is not ordinarily resident in Great Britain or is a person such as is specified in subsection (1) of section eleven of the principal Act ; and subsection (3) of that section shall have effect accordingly.

Modifications  
of enactments  
relating to  
persons called  
up for service.

7.—(1) His Majesty may by Order in Council direct that any enactment relating to the length or conditions of service of persons serving in the armed forces of the Crown shall, in its application to persons serving or who have served in those forces in pursuance of the requirements of this Act (including persons performing service as volunteers in lieu of part-time service), have effect subject to such adaptations and modifications as may appear to him to be necessary or expedient having regard to the provisions of this Act ; and, without prejudice to the generality of the foregoing provision, any such Order in Council may in particular alter the term of service for which a person may be entered or enlisted for service.

(2) A royal naval special reservist shall, during any period of training for which he has been called up, and when called into actual service, be subject—

(a) if he is entered for marine service, to the law for the time being in force for the government of the royal marine forces ;

(b) if he is not so entered, to the Naval Discipline Act ;

and subject to the foregoing provisions of this subsection the Royal Naval Reserve (Volunteer) Act, 1859, shall apply to royal naval special reservists subject to such adaptations and modifications as may be directed under the last foregoing subsection.

(3) For the removal of doubt it is hereby declared that any person who fails without reasonable excuse to comply with an enlistment notice or a training notice may, for the purposes of section nineteen of the Naval Discipline Act, be deemed to be a deserter notwithstanding that he has not been previously in the ship or at the place where his duty requires him to be.

22 & 23 Vict.  
c. 40.

(4) A man of the territorial army who is deemed under section two of this Act to have been enlisted therein shall not, during his term of part-time service, be exempt from serving on a jury under subsection (4) of section twenty-three of the Territorial and Reserve Forces Act, 1907. 7 Edw. 7.  
c. 9.

8.—(1) Where, between the thirty-first day of December, nineteen hundred and forty-six, and the commencement of this Act, a person Transitional  
provisions.

- (a) has presented himself in pursuance of an enlistment notice, or has entered or enlisted for service in the regular forces; or
- (b) has received a commission whereby he has become an officer of a regular force, or of a reserve force on actual or permanent service;

then if he has ceased to serve in the armed forces of the Crown or has been transferred to a reserve (whether before or after the commencement of this Act) before he has completed a term of twelve months' service, he shall, unless he has attained the age of thirty-six years or has ceased to be liable under this Act to be called up for service otherwise than by reason of his having attained the age of twenty-six years, be liable to be so called up to complete that term; and the proviso to paragraph 1 of the First Schedule to this Act shall apply for the purpose of reckoning the said term of twelve months as it applies for the purpose of reckoning the term of whole-time service for which a person is liable in pursuance of an enlistment notice.

(2) A person who has been entered or enlisted under section four of the principal Act for a term or period ending with the present emergency and is serving in pursuance of that engagement or enlistment at the commencement of this Act shall, subject to the provisions of the last foregoing subsection, continue to serve in pursuance thereof for that term or period.

(3) For the purposes of any exemption from liability under the National Service Acts to be called up for service, service in any auxiliary force since the seventh day of November, nineteen hundred and forty-six, other than embodied service in the territorial army or auxiliary air force and permanent service in the royal air force volunteer reserve, shall not be deemed to be, or to have been, service in the armed forces of the Crown.

This subsection shall come into force on the passing of this Act.

(4) Subject to the foregoing provisions of this section, a person who has served in the armed forces of the Crown before the commencement of this Act shall not be liable under section one of this Act to be called upon to serve in those forces.

9. If the Minister is satisfied that any registered medical practitioner or person registered in the Dentists Register under the Dentists Acts, 1878 to 1923, is undergoing or about to undergo training for the purpose of acquiring further qualifications or Special  
provision as  
to medical  
and dental  
practitioners.

special experience, the Minister may at the request of that person direct that he may be called up at any time before he attains the age of thirty years ; and in relation to any person with respect to whom such a direction is given references in this Act to twenty-six years shall accordingly be construed as references to thirty years.

*Education and Education Authorities.*

Further education during whole-time service.  
7 & 8 Geo. 6.  
c. 31.

10.—(1) The duty of local education authorities under section forty-one of the Education Act, 1944, to secure the provision for their area of adequate facilities for further education shall not extend to any person during his term of whole-time service ; and a person shall, during his term of whole-time service, be exempt from compulsory attendance for further education under that Act.

(2) It shall be the duty of the Service Authorities to provide, so far as may be practicable, further education within the meaning of the said section forty-one for persons during their terms of whole-time service ; and, notwithstanding the provisions of the last foregoing subsection, every local education authority shall have power to provide, or secure the provision of, such facilities for further education for such persons as aforesaid as may be agreed between them and any Service Authority, upon such terms, if any, as may be so agreed.

(3) In making arrangements for such further education as aforesaid the Service Authorities shall have regard to any representations made to them by or on behalf of bodies of persons concerned with education.

Information to be furnished by education authorities.

11. It shall be the duty of every local education authority, and of the governing body or other persons having the management of any university, school or other educational institution, to give to the Minister, on his request, such information in their possession, or reasonably available to them, about male persons receiving, or who have received, education for which the local education authority are responsible, or, as the case may be, education at the university, school or other institution, as the Minister may from time to time require for the purpose of assisting his consideration of questions connected with their being called up for service under this Act.

*Safeguarding of employment.*

Reinstatement in civil employment after whole-time service.  
7 & 8 Geo. 6.  
c. 15.

12.—(1) The persons to whom the Reinstatement in Civil Employment Act, 1944 (in this Act referred to as "the Reinstatement Act"), applies shall be—

(a) persons to whom that Act applied by reason of their having before the passing of this Act entered upon such a period of whole-time service as is specified in section six of that Act ; and



- (b) persons who after the passing of this Act enter upon a period of whole-time service in the armed forces of the Crown by presenting themselves in pursuance of an enlistment notice,

and no others.

This subsection shall come into force on the passing of this Act.

(2) As from the commencement of this Act, the Reinstatement Act shall, in its application to a person who thereafter presents himself in pursuance of an enlistment notice, have effect as if the date on which his former employer is relieved under section one of that Act of his obligation to take that person into his employment were six months after the end of that person's whole-time service instead of six months after the end of the present emergency as defined by that Act; and in relation to any such person as aforesaid the Reinstatement Act shall have effect subject to the modifications specified in Part I of the Second Schedule to this Act.

In this subsection and in the Reinstatement Act as so modified, except in sections six and twelve and subsection (4) of section twenty thereof, the expression "whole-time service" means whole-time service within the meaning of this Act:

Provided that—

- (a) the provisions of subsections (1) and (3) of section twelve of the Reinstatement Act shall apply for the purpose of reckoning several periods of whole-time service, or of war service and whole-time service, as one period of service as they apply for the purpose of reckoning several periods of war service as one period of war service; and
- (b) paragraphs (a) and (b) of subsection (4) of section twenty of the Reinstatement Act shall apply for the purpose of determining the end of whole-time service within the meaning of this subsection as they apply for the purpose of determining the end of whole-time service such as is mentioned in subsection (1) of section six of that Act.

(3) In relation to any person entered or enlisted for service in pursuance of an enlistment notice on or after the first day of January, nineteen hundred and forty-seven, the Reinstatement Act shall have effect subject to the modifications specified in Part II of the Second Schedule to this Act.

This subsection shall come into force on the passing of this Act; but shall not affect any person whose war service within the meaning of that Act has ended before the passing of this Act.

Prohibition of dismissal of employees by reason of liability for service.

13.—(1) If the employer of any person liable to be called upon to serve for a period of whole-time service terminates his employment without his consent before the date on which he is required to present himself in accordance with an enlistment notice, and does so solely or mainly by reason of any duties or liabilities which that person is, or may become, liable to perform or discharge by reason of his being, or being liable to be, called upon to serve for that term, the employer shall be guilty of an offence and liable on summary conviction thereof to a fine not exceeding fifty pounds; and the court by which he is convicted may order him to pay to the person whose employment has been terminated, as compensation for any loss suffered or likely to be suffered by him by reason of the termination, a sum not exceeding an amount equal to five weeks' remuneration at the rate at which his remuneration was last payable to him by the employer.

(2) If the employment of any person is terminated by his employer solely or mainly by reason of any duties or liabilities which he is, or may become, liable to perform or discharge in pursuance of this Act during his term of part-time service, that person shall be entitled to recover from his employer as compensation for any loss suffered or likely to be suffered by him by reason of the termination of his employment a sum not exceeding an amount equal to five weeks' remuneration at the rate at which his remuneration was last payable to him by the employer; and in case of dispute he may, within such time as may be prescribed by regulations under section sixteen of the Reinstatement Act, apply to a Reinstatement Committee for the determination of his right to recover compensation, and if that right is established to the satisfaction of the Committee they shall make an order for the payment by the employer to the applicant of such sum as they consider him to be entitled to recover.

(3) If in any proceedings under this section the court or the Committee, as the case may be, are of opinion that there is reasonable cause to believe that the duties or liabilities aforesaid caused or contributed to the termination of the employment, the employment shall be deemed to have been terminated by reason of those duties or liabilities unless the employer proves that the termination was for a reason unconnected therewith.

(4) The following provisions of the Reinstatement Act shall, with the necessary modifications, apply for the purposes of subsection (2) of this section as they apply for the purposes of that Act, that is to say:—

- section eight (which relates to Reinstatement Committees, the umpire and deputy umpires);
- section ten (which relates to appeals from those Committees), except so much thereof as defines the expression "the employer";
- subsection (2) of section eleven (which relates to the recovery of sums ordered to be paid by those Committees);

subsection (4) of section eleven (which relates to the institution of proceedings by authorised officers) ;  
 section sixteen (which relates to regulations) ;  
 subsections (3) and (4) of section seventeen (which relate to evidence) ;  
 section eighteen (which relates to the priority of debts) ;  
 section nineteen (which relates to expenses) ;  
 the definition of " the Minister " in section twenty ;  
 section twenty-one (which modifies section eighteen in its application to Scotland) ; and  
 subsections (1) (2) and (4) of section twenty-two (which relate to the application of the said section eighteen, and the provisions of the Act relating to the Minister, to Northern Ireland).

14.—(1) Where by virtue of any contract of service or apprenticeship or of any order made or direction given under any enactment an employer is required to allow annual holidays to any person liable to be called up for training in pursuance of a training notice, the annual holidays shall not, except at his request, be allowed at times comprised within the period of training.

Adjustment  
of contracts  
of service and  
apprenticeship  
affected by  
annual  
training

In this section the expression " annual holidays " does not include any bank holidays or other customary holidays on dates not fixed by the employers.

(2) For the purpose of securing the fair adjustment of contracts of service or apprenticeship in force between employers and employees when the employees are called up for training in pursuance of a training notice, the Minister may make regulations relieving the parties to such contracts of all or any of their obligations thereunder in respect of the period of training required by the notice, and may also make regulations modifying such contracts by extending the periods of service or apprenticeship thereunder by a period not exceeding the period of the said training, and adapting the terms of the contract in relation to any such extension.

*Miscellaneous amendments of the National Service Acts,  
1939 to 1946.*

15.—(1) The Minister shall by regulations make provision whereby, for sufficient cause, any person who is subject to registration, or might but for his age be made subject to registration, may if he so desires be called up for service at any time after he has attained the age of seventeen years and six months ; and any regulations so made may allow any person as aforesaid who has attained the age of seventeen years and two months to be registered in the military service register notwithstanding that he has not been required to be so registered by regulations under section two of the principal Act or by notice under section one of the National Service Act. 1942.

6 & 7 Geo. 6.  
c. 3.

(2) This section shall come into force on the passing of this Act.

Enforcement  
of require-  
ment to  
submit to  
medical  
examination.  
4 & 5 Geo. 6.  
c. 15.

16. Any person who, having been ordered by a court under subsection (1) of section four of the National Service Act, 1941, to submit himself to medical examination, further medical examination or examination by a consultant examiner and to be detained in custody and taken by a constable to the place and at the time at which he is to be examined, fails to submit himself for examination in accordance with the order may be arrested by a constable without warrant.

Other  
amendments.

17.—(1) The National Service Acts, 1939 to 1946, shall have effect subject to the minor and consequential amendments specified in the Third Schedule to this Act.

(2) The said Acts shall have effect as if for any references therein to Part I of the Schedule to the principal Act there were substituted references to the Fourth Schedule to this Act.

In subsection (2) of section one of the National Service Act, 1942, after the words "a notice under this section," there shall be inserted the words "or having been registered under section fifteen of the National Service Act, 1947."

This subsection shall come into force on the passing of this Act.

(3) The amendment made by paragraph (2) of Regulation 5 of the Defence (Armed Forces) Regulations, 1939, shall have effect by virtue of this Act and not by virtue of that paragraph; and accordingly subsection (11) of section five of the principal Act (which relates to the appellate tribunal constituted under that section) shall continue to have effect as if for the words "in two divisions, of which one shall sit for Scotland" there were substituted the words "in two or more divisions, of which at least one shall sit for Scotland".

This subsection shall come into force on the passing of this Act.

#### *Supplemental.*

Postponement  
of liability  
to be called  
up for  
service.

18. The period during which a postponement certificate is in force shall be added to the period during which the person to whom the certificate was granted is liable under this Act to be called up for service; and accordingly this Act shall, in relation to that person, have effect as if for references therein to the age of twenty-six years there were substituted references to an age being the sum of twenty-six years and the period during which the certificate is in force.

Termination  
of reserve  
or auxiliary  
service by  
enlistment  
notice.

19. Where, immediately before the time at which a person is deemed under section four of the principal Act to be entered or enlisted for service, he is a member of an auxiliary force, his service in that force shall be deemed to have been duly terminated at that time.

This section shall come into force on the passing of this Act.

20. Where persons are during their terms of whole-time or part-time service selected as candidates for commissions in His Majesty's forces, it shall not be made a condition of their acceptance as such candidates that they shall perform additional whole-time service after the completion of their terms of whole-time service except in accordance with regulations made by the Service Authorities under this Act.

Candidates  
for com-  
missions.

21.—(1) The power conferred by section one of the Local Government Staffs (War Service) Act, 1939, to make payments to or in respect of a person ceasing to serve in his civil capacity in order to undertake war service shall not be exercisable in respect of any person who ceases so to serve after such date as may be specified by order of the Minister of Health.

Termination  
of power to  
make up civil  
remuneration.  
2 & 3 Geo. 6.  
c. 94.

(2) This section shall come into force on the passing of this Act.

22.—(1) A draft of any Order in Council under this Act other than an Order made under section twenty-six thereof 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.

Orders and  
regulations.

(2) Any order made under this Act may be varied or revoked by a subsequent order made in the same manner and subject to the same conditions as the original order.

(3) Any regulations made by a Service Authority under this Act shall forthwith be laid before Parliament; and if either House within the period of forty days beginning with the day on which any such regulations are laid before it resolves that the regulations be annulled they shall thereupon become void; but without prejudice to the validity of anything previously done thereunder or to the making of new regulations.

In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(4) Section one of the Rules Publication Act, 1893, shall not apply to any such regulations as aforesaid.

56 & 57 Vict.  
c. 66.

23. Any expenses incurred by the Minister, a Secretary of State or the Admiralty in consequence of the passing of this Act shall be defrayed out of moneys provided by Parliament.

Expenses.

24.—(1) In the National Service Acts, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

Interpretation.

“Auxiliary force” means the royal naval special reserve, the royal naval reserve, the royal naval volunteer

reserve, the territorial army, the army reserve, the air force reserve, the royal air force volunteer reserve or the auxiliary air force ;

“ Regular forces ” means the royal navy, the royal marines, the regular army and the regular air force ;

“ Royal naval special reserve ” means the force raised and maintained in accordance with the provisions of paragraph (a) of subsection (2) of section two of this Act ;

“ Service Authorities ” means the Admiralty, the Army Council and the Air Council ; and the expression “ Service Authority ” means such one of those authorities as the context may require ;

“ Training notice ” means a notice served or to be served on a person during his term of part-time service whereby he is called up for training for a period of not less than six days ;

“ Trust territory ” means a territory placed under international trusteeship and administered by the government of any part of His Majesty’s dominions ;

“ Year ” means, in relation to the service of any person, the period of twelve months beginning with the commencement of that service or any anniversary thereof.

(2) So long as a period shorter than twelve months is appointed by Order in Council under section one of this Act as the term of whole-time service, references in any other provisions of this Act to a period of twelve months shall be construed as references to that shorter period.

(3) For the purposes of this Act, a person who is resident in Great Britain shall be deemed to be ordinarily resident there unless—

- (a) he is residing there only for the purposes of attending a course of education ; or
- (b) the circumstances of his residence in Great Britain are otherwise such as to show that he is residing there for a temporary purpose only ; or
- (c) (being a person who is, under the provisions of any Act in force in any part of His Majesty’s dominions outside Great Britain, a national or citizen of that part within the meaning of that Act, or who was born or is domiciled in any such part of His Majesty’s dominions or in a British protectorate, a mandated territory, a trust territory or any other country or territory being a country or territory under His Majesty’s protection or suzerainty) he has been resident in Great Britain for less than two years.

(4) For the purposes of the National Service Acts, service in the home guard or service as an officer holding a commission in the royal naval volunteer reserve (sea cadet corps), or as an officer of the territorial army reserve of officers commissioned for service with the army cadet force, or as a commissioned officer of the training branch of the royal air force volunteer reserve, shall not be deemed to be service in the armed forces of the Crown.

(5) 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 any subsequent enactment, including this Act.

(6) Any reference in the National Service Acts, 1939 to 1946, to those Acts or to any provision thereof shall, unless the context otherwise requires, be construed as including a reference to this Act, or to that provision as amended by this Act, as the case may be.

25.—(1) In the application of this Act to Scotland—

Application  
to Scotland.

(a) for any reference to a local education authority there shall be substituted a reference to an education authority; and

(b) for any reference to section forty-one of the Education Act, 1944, there shall be substituted a reference to section one of the Education (Scotland) Act, 1946; and

9 & 10 Geo. 6.  
c. 72.

(c) for any reference to the Lord Chancellor there shall, except where the context otherwise requires, be substituted a reference to the Lord President of the Court of Session.

(2) An order made under section twenty-one of this Act which relates to Scotland only shall be made by the Secretary of State; and an order so made which relates to England and Scotland shall be made by the Minister of Health and the Secretary of State jointly.

26. His Majesty may by Order in Council direct that any of the National Service Acts shall extend to the Isle of Man subject to such adaptations and modifications as may be specified in the Order; and may by Order in Council vary or revoke any previous Order in Council made under any enactment relating to the extension of those Acts to the Isle of Man.

Application of  
National  
Service Acts to  
Isle of Man.

27. No person who attains the age of eighteen years on or after the first day of January, nineteen hundred and fifty-four, shall be liable under the National Service Acts to be called upon to serve in the armed forces of the Crown; and accordingly those Acts shall continue in operation only with respect to persons who have attained that age or who have been called up for service under those Acts before that date:

Duration of  
National  
Service Acts.

Provided that His Majesty may by Order in Council substitute for the said day such later day as may seem to His Majesty expedient.

Commence-  
ment, citation  
and repeal.

28.—(1) This Act shall, except as otherwise expressly provided therein, come into force on the first day of January, nineteen hundred and forty-nine.

(2) This Act may be cited as the National Service Act, 1947 ; and the National Service Acts, 1939 to 1946, and this Act may be cited together as the National Service Acts, 1939 to 1947.

(3) The Acts specified in the Fifth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(4) Regulation 5 of, and the First Schedule to, the Defence (Armed Forces) Regulations, 1939, are hereby revoked as from the passing of this Act.

---

## SCHEDULES.

---

### FIRST SCHEDULE.

---

Sections 2, 8.

#### LENGTH OF WHOLE-TIME SERVICE.

1. The term of a person's whole-time service shall, for the purposes of this Act, be completed on, or as soon as is practicable after, the expiration of a period of twelve months beginning with his entry or enlistment for service under this Act :

Provided that—

- (a) if at the time when that term would otherwise be completed he has become liable to be proceeded against for an offence against the Naval Discipline Act, military law or the Air Force Act, that term shall not be completed until he has been tried or otherwise dealt with for that offence and has undergone any punishment awarded therefor ; or, if at that time punishment for such an offence as aforesaid has already been awarded, until he has undergone that punishment ; and
- (b) in determining when the term of a person's whole-time service is completed no account shall be taken—
  - (i) of any day before the day on which he presented himself in pursuance of the enlistment notice ;
  - (ii) of any continuous period exceeding fourteen days during which he was absent as a deserter or absent without leave ;



(iii) of any continuous period exceeding fourteen days during which he was serving, or would if he had not been unlawfully at large have been serving, a term of penal servitude, imprisonment, detention, preventive detention or detention in a Borstal institution in pursuance of a sentence of a court or an award by his commanding officer or in default of payment of any sum of money or for doing or failing to do or abstain from doing anything required to be done or left undone; and

1ST SCH.  
—cont.

(c) if leave of absence is granted to any person for a period comprising or immediately following the date on which his term of whole-time service would otherwise be completed under this Schedule the Service Authority may postpone the completion of that term until a date not later than the expiry of his leave.

2. The Service Authority may direct that a person's whole-time service shall be treated as completed at any time earlier than it would otherwise be completed under this Schedule.

---

## SECOND SCHEDULE

Section 12.

---

### THE REINSTATEMENT ACT.

#### PART I.

#### MODIFICATIONS OF THE ACT IN RELATION TO PERSONS ENTERING WHOLE-TIME SERVICE AFTER THE COMMENCEMENT OF THIS ACT.

The Act shall have effect as if for the words "war service" wherever they occur except in sections five, twelve and thirteen there were substituted the words "whole-time service".

Section one shall have effect as if in proviso (b) to subsection (2), for the words "present emergency" there were substituted the words "applicant's whole-time service".

Section four shall have effect as if at the end of subsection (1), there were added the words "and if, when the applicant last ceased to be employed by his former employer before the beginning of his whole-time service, he had been in the continuous employment of that former employer for a consecutive period of less than thirteen weeks, the preceding provisions of this section shall have effect as if for the first reference therein to twenty-six weeks there were substituted a reference to thirteen weeks".

Section five shall have effect as if in subsection (1), for the words "war service" in the first and second places where they occur there were substituted the words "whole-time service" and after the words "war service" in the third place where they occur there were inserted the words "or whole-time service".

2ND SCH.  
—cont.

Section seventeen shall have effect as if for subsection (1) there were substituted the following subsection :—

“(1) A certificate of the competent naval, military or air force authority as to the duration of a person’s whole-time service shall be conclusive for the purposes of any proceedings before, or on appeal from, a Reinstatement Committee.”

The Second Schedule shall have effect as if in paragraph 1, for the words “the present emergency” in both places where they occur there were substituted the words “applicant’s whole-time service”; in paragraph 3 for the words “or fifty-two” there were substituted the words “fifty-two or thirteen” and in paragraph 4 for the words “a date after the end of the present emergency” there were substituted the words “more than six months from the end of the applicant’s whole-time service” and for the words “present emergency” in the second and third places where they occur there were substituted the words “applicant’s whole-time service”.

## PART II.

MODIFICATIONS OF THE ACT IN RELATION TO PERSONS ENTERING  
WHOLE-TIME SERVICE ON OR AFTER THE FIRST DAY OF JANUARY  
NINETEEN HUNDRED AND FORTY-SEVEN TAKING EFFECT ON THE  
PASSING OF THIS ACT.

Section two shall have effect as if in subsection (2), for the word “fifth” there were substituted the word “second”.

Section three shall have effect as if in subsection (1) for the words “four weeks” wherever they occur there were substituted the words “fourteen days”.

## Section 17.

## THIRD SCHEDULE.

MINOR AND CONSEQUENTIAL AMENDMENTS OF THE NATIONAL  
SERVICE ACTS, 1939 TO 1946.*The National Service (Armed Forces) Act, 1939.*

In section four, in subsection (1), for the words “His Majesty’s armed forces” there shall be substituted the words “the regular forces”; the words “(not earlier than the third day after the date of the service of the notice)” and the words “until the end of the present emergency” shall cease to have effect; and after the said subsection there shall be inserted the following proviso—

“Provided that an enlistment notice shall not require the person upon whom it is served to present himself on a day earlier than the fourteenth day after the date of the service of the notice or such earlier day as may be determined at his request.” and at the end of subsection (2), there shall be added the following words—

“and in particular, without prejudice to the generality of the foregoing provision, the Minister may, if he is in doubt whether an enlistment notice served on any person other than by registered post has been received by him, cause a further enlistment notice to be served on him by registered post and may by that notice direct that the former notice shall be deemed never to have had effect.”

In section five, in subsection (1), for the words "examined under this Act" there shall be substituted the words "examined under the foregoing provisions of this Act"; in subsection (6), for paragraph (b) there shall be substituted the following paragraph—

"(b) that he shall be conditionally registered in that register until the end of a period of twelve months and sixty days, the condition being that he must until the end of that period undertake work specified by the tribunal, of a civil character and under civilian control, and—

(i) submit himself to such medical examination at such place and time as the Minister may direct for the purpose of ascertaining the applicant's fitness for that work;

(ii) undergo such training provided or approved by the Minister as the Minister may direct for the purpose of fitting the applicant for that work;  
and that at the end of that period he shall be registered in that register without conditions; or";

in subsection (9) the words from "and the Minister" to the end of the subsection shall cease to have effect; and after paragraph (c) of subsection (13) there shall be added the following words—

"and

(d) to persons conducting any medical examination under paragraph (b) of subsection (6) of this section such remuneration and allowances as he may, with the approval of the Treasury, determine; and

(e) to persons submitting themselves to such medical examination as aforesaid such travelling and other allowances, which may include compensation for loss of remunerative time, in accordance with such scale, as he may, with the consent of the Treasury, approve."

In section six, in subsection (1), for the words "medically examined under this Act" there shall be substituted the words "medically examined under section three of this Act"; in subsection (5) for the word "thereunder" there shall be substituted the words "under section three of this Act" and for the words "under this Act" there shall be substituted the word "thereunder" and in the proviso to subsection (6) after the word "under" there shall be inserted the words "section three of".

In section eight, the words "of a tribunal" in both places where they occur shall cease to have effect.

Section ten shall cease to have effect.

In section eleven, in subsection (1), paragraphs (a), (c), (d) and (h) shall cease to have effect; in paragraph (b) after the words "mandated territory" there shall be inserted the words "a trust territory" and in paragraph (f) the words "in pursuance of section twenty-five of the Lunacy Act, 1890, or" shall cease to have effect and subsection (2) shall cease to have effect.

Section twelve shall cease to have effect.

In section thirteen, in subsection (1) for the words "of of imprisonment" there shall be substituted the words "imprisonment or

3RD SCH.  
—cont.

detention ” ; in subsection (3) for the words “ the armed forces of the Crown ” there shall be substituted the words “ wholetime service ” and after subsection (3) there shall be added the following subsection—

“ (4) Where, under the last foregoing subsection, the tribunal have ordered that a person be conditionally registered in the register of conscientious objectors, the Minister may by order of which he shall serve a copy on that person provide that the period for which that person is so registered shall be reduced by any period of which, in the opinion of the Minister, account might be taken in reckoning the end of the term of that person’s whole-time service.”

In section fifteen, in subsection (2), the words from the beginning to “ Act ; and ” and the words “ while this Act is in force ” and the proviso to subsection (3) shall cease to have effect.

At the end of section eighteen there shall be inserted the following proviso—

“ Provided that, notwithstanding anything in section twenty-six of the Interpretation Act, 1889, where an enlistment notice or a training notice has been served on any person by post, service on him shall not be deemed to have been duly effected unless it is proved either that he received the notice or that it was sent by registered post addressed to him at his last known address.”

In subsection (3) of section twenty-one, the words “ and of any proclamation made thereunder ” shall cease to have effect.

#### *The National Service Act, 1941.*

In section five, after subsection (1), there shall be inserted the following subsection :—

“ (1A) Where it appears to the Minister that a conditionally registered conscientious objector has, at any time after the expiration of one month after the condition relating to his undertaking work has been imposed on him, failed to undertake the work specified by the tribunal or ceased to undertake it, the Minister may direct him to undertake any work so specified until the end of the period during which he is so registered or the direction is withdrawn.”

In subsection (2) for the words “ such reference ” there shall be substituted the words “ reference under subsection (1) of this section ” ; in subsection (4) after the word “ registered ” in the second place where it occurs there shall be inserted the words “ or any direction given to him by the Minister under subsection (1A) of this section ; ” in subsection (5) after the word “ condition ” there shall be inserted the words “ or direction ” and in subsection (6) after paragraph (b) there shall be inserted the words “ or

(c) that he has directed a person to undertake any work and has not withdrawn that direction.”

In section eight, in subsection (3), the words “ or enrolment notice ” shall cease to have effect.

In section eleven, paragraph (c) of subsection (1) shall cease to have effect.

In section twelve, in subsection (1), the definition of "civil defence force" and the words "or is deemed to be so registered by virtue of subsection (3) of section twelve of the principal Act" and subsection (2) shall cease to have effect.

3RD SCH.  
—cont.

*The National Service (Release of Conscientious Objectors)  
Act, 1946.*

9 & 10 Geo. 6.  
c. 38.

In section one, in subsection (4), the words "sex, age and" shall cease to have effect.

---

FOURTH SCHEDULE.

---

Section 17.

LOCAL AND APPELLATE TRIBUNALS.

*Local Tribunals.*

1. Local tribunals shall be appointed for such districts as the Minister may determine and shall consist of a chairman and six other members appointed by the Minister.

2. In appointing members of local tribunals the Minister shall have regard to the necessity of selecting impartial persons; and, of the six members other than the chairman, not less than two shall be appointed by the Minister after consultation with organisations representative of workers.

3. The chairman shall, in the case of a local tribunal for a district in England and Wales, be a county court judge or a barrister of at least seven years' standing, and, in the case of a local tribunal for a district in Scotland, a sheriff or sheriff substitute or an advocate of at least five years' standing.

4. Of the six other members four only, to be selected by the Minister, shall be summoned to attend any particular session of the tribunal.

*The Appellate Tribunal.*

5. Every division of the appellate tribunal shall consist of a chairman and four other members appointed by the Minister.

6. In appointing members of the appellate tribunal the Minister shall have regard to the necessity of selecting impartial persons; and, of the four members other than the chairman, not less than two shall be appointed by the Minister after consultation with organisations representative of workers.

7. The chairman shall be a person nominated, in the case of any division for England and Wales, by the Lord Chancellor, and, in the case of any division for Scotland, by the Lord President of the Court of Session.

8. Of the four other members two only, to be selected by the Minister, shall be summoned to attend any particular session of the tribunal.

*General.*

9. The Minister may appoint another person having the like qualifications, or, as the case may be, nominated in the same manner, as the chairman to act as deputy chairman if the chairman of a tribunal is unable to act.

Section 28.

## FIFTH SCHEDULE.

## ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
2 & 3 Geo. 6. c. 81.	The National Service (Armed Forces) Act, 1939.	<p>Section one.</p> <p>In subsection (1) of section four the words " (not earlier than the third day after the date of the service of the notice) " and " until the end of the present emergency ".</p> <p>In subsection (9) of section five, the words from " and the Minister " to the end.</p> <p>In section eight, the words " of a tribunal " in both places where they occur.</p> <p>Section ten.</p> <p>In section eleven, in subsection (1), paragraphs (a), (c), (d) and (h) and in paragraph (f) the words " in pursuance of section twenty-five of the Lunacy Act, 1890, or ", and subsection (2).</p> <p>Sections twelve and fourteen, in section fifteen, in subsection (2), the words from the beginning to " Act; and " and the words " while this Act is in force " and the proviso to subsection (3).</p> <p>In subsection (3) of section twenty-one the words " and of any proclamation made thereunder."</p> <p>Part I of the Schedule.</p>
3 & 4 Geo. 6. c. 22.	The National Service (Armed Forces) Act, 1940.	The whole Act.
4 & 5 Geo. 6. c. 15.	The National Service Act, 1941.	<p>Sections one to three.</p> <p>In subsection (3) of section eight the words " or enrolment notice ".</p> <p>Sections nine and ten.</p> <p>Paragraph (c) of subsection (1) of section eleven.</p> <p>In section twelve, in subsection (1) the definition of " civil defence force " and the words " or is to be deemed to be so registered by virtue of subsection (3) of section twelve of the principal Act " and subsection (2).</p> <p>Paragraph (a) of section thirteen.</p>

Session and Chapter.	Short Title.	Extent of Repeal.
5 & 6 Geo. 6. c. 4.	The National Service (No. 2) Act, 1941.	Sections one to four and eight and the Schedule.
5 & 6 Geo. 6. c. 30.	The National Service (Foreign Countries) Act, 1942.	The whole Act.
6 & 7 Geo. 6. c. 3.	The National Service Act, 1942.	Sections two and three.
7 & 8 Geo. 6. c. 15.	The Reinstatement in Civil Employment Act, 1944.	Section fourteen and the proviso to subsection (3) of section twenty-four.
9 & 10 Geo. 6. c. 38.	The National Service (Release of Conscientious Objectors) Act, 1946.	Section one, except in its application to any conditionally registered conscientious objector who is so registered at the commencement of this Act, and in subsection (4) of section one, the words "sex, age and".

5TH SCH.  
—cont.

## CHAPTER 32.

An Act to authorise the making out of moneys provided by Parliament of acreage payments in respect of crops grown in the year nineteen hundred and forty-seven on land affected by abnormal flooding; to amend the Hill Farming Act, 1946, as respects subsidy payments for sheep; and to authorise the making of advances in respect of such subsidy payments for the years nineteen hundred and forty-eight and nineteen hundred and forty-nine.

[18th July 1947.]

**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:—

*Acreage payments where cropping affected by abnormal floods.*

1.—(1) The Minister of Agriculture and Fisheries (hereafter in this section referred to as "the Minister") may, in accordance with the provisions of a scheme made by him under this section with the approval of the Treasury (hereafter in this section referred to as "the scheme"), make out of moneys provided by Parliament payments in respect of the growing in the year

Acreage payments in respect of crops affected by abnormal floods.

nineteen hundred and forty-seven of a commercial crop of any description specified in the scheme, in any case where the Minister is satisfied—

- (a) that by reason of abnormal flooding the growing of the crop in question on the land on which it is to be grown is attended by abnormal risk of loss ;
- (b) that apart from the flooding the said land would have been used for the growing of crops in the year nineteen hundred and forty-seven ;
- (c) that in the circumstances the growing of the crop in question is an appropriate use of the said land ;

and as to such other matters as may be specified in the scheme.

(2) Payments under this section shall be made by reference to the area on which a crop is grown, and shall be at such rate as may be specified in the scheme ; and the scheme may specify different rates in relation to different crops, or in relation to different purposes for which a crop is grown.

(3) A payment under this section shall be made to the person who at the time when the crop in question was sown or planted on the land in question was the occupier of that land :

Provided that where before the payment is made the said person has died or any other event (other than the execution of an assignment) has occurred whereby debts accruing due to the said person at the said time would be claimable by some other person, the payment may be made to that other person.

(4) The scheme may make provision—

- (a) as to the time within which and the manner in which applications for payments under this section are to be made ;
- (b) for the reduction or withholding of payments, and the recovery of payments made, where a crop is damaged by negligence in cultivation or harvesting ;
- (c) for disregarding a crop where the total area on which it is grown does not exceed one tenth of an acre, or such smaller area as may be specified in the scheme, and for disregarding, in calculating the area on which a crop is grown, any fraction of an acre less than one tenth, or such smaller fraction as may be so specified ;
- (d) for the withholding of payments where the aggregate of the payments under the scheme in respect of the land worked as a unit by any person would be less than one pound.

(5) The scheme may be varied by order of the Minister made with the approval of the Treasury.



(6) Any scheme or order under this section shall be laid before Parliament forthwith after being made, and if either House of Parliament, within the period of forty days beginning with the day on which the scheme or order is laid before it, resolves that an Address be presented to His Majesty praying that the scheme or order be annulled, no further proceedings shall be taken thereunder after the date of the resolution, and His Majesty may by Order in Council revoke the scheme or order, so, however, that any such resolution and revocation shall be without prejudice to the validity of anything previously done under the scheme or order or to the making of a new scheme or order.

In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.

(7) Any payments made by the Minister before the coming into force of the scheme, being payments which would have been authorised by the scheme if it had then been in force, shall be deemed to be payments authorised by the scheme.

(8) In this section the expression "commercial crop" means a crop grown for sale or for consumption or use for the purposes of a trade or business, and includes a crop grown for consumption or use for the purposes of any other undertaking, whether carried on for profit or not.

#### *Hill sheep subsidy payments.*

2.—(1) The following provisions of this section shall have effect in relation to subsidy payments in respect of sheep under section thirteen of the Hill Farming Act, 1946 (which provides for the making, in accordance with hill sheep schemes, of such payments as aforesaid by reference to numbers maintained on the relevant days (as determined by the schemes) in December in the years nineteen hundred and forty-six to nineteen hundred and fifty, or in Northern Ireland in January in the years nineteen hundred and forty-seven to nineteen hundred and fifty-one).

Reckoning of hill sheep subsidy payments by reference to circumstances at first relevant day.  
9 & 10 Geo. 6. c. 73.

(2) A hill sheep scheme may provide that where sheep of a description qualifying for subsidy payments were being kept on a hill farm on the first relevant day, and subsidy payments fall to be made under the scheme in respect of sheep kept on that farm on any subsequent relevant day specified in the scheme for the purposes of this subsection, then if the recipient of the last-mentioned payments so elects those payments shall be calculated as if the flock maintained on the farm on the subsequent relevant day were a flock of the like description, kept and managed in the like manner, and comprising the like number of sheep of the like description, as on the first relevant day :

Provided that where between the first and the subsequent relevant day changes have been made in the system of management of the sheep kept on the farm and the changes are of such a nature as to reduce the amount of subsidy payments, then in so far as it appears to the appropriate Minister that the changes are not justifiable by circumstances occurring since the first relevant day the appropriate Minister may make a corresponding reduction in the subsidy payments payable by virtue of this subsection.

(3) As respects subsidy payments relating to any such subsequent relevant day as aforesaid, the provision made by a hill sheep scheme by virtue of the last foregoing subsection may be made so as to apply either generally or in any case where it is shown to the satisfaction of the appropriate Minister that by reason of the circumstances of a particular applicant for a payment it is equitable that the provision should apply in his case.

(4) In this section the expression "hill farm" means an area of hill land as defined in the hill sheep scheme in question, or of such land and other land, farmed as a unit.

(5) Where by reason of the division of a hill farm or any other alteration of boundaries a hill farm occupied on a subsequent relevant day consists of part of a hill farm occupied on the first relevant day, either with or without other land, or of the whole of the last-mentioned farm together with other land, the appropriate Minister may for the purposes of subsection (2) of this section treat the two farms as one, but where by virtue of this subsection two farms are so treated the appropriate Minister may direct that subsection (2) of this section shall apply as if the number and description of sheep in the flock last therein referred to were varied in such manner as appears to him appropriate having regard to the division or the alteration of boundaries, as the case may be.

Advances on  
subsidy  
payments  
payable in  
1948 and 1949.

3.—(1) A hill sheep scheme may provide for the making out of moneys provided by Parliament, in the case of subsidy payments thereunder relating to the second and third relevant days calculated in accordance with subsection (2) of the last foregoing section, of advances in respect of the payments of amounts not exceeding the limits hereinafter provided, and in particular—

- (a) for varying the rate for advances, subject to the said limits, according to the rate of loss by weather conditions sustained by flocks during such period in the year nineteen hundred and forty-seven as may be specified in the scheme or, in the case of payments relating to the second relevant day, according to such other circumstances as may be so specified ;
- (b) for prescribing a different rate for advances in respect of sheep of different descriptions or comprised in flocks

kept for different purposes or in flocks wherein the number of sheep is maintained by different methods ;

- (c) for determining the persons to whom and the time at which advances may be made, and for treating the making of an advance as a satisfaction pro tanto of the subsidy payment in question notwithstanding that the person receiving the advance and the person receiving the balance of the payment are not the same ;
- (d) for prescribing the time within which and the manner in which applications for advances are to be made.

(2) The limits hereinbefore referred to are ten shillings for each sheep in the case of subsidy payments relating to the second relevant day, and seven shillings and sixpence for each sheep in the case of subsidy payments relating to the third relevant day.

(3) Any advances made before the coming into operation of any provision of a hill sheep scheme having effect by virtue of this section, being advances which would have been authorised by that provision if it had then been in force, shall be deemed to be advances authorised by the scheme.

4.—(1) This Act may be cited as the Agriculture (Emergency Payments) Act, 1947. Short title and construction.

(2) The last two foregoing sections shall be construed as one with the Hill Farming Act, 1946.

## CHAPTER 33.

An Act to amend the Foreign Marriage Act, 1892 and for purposes connected therewith. [18th July 1947.]

**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) Subject as hereinafter provided, section twenty-two of the Foreign Marriage Act, 1892 (which validates marriages solemnised within the British lines by chaplains, officers and other persons officiating under the orders of the commanding officer of a British army serving abroad) shall, as respects marriages solemnised before the commencement of this Act, be deemed always to have had effect as if—

- (a) the reference to a British army serving abroad were construed as referring to any part of the naval, military or air forces of His Majesty so serving ; and
- (b) the reference to the British lines were construed as referring to any place at which any part of the said forces serving abroad was stationed.

Validation of past marriages solemnised by chaplains and other officers of H.M. Forces serving abroad  
55 & 56 Vict.  
c. 23.

(2) Where either of the parties to a marriage which has been rendered valid by this section has subsequently, during the life of the other party, but before the twenty-fourth day of April nineteen hundred and forty-seven, entered into a marriage with any other person which, but for this section, would have been a valid marriage, the first marriage shall be deemed to have been dissolved immediately before the solemnisation of the second marriage.

Re-enactment  
of s. 22 of the  
Foreign  
Marriage Act,  
1892.

2. For the said section twenty-two of the Foreign Marriage Act, 1892, the following section shall be substituted:—

“ Validity  
of marriages  
solemnised  
by chaplains  
of H.M.  
forces  
serving  
abroad and  
other  
persons.

22.—(1) A marriage solemnised in any foreign territory by a chaplain serving with any part of the naval, military or air forces of His Majesty serving in that territory or by a person authorised, either generally or in respect of the particular marriage, by the commanding officer of any part of those forces serving in that territory shall, subject as hereinafter provided, be as valid in law as if the marriage had been solemnised in the United Kingdom with a due observance of all forms required by law :

Provided that this subsection shall only apply if—

- (a) one at least of the parties to the marriage is a member of the said forces serving in that territory or a person employed in that territory in such other capacity as may be prescribed by Order in Council ; and
- (b) such other conditions as may be so prescribed are complied with.

(2) In this section the expression ‘ foreign territory ’ means territory other than—

- (a) any part of His Majesty’s dominions ;
- (b) any British protectorate ; or
- (c) any other country or territory under His Majesty’s protection or suzerainty or in which His Majesty has for the time being jurisdiction :

Provided that His Majesty may by Order in Council direct that—

- (i) any British protectorate or any such other country or territory as is referred to in paragraph (c) hereof ; or
- (ii) any part of His Majesty’s dominions which has been occupied by a State at war with His Majesty and in which the facilities for marriage in accordance with the local law have not in the opinion of His Majesty been adequately restored ;

shall, while the Order remains in force, be treated as foreign territory for the purposes of this section.

(3) Any reference in this section to foreign territory, to forces serving in foreign territory and to persons employed in foreign territory shall include references to ships which are for the time being in the waters of any foreign territory, to forces serving in any such ship and to persons employed in any such ship, respectively.

(4) His Majesty may by Order in Council provide for the registration of marriages solemnised under this section, and for the application thereto, with such adaptations as may be necessary, of any provisions of the Births and Deaths Registration Acts, 1836 to 1947, of the Registration of Births, Deaths and Marriages (Scotland) Acts, 1854 to 1938, or of any Act (including any Act, whether passed before or after the passing of this Act, of the Parliament of Northern Ireland) for the time being in force in Northern Ireland relating to the registration of marriages, and the Order may, to such extent as may be specified therein, be made applicable to marriages solemnised under section twenty-two of the Foreign Marriage Act, 1892, as originally enacted.

(5) Where a marriage purports to have been solemnised under this section, it shall not be necessary in any legal proceeding touching the validity of the marriage to prove the authority of the person by or before whom it was solemnised, nor shall any evidence to prove his want of authority be given in any such proceeding.

(6) Any Order in Council made under the foregoing provisions of this section may be varied or revoked by a subsequent Order in Council, and any Order in Council made under this section shall be laid forthwith before each House of Parliament."

3.—(1) References in this Act to the naval, military or air forces of His Majesty shall not be construed as referring to any such forces raised in a Dominion : Provisions as to Dominions.

Provided that any reference to a member of the naval, military or air forces of His Majesty shall be construed as including a reference to a member of the said forces raised in a Dominion who is temporarily attached under sub-section (2) of section four of the Visiting Forces (British Commonwealth) Act, 1933, to a part of the said forces raised in the United Kingdom. 23 & 24 Geo. 5.  
c. 6.

(2) His Majesty may by Order in Council provide for securing that any law in force in any Dominion which makes, in relation to forces raised in that Dominion, provision appearing to His Majesty to be similar to any provision made by section twenty-two of the Foreign Marriage Act, 1892, whether as originally enacted or as re-enacted by this Act, shall have effect as part of the law of the United Kingdom.

22 & 23 Geo. 5.  
c. 4. (3) In this section the expression "Dominion" means a Dominion within the meaning of the Statute of Westminster, 1931, except Newfoundland, and includes any territory administered by the government of that Dominion.

(4) Any Order in Council made under the foregoing provisions of this section may be varied or revoked by a subsequent Order in Council, and any Order in Council made under this section shall be laid forthwith before each House of Parliament.

Repeal of  
certain pro-  
visions  
relating to  
marriages on  
board H.M.'s  
ships.

4.—(1) Section twelve of the Foreign Marriage Act, 1892, (which provides for the solemnisation of marriages on board His Majesty's ships at foreign stations) is hereby repealed.

(2) In subsection (2) of section thirteen of the said Act the words "or on board one of Her Majesty's ships" shall be omitted, in paragraph (e) of subsection (1) of section twenty-one of the said Act the words "to marriages on board one of Her Majesty's ships and" shall be omitted, and in paragraph (f) of that subsection the words "or on board one of Her Majesty's ships" shall be omitted.

Power to  
dispense with  
consents to  
marriages  
abroad.

5.—(1) At the end of subsection (1) of section four of the Foreign Marriage Act, 1892 (which requires the like consents to be given to marriages under that Act as in the case of marriages in England) there shall be added the following proviso :

" Provided that, if a Secretary of State or, in such cases as may be prescribed, the Registrar-General of Births, Deaths, and Marriages in England, Scotland or Northern Ireland, is satisfied that the consent of any person whose consent is so required cannot be obtained by reason of absence or inaccessibility or by reason of his being under any disability, the Secretary of State or, as the case may be, the said Registrar-General may dispense with the necessity of obtaining his consent."

(2) In section seven of the said Act, at the end of paragraph (c), there shall be added the words "or that the necessity of obtaining such consent has been dispensed with".

Certificates  
of marriages  
solemnised  
under local  
law.

6. At the end of section eighteen of the Foreign Marriage Act, 1892, (which enables a British consul or a person acting as such to register marriages solemnised in accordance with the local law, if satisfied by personal attendance that the marriage has been duly solemnised) there shall be added the following subsections :—

" (2) In the case of such marriages solemnised as aforesaid at which a British consul, or person authorised to act as British consul, has not attended, His Majesty may by Order in Council provide in such classes of cases, and subject to such conditions, as may be prescribed by the Order—

(a) for the transmission to and receipt by the Registrars-General of Births, Deaths and Marriages in

England, Scotland and Northern Ireland, respectively, of certificates of such marriages issued in accordance with the local law ; and

- (b) for the issue by those Registrars-General, on payment of such fees as may be prescribed by the Order, of certified copies of such certificates received by them, and for enabling such certified copies to be received in evidence.

(3) Any Order in Council made under the foregoing provisions of this section may be varied or revoked by a subsequent Order in Council, and any Order in Council made under this section shall be laid forthwith before each House of Parliament."

7.—(1) This Act may be cited as the Foreign Marriage Act, Short title 1947, and the Foreign Marriage Acts, 1892 and 1934, and this Act and citation. may be cited together as the Foreign Marriage Acts, 1892 to 1947.

(2) This Act shall come into operation on such date as His Majesty may by Order in Council appoint.

## CHAPTER 34.

An Act to terminate the annuity payable to the holder for the time being of the title of Earl Nelson, and to make further provision as to the Trafalgar Estates.

[18th July 1947.]

**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. The annuity settled by the Act of the forty-sixth year of the reign of King George the Third, chapter one hundred and forty six (hereinafter referred to as the "Act of 1806") shall cease to be payable in respect of any period after the death of the last to die of Thomas Horatio, fourth Earl Nelson and his brother the Honourable Edward Agar Horatio Nelson. Termination of Nelson annuity.

2.—(1) If at any time the tenant in tail in possession of the Trafalgar Estates, being of full age, by deed made in pursuance of this section appoints persons specified in the deed to be trustees of the Trafalgar Estates in place of the official trustees, then— Provisions as to Trafalgar Estates.

- (a) the provisions of the Trafalgar Estates Acts as to the official trustees shall cease to have effect,
- (b) the persons appointed by the deed, and (if they are not the same persons) the persons, other than the official

15 & 16 Geo. 5.  
c. 18.

trustees, who immediately before the appointment were trustees of the Trafalgar Estates for the purposes of the Settled Land Act, 1925, shall be the trustees thereof for those purposes, and the Trafalgar Estates shall by virtue of this section vest in them accordingly, and

- (c) the tenant in tail in possession of the Trafalgar Estates, being of full age, shall be deemed to be the person nominated for the purpose of appointing new trustees by an instrument creating the trust :

Provided that nothing in this subsection shall affect the limit imposed by law on the number of trustees for the purposes of the Settled Land Act, 1925.

(2) Paragraph (i) of subsection (1) of section twenty of the Settled Land Act, 1925, shall not apply in relation to the Trafalgar Estates in so far as it provides that a tenant in tail who is by Act of Parliament restrained from barring or defeating his estate tail shall not have the powers of a tenant for life under the said Act of 1925 where the land in respect whereof he is so restrained was purchased with moneys provided by Parliament in consideration of public services.

(3) Nothing in the Trafalgar Estates Acts shall limit the exercise in relation to the Trafalgar Estates or any part thereof of the powers of a tenant for life under the Settled Land Act, 1925, or the provisions of that Act as to the investment or other application of capital moneys, whether arising before or after the commencement of this Act.

Short title and Interpretation. 3.—(1) This Act may be cited as the Trafalgar Estates Act, 1947.

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

“ the official trustees ” means the persons being trustees of the Trafalgar Estates by virtue of holding an office specified in section two of the Act of 1806 or an office to which the functions of such an office have been transferred ;

“ the Trafalgar Estates Acts ” means the Act of 1806, the Acts of the fifty-third year of the reign of King George III, chapter one hundred and thirty-four and of the fifty-fifth year of that reign, chapter ninety-six and the private Act of the fifth and sixth years of the reign of King William IV, chapter twenty-seven ;

“ the Trafalgar Estates ” means the land subject to the settlement created by the Trafalgar Estates Acts and the Indenture of Lease and Release dated the twenty-ninth and thirtieth days of June, eighteen hundred and fifteen, referred to in those Acts, and includes any capital moneys or investments representing the proceeds of sale of any such land.



## CHAPTER 35.

### *Finance Act, 1947.*

#### ARRANGEMENT OF SECTIONS.

##### PART I.

##### CUSTOMS AND EXCISE.

###### Section.

1. Hydrocarbon oils.
2. Discontinuance of charge of duty on removal of oils to a refinery.
3. Tobacco.
4. Relief for pensioners in respect of increase in tobacco duty.
5. Repeal and reduction of certain artificial silk duties and allowances.
6. Duty free use of sugar, etc.
7. Imported films.
8. Reduction of duty and other relief in respect of certain mechanically propelled vehicles.
9. Rate of excise duty on motor-cars (other than electrically propelled).

##### PART II.

##### PURCHASE TAX.

10. Intermediate rate of purchase tax on certain goods.
11. Cesser of charge and reduction of rates of purchase tax on certain goods.
12. Commencement of two preceding sections, and saving.
13. Adjustment of rights as between seller and buyer under certain sales of electric and gas appliances.

##### PART III.

##### INCOME TAX.

###### *Charge of tax, etc.*

14. Income Tax for 1947-48.
15. Alteration of certain reliefs.
16. Repayment of post-war credits.
17. Continuance of allowance for repairs.
18. Relief from balancing charges for certain cotton spinning concerns.

###### *Retirement and other benefits for directors and employees.*

19. Charge to tax in respect of provision for retirement or other benefits to directors and employees of bodies corporate.
20. Exemptions from charge to tax under the preceding section.
21. Approval of retirement benefit schemes.
22. Aggregation and severance of schemes.
23. Supplementary provisions as to retirement or other benefits and application to unincorporated societies.

*Miscellaneous provisions as to income tax.*

## Section.

24. Relief for capital expenditure on rehabilitation.
25. Payments of the profits tax to be treated as expenses of management.
26. Amendment of s. 4 of Income Tax Act, 1945.
27. Exemption from income tax of training expenses allowances and bounties of reserve and auxiliary forces.
28. Exemption from income tax of gratuities payable to certain women who re-engage in the forces.
29. Assets transferred under Coal Industry Nationalisation Act, 1946.

## PART IV.

## THE PROFITS TAX.

*Principal changes of the law.*

30. Rate of the profits tax.
31. Exemption of individuals and partnerships of individuals from the profits tax.
32. Investment income to be included in computing profits.
33. Abatement of profits in certain cases.

*Supplementary provisions as to non-distribution relief and distribution charges.*

34. Meaning of "net relevant distributions to proprietors".
35. Meaning of "gross relevant distributions to proprietors".
36. Meaning of "distribution" and provision with respect to repaid loans.
37. Apportionments to be made to arrive at gross relevant distributions for a period.

*Provisions applicable in special cases.*

38. Subsidiary companies.
39. Persons resident outside United Kingdom.
40. Nationalised undertakings.
41. Industrial and provident societies.
42. Building societies.
43. Persons carrying on several trades or businesses and changes in the persons carrying on trades or businesses.
44. Liquidations, receiverships, partnerships, etc.

*Miscellaneous provisions as to the profits tax.*

45. Amendment of limit on amount allowable as deduction in respect of directors' remuneration.
46. Co-ordination of treatment for profits tax purposes with treatment for income tax and excess profits tax purposes, etc.
47. Commencement of Part IV and transitional provisions.
48. Interpretation of Part IV.

## PART V.

## DEATH DUTIES.

49. Charge of additional duty.
50. Limits of value.
51. Relief from estate duty on bearer securities compulsorily registered.

## PART VI.

## STAMP DUTIES.

*Increase of existing duties.*

## Section.

- 52. Increase of existing duties and provisions consequential thereon.
- 53. Transitional provisions as to compositions for transfers of stock, etc. and as to loan capital.
- 54. Savings for certain conveyances and leases.
- 55. Savings for maximum rates.

*Other provisions as to existing duties.*

- 56. Repeal or reduction of duties on legal professions.
- 57. Exemption of transfers of stock guaranteed by Treasury.
- 58. Extension and explanation of charge on customs bonds.
- 59. Time for payment of companies capital duty by statutory companies.

*Duty on bonus issues of securities.*

- 60. Charge of duty on bonus issues of securities, etc.
- 61. Special provisions as to issue of securities.
- 62. Special provisions as to variation of rights or liabilities on securities.

## PART VII.

## MISCELLANEOUS.

- 63. Excess profits tax and profits tax—provisions as to remuneration of directors.
- 64. Provision applicable where joint and several liability has been imposed under Finance Act, 1943, s. 24.
- 65. Relaxation of rules as to use of post-war refunds of excess profits tax in case of nationalised undertakings, etc.
- 66. Amendments as to granting of credit for foreign tax.
- 67. Treatment of farm animals, etc., for income tax and profits tax purposes.
- 68. Provisions as to permanent annual charge for the National Debt.
- 69. Amendment as to deficit for 1946-47.
- 70. Reduction of debt.
- 71. Winding up of Essential Commodities Reserves Fund.
- 72. Payment out of Consolidated Fund of deficiencies of interest on Post Office Savings Banks Fund and Fund for the Banks for Savings.
- 73. Monopoly value of new on-licence where current on-licence surrendered.
- 74. Short title, construction, extent and repeals.

## SCHEDULES :

First Schedule.—Tobacco (rates of duty and drawback).

Second Schedule.—Artificial Silk Duties.

Third Schedule.—Purchase Tax—Intermediate rate (Goods chargeable).

Fourth Schedule.—Purchase Tax—Intermediate rate (Consequential and supplementary provisions).

Fifth Schedule.—Purchase Tax—Exemptions and reductions.

T

Sixth Schedule.—Purchase Tax : amendments of Seventh Schedules to Finance (No. 2) Act, 1940, and Finance Act, 1942, consequential on exemptions and reductions provided by Fifth Schedule to this Act.

Seventh Schedule.—Income Tax in relation to assets transferred under Coal Industry Nationalisation Act, 1946.

Eighth Schedule.—Computation of profits, etc., for purposes of the profits tax.

Ninth Schedule.—Double taxation.

Tenth Schedule.—Treatment of farm animals, etc., for income tax and profits tax purposes.

Eleventh Schedule.—Enactments repealed.

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt, the Public Revenue and Savings Banks and to make further provision in connection with Finance.

[31st July 1947.]

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.

Hydrocarbon  
oils  
18 & 19 Geo. 5.  
c. 17.

1.—(1) The rate of any rebate allowed under section two of the Finance Act, 1928, on the delivery for home consumption of any fuel oils or any gas oils or any kerosene shall be increased from eightpence per gallon to ninepence per gallon.

9 & 10 Geo. 6.  
c. 13.

(2) The duty chargeable by virtue of subsection (2) of section eight of the Finance (No. 2) Act, 1945, on hydrocarbon oils used in a refinery for generating heat, light or power, or for producing gas, shall cease to be chargeable.

(3) Subsection (4) of the said section eight (which provides for payment to be made in respect of indigenous oils used in

certain refineries) shall apply where indigenous hydrocarbon oils are used in such a refinery as is mentioned in that subsection for the purposes of—

- (a) generating heat, light or power for consumption outside the refinery ; or
- (b) producing gas for use in generating heat, light or power for consumption outside the refinery,

as it applies where indigenous hydrocarbon oils are used in such a refinery as aforesaid for other purposes.

(4) For the purposes of this section—

- the expression “ fuel oils ” means hydrocarbon oils which contain in solution an amount of hard asphalt of not less than one half of one per cent. ;
- the expression “ gas oils ” means hydrocarbon oils of which not more than fifty per cent. by volume distils at a temperature not exceeding 240 degrees centigrade, and of which more than fifty per cent. by volume distils at a temperature not exceeding 340 degrees centigrade ;
- the expression “ kerosene ” means hydrocarbon oils which are not light oils as defined in subsection (3) of section two of the Finance Act, 1928, and of which more than fifty per cent. by volume distils at a temperature not exceeding 240 degrees centigrade ;
- the method of testing oils for the purpose of ascertaining whether they comply with the preceding provisions defining fuel oils, gas oils and kerosene shall be such as the Commissioners may direct ; and
- the expression “ hydrocarbon oils ” has the meaning assigned to it by subsection (9) of section two of the Finance Act, 1928.

(5) This section shall—

- (a) except as to subsection (1) thereof so far as it relates to kerosene, be deemed to have had effect as from six o'clock in the evening on the fifteenth day of April, nineteen hundred and forty-seven ; and
- (b) as to subsection (1) thereof so far as it relates to kerosene, come into operation at six o'clock in the evening on the thirty-first day of August, nineteen hundred and forty-seven.

2.—(1) Any requirement made by the Commissioners under subsection (3) of section eight of the Finance (No. 2) Act, 1945, or deemed for the purposes of that section to be so made, that customs duty shall be charged on the removal of hydrocarbon oils to a refinery instead of on their delivery therefrom shall cease to be in force on the first day of September, nineteen hundred and forty-seven. Discontinu-  
ance of  
charge of duty  
on removal of  
oils to a  
refinery.]

PART I.  
—cont.

and forty-seven, and no such requirement as aforesaid shall be made under the said subsection (3) after that date.

(2) Where it is shown to the satisfaction of the Commissioners that any oils were by virtue of the said subsection (3) charged with duty on their removal to a refinery, no duty shall be charged on their delivery for home consumption from the refinery on or after the said date, other than any amount payable under proviso (a) to the said subsection (3) by reason of the conversion of the oils in the refinery into light oils, and any duty paid thereon, less any rebate allowed, shall be repaid on their removal to another refinery on or after that date.

Tobacco.

6 & 7 Geo. 6.  
c. 28.

3.—(1) In lieu of the duties of customs charged on tobacco under subsection (1) of section five of the Finance Act, 1943, there shall be charged on tobacco imported into the United Kingdom of the descriptions set out in the first column of Part I of the First Schedule to this Act—

- (a) in the case of tobacco not being an Empire product, duties of customs at the rates respectively specified in the second column of that Part of that Schedule ;  
and
- (b) in the case of tobacco being an Empire product, duties of customs at the rates respectively specified in the third column of that Part of that Schedule.

(2) In lieu of the duties of excise charged on tobacco under subsection (2) of the said section five, there shall be charged on tobacco grown in the United Kingdom of the descriptions set out in the first column of Part II of the First Schedule to this Act duties of excise at the rates respectively specified in the second column of that Part of that Schedule.

26 & 27 Vict.  
c. 7.

(3) The drawback allowed under section one of the Manufactured Tobacco Act, 1863, on tobacco exported from the United Kingdom or deposited in a bonded or King's warehouse shall—

- (a) in cases where it is shown that the duties charged under subsection (1) of this section have been paid, be allowed—
  - (i) in respect of tobacco on which full customs duty has been paid, at the rates specified in the second column of Part III of the First Schedule to this Act ; and
  - (ii) in respect of tobacco on which customs duty at a preferential rate has been paid, at the rates specified in the third column of that Part of that Schedule ;  
and
- (b) in cases where it is shown that the duties charged under subsection (2) of this section have been paid, be allowed at the rates specified in the third column of that Part of that Schedule,

instead of at the rates specified in Part III of the Fourth Schedule to the Finance Act, 1943, but subject, in either of those cases, to the provisions affecting allowance of drawback contained in the Schedule to the Finance Act, 1904.

PART I.  
—cont.

4 Edw. 7. c. 7.

(4) For the purposes of subsections (2) and (3) of section eight of the Finance Act, 1919 (which relate to articles manufactured in the British Empire from material which is not wholly grown or produced in the Empire and to goods manufactured in the United Kingdom from dutiable material shown to have been consigned from and grown or produced in the British Empire) the rates of the duties of customs imposed by this section in the case of tobacco being an Empire product shall be deemed to be preferential rates within the meaning of that section.

9 & 10 Geo. 5.  
c. 32.

(5) In this section the expression "Empire product" has the same meaning as it has for the purposes of the said section eight.

(6) This section shall be deemed to have had effect as from the sixteenth day of April, nineteen hundred and forty-seven.

4.—(1) The Treasury may by regulations provide—

(a) for mitigating, in the case of pensioners satisfying the conditions of the regulations (whether as to age, class of pension or otherwise), the effect of the increase in the retail price of tobacco occasioned by the duties imposed by this Act ;

Relief for  
pensioners in  
respect of  
increase in  
tobacco duty.

(b) for making up, out of sums received by the Commissioners of Customs and Excise on account of customs duties, the deficiency in the price received by persons supplying pensioners with tobacco in pursuance of the regulations.

(2) Regulations under this section may contain incidental and supplementary provisions and may in particular provide—

(a) for preventing abuses of the provisions thereby made or of documents or tokens issued for the purposes thereof ;

(b) for the issue of tokens through the Post Office, and for applying, with the necessary adaptations, as respects tokens all or any of the provisions (including penal provisions) of the Stamp Duties Management Act, 1891, section nine of the Stamp Act, 1891, and section sixty-five of the Post Office Act, 1908 ;

54 & 55 Vict.  
c. 38.

54 & 55 Vict.  
c. 39.

(c) without prejudice to the last preceding paragraph, for the imposition of penalties (including customs penalties) in respect of any contravention of or failure to comply with the regulations, so, however, that no person shall by virtue of this paragraph be punishable otherwise than on summary conviction or be liable for any offence to imprisonment for a term exceeding three months or to a fine exceeding one hundred pounds.

8 Edw. 7. c. 48.

PART I.  
—cont.

(3) Stamp duty shall not be chargeable on any receipt given to the Commissioners of Customs and Excise for money paid by virtue of paragraph (b) of subsection (1) of this section.

(4) All regulations under this section shall be laid before the Commons House of Parliament immediately after they are made and if that House within the period of forty days beginning with the day on which any such regulations are laid before it resolves that the regulations be annulled they shall thereupon become void, without prejudice, however, to the validity of anything previously done thereunder or to the making of new regulations.

In reckoning any such period of forty days as aforesaid no account shall be taken of any time during which Parliament is dissolved or prorogued or during which that House is adjourned for more than four days.

56 & 7 Vict.  
c. 66. (5) Notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, regulations made under this section shall not be deemed to be statutory rules to which that section applies.

26 Geo. 5. &  
1 Edw. 8. c. 31.  
26 Geo. 5. &  
1 Edw. 8. c. 33.  
9 & 10 Geo. 6.  
c. 67.  
3 & 4 Geo. 5.  
c. 27. (6) In this section the expression " pensioner " means a person to whom a pension has been awarded under the Old Age Pensions Act, 1936, the Widows', Orphans' and Old Age Contributory Pensions Act, 1936, the National Insurance Act, 1946, or any corresponding enactment for the time being in force in Northern Ireland, and the reference to the Stamp Duties Management Act, 1891, includes a reference to those portions thereof repealed (save as to Scotland) by the Forgery Act, 1913.

(7) If any Act increasing the duties of customs on tobacco imported into the Isle of Man makes provision similar to the provision made by this section, regulations under this section may give effect to any arrangements made between the Treasury and the appropriate authority in the Isle of Man for co-ordinating any systems of relief established respectively under this section and under the said Act so as to secure that they operate, to such extent as may be provided by the arrangements, as a single system.

(8) In the application of this section to Northern Ireland, any reference in paragraph (b) of subsection (2) thereof to any Act shall, so far as that Act continues in force in Northern Ireland, be taken as referring to it as it applies there.

Repeal and  
reduction of  
certain  
artificial silk  
duties and  
allowances.  
15 & 16 Geo. 5.  
c. 36.

5.—(1) The duties of excise chargeable under section five of the Finance Act, 1925, on artificial silk singles yarn or straw and on a licence to be taken out annually by a manufacturer of artificial silk yarn shall cease to be chargeable, and no such licence shall be required to be taken out under that section.

(2) Section four of, and Part I of the Second Schedule to, the Finance Act, 1925, shall have effect as if for the rates of



duties of customs in respect of artificial silk yarn and tissues set out in the said Part I there were substituted the rates set out in Part I of the Second Schedule to this Act.

PART I.  
—*cont.*

(3) The Silk Duties (No. 1) Order, 1934, shall have effect subject to the amendments of Part II of the First Schedule to that Order set out in Part II of the Second Schedule to this Act (being amendments reducing the rates of duties of customs on certain articles made wholly or partly of artificial silk).

(4) Nothing in the preceding provisions of this section shall affect any drawback allowable in respect of goods made wholly or in part of artificial silk where it is shown to the satisfaction of the Commissioners that the duty on the goods or their components became chargeable before the commencement of this section.

(5) For the purposes of section nine of the Finance Act, 1933, <sup>23 & 24 Geo. 5.</sup> the reductions in the rates of duties of customs effected by sub-<sup>c. 19.</sup>sections (2) and (3) of this section shall be treated as having been effected by an order made by the Treasury under that section, and accordingly any subsequent order so made varying or repealing any of those duties may make any consequential amendment or repeal of the provisions of the said subsections or of Part I or Part II of the Second Schedule to this Act.

(6) Section eleven of the Finance Act, 1946 (which provides <sup>9 & 10 Geo. 6.</sup> for an allowance in respect of artificial silk on which a duty of <sup>c. 64.</sup>customs or excise has been paid used in the manufacture of tyres) shall not apply as respects any artificial silk on which a duty of customs becomes chargeable after the commencement of this section.

(7) The enactments set out in Part III of the Second Schedule to this Act shall be repealed to the extent specified in the third column of that Part of that Schedule :

Provided that any regulations made under subsection (3) of section five of the Finance Act, 1925, which are in force at the commencement of this section shall, so far as they relate to any duty or drawback, continue in force, notwithstanding the repeal of the said subsection (3), until revoked by the Commissioners.

(8) This section shall be deemed to have had effect as from the first day of May, nineteen hundred and forty-seven.

6.—(1) The Commissioners may, if they think fit, and subject to such conditions for the protection of the revenue, including the giving of security, as they may prescribe, authorise any person carrying on any art or manufacture, other than the production of food or drink for human consumption, to receive sugar, molasses or glucose without payment of duty or, on the receipt <sup>Duty free use of sugar, etc.</sup>

PART J.  
—cont.

by that person of sugar, molasses or glucose on which duty has been paid, pay to him the like drawback as would be payable on the exportation of that sugar, molasses or glucose, as the case may be.

(2) For the purposes of any enactment relating to drawback any sugar, molasses or glucose, in respect of which a drawback has been paid under this section shall thereafter be treated as sugar, molasses or glucose, as the case may be, on which duty has not been paid.

Imported  
films.  
2 & 3 Geo. 6.  
c. 41.

7.—(1) The powers of the Treasury, by virtue of paragraph 12 of the Third Schedule to the Finance Act, 1939, by order to vary certain provisions of that Schedule (which relates to the customs duties on imported cinematograph film) shall, in relation to exposed cinematograph film, include power to alter or add to section ten of the Finance Act, 1935 (which relates to the valuation for duty of imported goods), as if that section were among the provisions mentioned in sub-paragraph (2) of the said paragraph 12.

25 & 26 Geo. 5.  
c. 24.

(2) Without prejudice to the generality of the foregoing subsection, an order made by virtue thereof may in particular provide—

(a) that for the purpose of computing the price which any imported film would fetch on a sale in the open market there shall be made (in addition to the assumptions required to be made by the said section ten) assumptions with respect to—

(i) the inclusion in the sale of exclusive rights of reproduction and exhibition, and the accrual to the buyer of the gross proceeds of any resale or letting of the film or any reproduction thereof for exhibition ;

(ii) the proportion of the said gross proceeds with which the buyer will be content in respect of all or any of his costs, charges and expenses and of his profit ;

(iii) the exclusion of the seller and other persons from any interest, direct or indirect, in the subsequent reproduction or exhibition of the film ;

(b) that the value of any imported film shall, in such cases as may be provided by the order, be determined by reference to a supposed sale not of that film but of any version prepared or to be prepared for exhibition wholly or partly from that film or a duplicate thereof.

(3) Any order of the Treasury made by virtue of the said paragraph 12 may also contain incidental or supplementary provisions for the purpose of securing the collection and recovery

of the customs duty on exposed cinematograph film, including provisions—

PART I.  
—cont.

- (a) that an application for the registration of a film under Part III of the Cinematograph Films Act, 1938, shall not be entertained unless accompanied by such evidence as the order may require for the purpose aforesaid ; 1 & 2 Geo. 6.  
c. 17.
- (b) that where, with intent to evade the payment of customs duty on exposed cinematograph film, any film not registered under the said Part III is delivered to an exhibitor or exhibited in contravention of section twenty-two of that Act, any of the enactments relating to customs shall apply with such adaptations as may be provided by the order.

(4) In this section the expressions “exposed cinematograph film” and “duplicate” have the same meanings as in the Third Schedule to the Finance Act, 1939.

8.—(1) Section thirteen of the Finance Act, 1920 (which imposes duties of excise in respect of mechanically propelled vehicles) shall have effect as if in paragraph 1 of the Second Schedule to that Act— Reduction of duty and other relief in respect of certain mechanically propelled vehicles.  
10 & 11 Geo. 5.  
c. 18.

- (i) for the word “Cycles,” where it first occurs there were substituted the word “Vehicles” ;
- (ii) after sub-paragraph (c) there were inserted the following sub-paragraph :—

£ s. d.

“ (d) Vehicles other than mowing machines, being vehicles with more than three wheels neither constructed nor adapted for use nor used for the carriage of a driver or a passenger ... .. 3 0 0 ;”

and

- (iii) at the end thereof there were added the following words :—

“ Vehicles chargeable with duty under this paragraph shall not be chargeable with duty under paragraph 5 of this Schedule.”

(2) The said section thirteen shall have effect as if in paragraph 4 of the said Second Schedule after sub-paragraph (b) there were inserted the following sub-paragraph :—

“ (bb) Vehicles designed and constructed as mobile cranes which are used on roads only either as cranes in connection with work being carried on on a site in the immediate vicinity or for the purpose of proceeding to and from a place

PART I.  
—cont.

s. d.

where they are to be used as cranes and when so proceeding neither carry nor haul any load other than such as is necessary for their propulsion or equipment ... .. 5 0",

and at the end of the said paragraph 4 there were added the following words :—

“ Vehicles chargeable with duty under sub-paragraph (bb) of this paragraph shall not be chargeable with duty under paragraph 5 of this Schedule.”

(3) The vehicles referred to in the said sub-paragraph (bb) shall be excluded from the provisions of section two of the Finance Act, 1935, withdrawing the rebate on heavy oils used as fuel for mechanically propelled vehicles, and accordingly in paragraph (d) of subsection (7) of that section for the words “ sub-paragraphs (a), (b),” there shall be substituted the words “ sub-paragraphs (a), (b), (bb),”.

(4) Subsection (1) of this section shall be deemed to have come into operation on the first day of January, nineteen hundred and forty-seven, and subsections (2) and (3) thereof shall come into operation on the first day of January, nineteen hundred and forty-eight.

Rate of excise duty on motor-cars (other than electrically propelled).  
10 & 11 Geo. 5.  
c. 72.

9.—(1) The rate of the duty of excise chargeable under section thirteen of the Finance Act, 1920, in respect of a mechanically propelled vehicle of a description specified in paragraph 6 of the Second Schedule to that Act, being a vehicle registered under the Roads Act, 1920, for the first time on or after the first day of January, nineteen hundred and forty-seven, and not being an electrically propelled vehicle, shall be ten pounds.

(2) In accordance with the preceding subsection the said section thirteen shall have effect as if the following paragraph were substituted for the said paragraph 6, that is to say—

*Description of Vehicle.**Rate of Duty*

£ s. d.

“ 6. Any vehicles other than those charged with duty under the foregoing provisions of this Schedule—

(a) Electrically propelled vehicles ... .. 7 10 0

(b) Other vehicles—

(i) If registered under the Roads Act, 1920, for the first time before the first day of January nineteen hundred and forty-seven—

Not exceeding 6 horse-power ... .. 7 10 0

<i>Description of Vehicle.</i>	<i>Rate of Duty.</i>	<i>PART I.</i>
	<i>£ s. d.</i>	<i>—cont.</i>
Exceeding 6 horse-power—		
For each unit or part of a unit of horse-power ... ..	1 5 0	
(ii) If so registered on or after that day	10 0 0."	

(3) This section shall come into operation on the first day of January, nineteen hundred and forty-eight.

## PART II.

### PURCHASE TAX.

10.—(1) Goods falling within any of the classes (other than mirrors) specified in the Third Schedule to this Act, and not falling within any of the classes specified in the third column of the Seventh Schedule to the Finance (No. 2) Act, 1940, shall be chargeable goods and in the case of those goods, not being goods falling within any of the classes specified in the Seventh Schedule to the Finance Act, 1942 (which relates to the higher rate of tax) or in the second column of the Seventh Schedule to the Finance (No. 2) Act, 1940 (which relates to the reduced rate of tax), purchase tax becoming due on or after the date on which this section comes into operation shall be charged at a rate, to be called the "intermediate rate", which shall be two-thirds of the wholesale value of the goods.

Intermediate  
rate of  
purchase tax  
on certain  
goods.  
3 & 4 Geo. 6.  
c. 48.  
5 & 6 Geo. 6  
c. 21.

(2) Purchase tax shall become chargeable at the intermediate rate in respect of the following goods in respect of which tax was made chargeable at the higher rate by section seventeen of the Finance Act, 1942, that is to say, mirrors of the classes specified in the Third Schedule to this Act, not being goods falling within any of the classes specified in the third column of the Seventh Schedule to the Finance (No. 2) Act, 1940, or within any of the classes specified in the entries in the Seventh Schedule to the Finance Act, 1942, relating to goldsmiths' and silversmiths' wares, to articles made wholly or partly of ivory, amber, jet, coral, mother-of-pearl, natural shells, or tortoiseshell, or of semi-precious stones, and to fancy or ornamental articles.

(3) The following section shall be substituted for section nineteen of the Finance (No. 2) Act, 1940:—

" 19.—(1) Chargeable goods are goods falling within any of the classes specified in the first or second column of the Seventh Schedule to this Act, in the Seventh Schedule to the Finance Act, 1942, or in the Third Schedule to the Finance Act, 1947, and not falling within any of the classes specified in the third column of the said Seventh Schedule to this Act.

PART II.  
—cont.

(2) The tax shall be charged at the following rate, that is to say,—

- (a) in the case of goods falling within any of the classes specified in the Seventh Schedule to the Finance Act, 1942, and not falling within any of the classes specified in the second column of the Seventh Schedule to this Act, the higher rate, which shall be one hundred per cent. of the wholesale value of the goods ;
- (b) in the case of goods falling within any of the classes specified in the Third Schedule to the Finance Act, 1947, and not falling within any of the classes specified in the Seventh Schedule to the Finance Act, 1942, or in the second column of the Seventh Schedule to this Act, the intermediate rate, which shall be two-thirds of the wholesale value of the goods ;
- (c) in the case of goods falling within any of the classes specified in the first column of the Seventh Schedule to this Act and not falling within any of the classes specified in the Seventh Schedule to the Finance Act, 1942, the Third Schedule to the Finance Act, 1947, or the second column of the Seventh Schedule to this Act, the basic rate, which shall be one-third of the wholesale value of the goods ;
- (d) in the case of goods falling within any of the classes specified in the second column of the Seventh Schedule to this Act, the reduced rate, which shall be one-sixth of the wholesale value of the goods."

(4) There shall be made in the enactments mentioned in Part I of the Fourth Schedule to this Act the amendments specified in that Schedule—

- (a) in the case of the amendments of the entries in the second and third columns of the Seventh Schedule to the Finance (No. 2) Act, 1940, being amendments having the effect of securing that goods of the classes set out in the Third Schedule to this Act do not fall within any of the classes set out in the said second and third columns; and
- (b) in the case of other amendments, being amendments consequential on the preceding provisions of this section ;

and the provisions of Part II of the Fourth Schedule to this Act shall have effect as to the ascertainment of the retail value of road vehicles in connection with purchase tax.

11.—(1) Purchase tax shall cease to be chargeable in respect of goods of the classes specified in Part I of the Fifth Schedule to this Act.

PART II.  
—cont.

(2) Purchase tax shall become chargeable at the reduced rate, and the basic rate, in respect of goods of the classes specified respectively in Parts II and III of the Fifth Schedule to this Act.

Cesser of charge and reduction of rates of purchase tax on certain goods.

(3) In accordance with the preceding provisions of this section, there shall be made in the Seventh Schedule to the Finance (No. 2) Act, 1940, and in the Seventh Schedule to the Finance Act, 1942, the amendments directed to be made therein respectively by the Sixth Schedule to this Act.

12.—(1) The two preceding sections of this Part of this Act shall be deemed to have come into operation—

Commencement of two preceding sections, and saving.

(a) so far as they relate to exemption from tax in respect of goods of a class specified in the Fifth Schedule to this Act or to reduction of the rate of tax in respect of goods of a class specified in that Schedule, on the sixteenth day of April, nineteen hundred and forty-seven, or the tenth day of July, nineteen hundred and forty-seven, according as the one or the other of those dates is specified in that Schedule in relation to goods of that class ;

(b) so far as they relate to mirrors, on the said tenth day of July ;

(c) so far as they relate to road vehicles, on the eighteenth day of June, nineteen hundred and forty-seven ; and

(d) as respects all other matters, on the said sixteenth day of April ;

and shall have effect in relation to a purchase of goods of any of the classes to which those sections relate delivered under the purchase on or after the date of the coming into operation thereof in relation to those goods notwithstanding that the purchase was made before that date.

(2) Nothing in the said sections making any change in the classes of goods which are chargeable goods or in the rate at which any goods are chargeable shall affect the operation of section twenty of the Finance (No. 2) Act, 1940 (which empowers the Treasury to make any such change as aforesaid by order).

13. Whereas on the fifteenth day of April, nineteen hundred and forty-seven, a Resolution was passed by the Committee of Ways and Means of the House of Commons providing for the charge of purchase tax as from the following day on all domestic appliances and domestic apparatus being appliances and apparatus of a kind suitable for operation from electric or gas mains (subject to an exception for lighting and wireless appliances and apparatus, gramophones and player pianos, clocks and parts of clocks,

Adjustment of rights between seller and buyer under certain sales of electric and gas appliances.

PART II.  
—cont.

warming pads and blankets, hair drying machines, and infra-red and ultra-violet ray lamps and radiant heat lamps) at a rate equal to two-thirds of the value of the goods (except in the case of any of them being of classes subject to tax at the higher rate) :

And whereas, of the goods as to which that provision for charge at the said two-thirds rate was made, those falling within the Third Schedule to this Act are by this Act rendered chargeable to tax at that rate, but the remainder (in this section referred to as goods to which this section applies) are as respects tax unaffected by the passing of this Act :

Now, therefore—

- (a) where goods of any description to which this section applies have been sold in the course of any business under a purchase made after the date of the passing of the said Resolution and before the passing of this Act at a price exceeding that at which, in the ordinary course of that business, goods of that description similar to those goods were sold or offered for sale immediately before that date, the buyer shall be entitled to recover an amount equal to the excess from the seller as money received by him for the use of the buyer, except in so far as the seller proves that the excess was included in the price by reference to matters other than any prospective liability or increased liability of his under any of the enactments relating to purchase tax arising from the charge provided for by the said Resolution, or any increase in the price charged on a purchase of the goods made by him after the date of the passing of the said Resolution attributable to any such prospective liability or increased liability of any other person ;
- (b) where, in respect of any goods to which this section applies sold under a purchase made on or before the date of the passing of the said Resolution and delivered under the purchase after that date and before the passing of this Act, the seller has recovered from the buyer, as an addition to the price, any sum fixed by reference to any such prospective liability or increased liability as aforesaid, the buyer shall be entitled to recover that sum from the seller as money received by him for the use of the buyer.

## PART III.

## INCOME TAX.

*Charge of tax, etc.*

Income Tax  
for 1947-48

14.—(1) Income tax for the year 1947-48 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.

PART III.  
—cont.

(2) Subject to the provisions of section thirty of the Finance Act, 1946, and of any Act of the present Session relating to transport or electricity, all such enactments as had effect with respect to income tax charged for the year 1946-47, 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 1947-48.

15.—(1) Subsection (1) of section fifteen of the Finance Act, 1925 (which, as amended by subsequent enactments, provides for a deduction of tax on an amount equal to one-eighth of the amount of earned income, but not exceeding one hundred and fifty pounds) and subsection (2) of the said section fifteen (which, as amended by subsequent enactments, provides, in a case where an individual or his wife has attained the age of sixty-five years and his total income does not exceed five hundred pounds, for a deduction of tax on an amount equal to one-eighth of his income) shall have effect as if the words "one-sixth" were substituted for the words "one-eighth" and the words "two hundred and fifty pounds" were substituted for the words "one hundred and fifty pounds." Alteration of certain reliefs.

(2) Section eighteen of the Finance Act, 1920 (which, as amended by subsequent enactments, provides, amongst other things, that the deduction of tax allowable in the case of married persons shall in certain cases be increased by an amount not exceeding seven-eighths of the earned income of the claimant's wife) shall have effect as if the words "five-sixths" were substituted for the words "seven-eighths."

(3) Section twenty-one of the Finance Act, 1920 (which, as amended by subsequent enactments, provides for a deduction of tax on fifty pounds in respect of each child with an income of fifty pounds or less) shall have effect as if the words "sixty pounds" were substituted for the words "fifty pounds" in subsections (1) and (3) thereof.

(4) Subsection (1) of section sixteen of the Finance Act, 1943 (which provides, amongst other things, that the deduction of tax allowable in certain cases in respect of a relative of the claimant or his or her wife or husband who is maintained by the claimant is limited to cases where the total income of the person maintained does not exceed eighty pounds a year and that the allowance is reduced if the total income of that person exceeds thirty pounds a year) shall have effect as if the words "one hundred and twenty pounds" were substituted for the words "eighty pounds" and the words "seventy pounds" were substituted for the words "thirty pounds."

PART III.  
—cont.

(5) The additional reliefs afforded by this section for the year 1947-48 shall not be deemed to have affected the amount of tax deductible or repayable before the seventh day of July, nineteen hundred and forty-seven.

Repayment  
of post-war  
credits.

16. Section twenty-six of the Finance Act, 1946 (which provides for the repayment of post-war credits in certain cases to elderly persons) shall apply to post-war credits for the year 1944-45, or the year 1945-46, as it applies to post-war credits for previous years, and accordingly,—

- (a) in subsection (3) of the said section, for the words “ for the year 1941-42, the year 1942-43 or the year 1943-44 ” there shall be substituted the words “ for any year of assessment ” ; and
- (b) in subsection (9) of the said section, for the words “ shall be deemed to have had effect as from the first day of June, nineteen hundred and forty-six ” there shall be substituted the words “ shall, as respects credits for the year 1941-42, the year 1942-43 or the year 1943-44 be deemed to have had effect as from the first day of June, nineteen hundred and forty-six.”

Continuance  
of allowance  
for repairs.  
13 & 14 Geo. 5.  
c. 14.

17.—(1) Section twenty-eight of the Finance Act, 1923 (which relates to the allowance for repairs and which was continued in force by section twenty-seven of the Finance Act, 1942, until the fifth day of April, nineteen hundred and forty-seven) shall continue in force until Parliament otherwise determines.

(2) This section shall be deemed to have had effect as from the sixth day of April, nineteen hundred and forty-seven.

Relief from  
balancing  
charges for  
certain cotton  
spinning  
concerns.

18.—(1) Where—

- (a) at any time after the third day of December, nineteen hundred and forty-six, arrangements are made for the unification or grouping of two or more cotton spinning concerns ; and
- (b) the Board of Trade certify that the arrangements were made for the purpose of providing a concern or group of concerns such as to satisfy the conditions requisite for the making of a re-equipment grant to concerns in the cotton industry ; and
- (c) before the sixth day of April, nineteen hundred and fifty, and, for the purpose either of carrying out the arrangements or of effecting a reorganisation rendered possible by the arrangements, one cotton spinner affected by the arrangements sells machinery or plant to another cotton spinner affected by the arrangements or to a company affected thereby which exists wholly or

mainly for the purpose of co-ordinating the administration of two or more companies each of which is under its control and each of which is a cotton spinner; and

- (d) a balancing charge falls to be made in respect of the machinery or plant by reason of the sale,

the rate of tax charged in the assessment by means of which the balancing charge is made shall be one half the standard rate of tax in force for the year.

- (2) In this section—

“cotton spinner” means a person carrying on a trade which consists of or includes the spinning of cotton or of staple rayon fibre not exceeding three inches in length and “cotton spinning concern” shall be similarly construed;

“re-equipment grant” means a grant out of moneys provided by Parliament towards the cost of re-equipping or modernising cotton spinning mills as respects the machinery or plant thereof; and

“sale” and “sell” have the same meanings as in the Income Tax Act, 1945, and include in particular any transfer which under subsection (1) of section sixty of that Act is to be treated as a sale, and references to the time of any sale shall be construed in accordance with the provisions of subsection (3) of section sixty-eight of that Act. 8 & 9 Geo. 6.  
c. 32.

*Retirement and other benefits for directors and employees.*

19.—(1) Subject to the exemptions and provisions contained in the next succeeding section, where pursuant to a scheme for the provision of future retirement or other benefits for persons consisting of or including directors or employees of a body corporate (in this and the next four succeeding sections referred to as a “retirement benefits scheme”) the body corporate in any year of assessment pays a sum with a view to the provision of any such benefits for any director or employee thereof, then (whether or not the accrual of the benefits is dependent on any contingency)—

- (a) the sum paid, if not otherwise chargeable to income tax as income of the director or employee, shall be deemed for all the purposes of the Income Tax Acts to be income of that director or employee for that year of assessment and assessable to income tax under Schedule E; and

- (b) where the payment is made under such an insurance or contract as is mentioned in section thirty-two of the Income Tax Act, 1918 (which relates to relief for life 8 & 9 Geo. 5.  
c. 40.

PART III.  
—cont.

insurance premiums, etc.), relief, if not otherwise allowable, shall be given to him under that section in respect of the payment to the extent, if any, to which such relief would have been allowable to him if the payment had been made by him and the insurance or contract under which the payment is made had been made with him.

(2) Subject to the exemptions and provisions contained in the next succeeding section, where—

- (a) an agreement is in force between a body corporate and a director or employee thereof for the provision for him of any future retirement or other benefits afforded by a retirement benefits scheme, or a person is serving as a director or employee of a body corporate in connection wherewith there is a retirement benefits scheme relating to persons of the class within which he falls under which any such benefits will be provided for him ; and
- (b) the body corporate does not, or does not fully, secure the provision of the benefits by the payment of such sums as are mentioned in the preceding subsection ; and
- (c) the circumstances in which the benefits are to accrue are not such as will render the benefits assessable to income tax under Schedule E as emoluments of his office as a director or of his employment,

then (whether or not the accrual of the benefits is dependent on any contingency), in each year of assessment in which the agreement is in force or the director or employee is serving as aforesaid, up to and including the year of assessment in which the benefits accrue or there ceases to be any possibility of the accrual thereof, a sum equal to the annual sum which the body corporate would have had to pay in that year under a contract with a third person which secured the provision by that third person of those benefits or, as the case may be, of those benefits so far as not already secured by the payment of such sums as are mentioned in the preceding subsection, shall be deemed for all the purposes of the Income Tax Acts to be income of the director or employee for that year and assessable to income tax under Schedule E.

(3) Where the body corporate pays any sum as mentioned in subsection (1) of this section in relation to several directors or employees, the sum so paid shall, for the purpose of that subsection, be apportioned among them by reference to the separate sums which would have had to be paid to secure the separate benefits to be provided for them respectively, and the part of the sum apportioned to each of them shall be deemed for that purpose to have been paid separately in relation to that one of them.

20.—(1) The following payments shall be exempted from the operation of subsection (1) of the last preceding section, that is to say—

PART III.  
—cont.  
Exemptions  
from charge  
to tax under  
the preceding  
section.  
11 & 12 Geo. 5.  
c. 32.

- (a) payments made pursuant to a statutory superannuation scheme, or made to a superannuation fund approved (whether in whole or in part) by the Commissioners of Inland Revenue for the purposes of section thirty-two of the Finance Act, 1921 ;
- (b) payments made pursuant to an excepted provident fund or staff assurance scheme or other similar scheme (as defined in section twenty-three of this Act) ;
- (c) payments made by way of premium pursuant to a scheme the benefits whereunder are secured by premiums payable by the body corporate, with or without contributions by the directors or employees affected, under life or endowment assurance or life annuity contracts, being a scheme which was in operation before the sixth day of April, nineteen hundred and forty-seven, and which is not confined, or substantially confined, to directors and persons who, not being directors, are remunerated at a rate exceeding two thousand pounds a year, or to directors or to such persons.

(2) Neither subsection (1) nor subsection (2) of the last preceding section shall apply so as to cause any sum to be deemed to be income as therein mentioned where the retirement benefits scheme in question is one under which the main benefit afforded to each of the persons to whom the scheme relates is the provision for him of a pension or annuity for his life, and either—

- (a) that scheme was in operation before the sixth day of April, nineteen hundred and forty-four ; or
- (b) that scheme is for the time being approved by the said Commissioners under the next succeeding section.

(3) Where in respect of the provision for a director or employee of any future retirement or other benefits a sum has been deemed to be income of his by virtue either of subsection (1) or of subsection (2) of the last preceding section, and subsequently the director or employee proves to the satisfaction of the said Commissioners that no payment in respect of, or in substitution for, the benefits has been made and that some event has occurred by reason whereof no such payment will be made, and claims relief under this subsection within three years from the time when that event occurred, they shall give relief in respect of tax on that sum by repayment or otherwise as may be appropriate ; and if the director or employee satisfies the said Commissioners as aforesaid in relation to some particular part of the benefits but not the

**PART III.**  
—*cont.*

whole thereof, they may give such relief as may seem to them just and reasonable.

(4) Where apart from this subsection any sum would be deemed, by virtue either of subsection (1) or of subsection (2) of the last preceding section, to be income of an employee for any year of assessment, but, by reason of his exercising his employment outside the United Kingdom he is not assessable to income tax under Schedule E in respect of the emoluments of his employment for that year, that subsection shall not apply so as to cause that sum to be deemed to be income of his for that year.

**Approval of  
retirement  
benefit  
schemes.**

**21.—(1)** Subject to the provisions of the next succeeding section the Commissioners of Inland Revenue shall approve a retirement benefits scheme for the purpose of subsection (2) of the last preceding section unless it appears to them that the scheme does not fall within the said subsection (2) by reason of the fact that the main benefit afforded thereby is not such as is therein mentioned, or that, although the main benefit is such as aforesaid, the scheme fails to satisfy some one or more of the following conditions, that is to say—

- (a) that that benefit will accrue only on retirement at a specified age or on earlier retirement through incapacity or on death ;
- (b) that the nature of the benefits afforded by the scheme is the same in relation to all the persons to whom the scheme relates ;
- (c) that the proportion between the value of the pensions or annuities provided for by the scheme, in so far as they are not commutable, and the value of all other benefits afforded thereby, including the value of so much, if any, of the said pensions or annuities as is commutable, is reasonably comparable to the proportion between the values of such benefits respectively as are usually afforded by statutory superannuation schemes ;
- (d) that the aggregate value of the benefits, of whatever nature, afforded by the scheme is reasonably comparable to the aggregate value of the benefits usually afforded by statutory superannuation schemes in like circumstances ;
- (e) that the pensions or annuities provided for by the scheme are not assignable, either in whole or in part ; and
- (f) that no service of a person, in whatever capacity, rendered by him while he is a controlling director of the body corporate is taken into account for any of the purposes of the scheme :

Provided that the said Commissioners may, if they think fit, having regard to the facts of the particular case, approve a scheme the main benefit afforded whereby is such as is mentioned in subsection (2) of the last preceding section notwithstanding that it may not, in one or more respects, satisfy the whole of the aforesaid conditions.

(2) Where the said Commissioners have given their approval to a scheme, they may at any time, by notice in writing to the body corporate in question, withdraw their approval on such grounds, and as from such date, as may be specified in the notice.

(3) In the case of a scheme in existence at the passing of this Act the main benefit afforded whereby is not then such as is mentioned in subsection (2) of the last preceding section, or which does not then satisfy the conditions specified in subsection (1) of this section, but which is so altered before the sixth day of April, nineteen hundred and forty-eight, or within such further time as the said Commissioners may allow, as to be approvable under this section, approval thereof after the sixth day of April, nineteen hundred and forty-seven, shall, if the said Commissioners so direct, be deemed to have had effect as from that day.

22.—(1) References in this section, in the last three preceding sections, and in the next succeeding section, to a retirement benefits scheme shall be construed in accordance with the following provisions, that is to say—

Aggregation  
and severance  
of schemes.

(a) references to such a scheme shall, in relation to a deed, agreement, series of agreements, or other arrangements providing for retirement or other benefits for persons of two or more classes, be construed as references to so much thereof as relates to persons of a single class, and accordingly a deed, agreement, series of agreements or other arrangements so providing shall be treated for the purposes of those sections as constituting two or more retirement benefits schemes relating respectively to the different classes ;

(b) references to such a scheme include references to a deed, agreement, series of agreements, or other arrangements providing for retirement or other benefits for persons consisting of or including a director or employee, or directors or employees, of a body corporate (or, in a case falling within the preceding paragraph, to so much thereof as relates to a person or persons of any one class), notwithstanding that it or they relates or relate only to a small number of directors or employees, or to a single director or employee.

(2) For the purpose—

(a) of determining, in the case of a retirement benefits scheme which was in operation before the sixth day of

PART III.  
—cont.

April, nineteen hundred and forty-four, whether the scheme falls within subsection (2) of section twenty of this Act as respects the nature of the main benefit afforded thereby, and

- (b) of determining, in the case of a retirement benefits scheme submitted for the approval of the Commissioners of Inland Revenue, whether the scheme so falls and whether the conditions specified in subsection (1) of the last preceding section are satisfied,

the scheme shall be considered in conjunction with any other retirement benefits scheme or schemes subsisting in connection with the body corporate and relating to persons of the class to which the scheme in question relates, and—

- (i) if the main benefit afforded by all of those schemes taken together is such as is mentioned in subsection (2) of section twenty of this Act, each of them shall be taken to fall within that subsection as respects the nature of the main benefit afforded thereby, and, if it is not, none of them shall be taken so to fall ; and
- (ii) if the said conditions are satisfied in the case of all of them taken together, those conditions shall be taken to be satisfied in the case of each of them, and, if not, those conditions shall be taken to be satisfied in the case of none of them.
- (3) The said Commissioners may, if they think fit,—
- (a) approve a part of a retirement benefits scheme ; or
- (b) approve such a scheme notwithstanding that, having regard to another such scheme subsisting in connection with the body corporate, the scheme in question is to be treated by virtue of the last preceding subsection as not falling within subsection (2) of section twenty of this Act or as not satisfying the conditions aforesaid ;

and where under this subsection the said Commissioners approve a part of a scheme, neither subsection (1) nor subsection (2) of section nineteen of this Act shall apply so as to cause any sum to be deemed to be income of a director or employee by reference to the provision for him of benefits afforded by that part of the scheme or of any part of such benefits.

Supplementary provisions as to retirement or other benefits and application to unincorporated societies.

23.—(1) In this and the last four preceding sections, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

“controlling director” means a director of a company, the directors whereof have a controlling interest therein, who is the beneficial owner of, or able, either directly or



through the medium of other companies or by any other indirect means, to control, more than five per cent. of the ordinary share capital of the company, and for the purposes of this definition the expressions "company" and "ordinary share capital" have the same meanings as they have for the purposes of the Fourth Schedule to the Finance Act, 1937 ;

PART III.  
—cont.

1 Edw. 8 &  
1 Geo. 6. c. 54.

"director" means—

(a) in relation to a body corporate the affairs whereof are managed by a board of directors or similar body, a member of that board or similar body ;

(b) in relation to a body corporate the affairs whereof are managed by a single director or similar person, that director or person ;

(c) in relation to a body corporate the affairs whereof are managed by the members themselves, a member of the body corporate,

and includes any person who is to be or has been a director ;

"employee," in relation to a body corporate, includes any person taking part in the management of the affairs of the body corporate who is not a director, and includes a person who is to be or has been an employee ;

"excepted provident fund or staff assurance scheme or other similar scheme" means so much as relates to persons remunerated at a rate of two thousand pounds a year, or at a less rate, of any retirement benefits scheme as to which the following conditions are satisfied, that is to say—

(a) that the sums paid by the body corporate pursuant to the scheme in question in respect of any person for any period do not exceed ten per cent. of his remuneration for that period, and do not exceed one hundred pounds in the case of a period of a year or a correspondingly less or greater amount in the case of a shorter or longer period ; and

(b) that no other retirement benefits scheme which relates to employees of the body corporate who are of the class to which the scheme in question relates, and who are remunerated as aforesaid, is subsisting for the time being, or, if there is any such other scheme subsisting, that it (so far as it relates to persons remunerated as aforesaid) and the scheme in question taken together satisfy the requirement specified in paragraph (a) of this definition ;

PART III.  
—cont.

“retirement or other benefit,” means any pension, annuity, lump sum, gratuity or other like benefit to be given on retirement, or in anticipation of retirement, or, in connection with past service, after retirement, or to be given on or in anticipation of or in connection with any change in the nature of the service of the person in question, except that it does not include any pension, annuity, lump sum, gratuity or other like benefit which is to be afforded solely by reason of the death or disability of a person occurring during his service, and for no other reason ;

“service ” means service as an employee or director of the body corporate in question, and “retirement ” shall be construed accordingly ;

“statutory superannuation scheme ” means a scheme set up by or approved under any enactment relating to superannuation or set up by or approved under any regulations relating to superannuation made under any enactment by any Minister or government department, and for the purposes of this definition, the expressions “enactment,” “Minister ” and “government department ” include respectively an enactment of the Parliament of Northern Ireland, a Northern Ireland Minister and a Northern Ireland government department.

(2) Where an alteration has been made in a retirement benefits scheme at any time after the fifth day of April, nineteen hundred and forty-seven, the scheme shall, for the purposes of this and the last four preceding sections be deemed to have become a new scheme coming into being on the date of the alteration :

Provided that this subsection shall not apply to an alteration approved by the Commissioners of Inland Revenue.

(3) Any reference in this or the last four preceding sections to the provision for a person of retirement or other benefits includes a reference to the provision of benefits payable to that person's spouse, children, dependants or personal representatives, and any reference therein to the provision for a person of a pension or annuity for his life includes a reference to the provision (either in addition or as an alternative to the pension or annuity payable for his life) of a pension or annuity payable to that person's spouse, or to any child or dependant of that person, for the life of the spouse, child or dependant.

(4) Any reference in this or the last four preceding sections to the provision of retirement or other benefits, or of a pension or annuity, by a body corporate includes a reference to the provision thereof by means of a contract with a third person.

(5) It shall be the duty of a body corporate—

- (a) to deliver to the surveyor, within the time specified in this subsection, particulars of any retirement benefits scheme subsisting in connection with the body corporate on the sixth day of April, nineteen hundred and forty-seven; or coming into being after that date, other than a scheme referred to in subsection (1) of section twenty of this Act, and
- (b) when required so to do by notice given by the surveyor, to furnish within the time limited by the notice such further particulars as he may require with regard to any retirement benefits scheme subsisting in connection with the body corporate or to the persons to whom it relates,

PART III.  
—cont.

and the provisions of section one hundred and seven of the Income Tax Act, 1918 (which relates to failure to deliver lists, declarations and statements) shall apply in relation to the particulars required to be delivered by or under this subsection as they apply in relation to any list, declaration or statement required to be delivered by any such notice as is referred to in that section.

The time for delivery of particulars under paragraph (a) of this subsection shall be—

- (a) in the case of a scheme that came into being before the passing of this Act, six months beginning with the date of the passing of this Act ;
- (b) in the case of a scheme coming into being after the passing of this Act, three months beginning with the date of its coming into being.

(6) This and the last four preceding sections shall apply in relation to unincorporated societies or other bodies as they apply in relation to bodies corporate :

Provided that the reference in this subsection to unincorporated societies or other bodies shall be deemed not to include a reference to individuals in partnership.

*Miscellaneous provisions as to income tax.*

24.—(1) Subject to the provisions of this section, where a person carrying on a trade incurs, whether before or after the passing of this Act but before the end of the year nineteen hundred and forty-seven, rehabilitation costs in connection with the trade, those costs may be deducted as an expense in computing the profits or gains of the trade for the purposes of income tax :

Relief for capital expenditure on rehabilitation.

PART III.  
—cont.

Provided that if the person carrying on the trade produces to the Commissioners of Inland Revenue before the end of March, nineteen hundred and forty-eight, particulars of work required to be done, as at the thirty-first day of December, nineteen hundred and forty-six, and satisfies them that it was not possible for that work to be done before the end of the year nineteen hundred and forty-seven, the said Commissioners may direct that, in relation to any rehabilitation costs incurred in doing that work, this subsection shall have effect as if for the first reference therein to the end of the year nineteen hundred and forty-seven there were substituted a reference to the end of the year nineteen hundred and forty-eight or, if the circumstances so require, to such later date as the said Commissioners may allow, being a date not later than the end of the year nineteen hundred and forty-nine.

(2) Where the excess in respect of which an exceptional depreciation allowance falls to be made for any year of assessment in charging the profits or gains of a trade has been increased owing to any rehabilitation costs having been treated as part of the net cost of the provision of any building, machinery or plant, any deduction allowable under this section in respect of those costs in computing the profits or gains of the trade (whether for the same or any other year of assessment) shall be reduced by the amount of the increase ; and where any such excess would have been diminished if the work which is the subject of any rehabilitation costs incurred in connection with the trade after the thirty-first day of December, nineteen hundred and forty-six, had been completed on that day, any deduction allowable under this section in respect of those costs in computing the profits or gains of the trade (whether for the same or any other year of assessment) shall be reduced by the amount of the diminution.

(3) Where a deduction allowed under this section in computing the profits or gains of a trade for any year of assessment is in respect of rehabilitation costs incurred in the provision, renewal, improvement, reinstatement or replacement of any machinery or plant, any deduction made in respect of that machinery or plant under Rule 6 of the Rules applicable to Cases I and II of Schedule D in charging the profits or gains of the trade (whether for the same or any other year of assessment) and any deduction made in respect of the machinery or plant under Rule 7 of those Rules in estimating the profits or gains of the trade (whether for the same or any other year of assessment) shall be computed as if those costs had not been incurred.

(4) In this section, the expression "rehabilitation costs" means—

(a) expenditure on the removal of works designed to afford protection from hostile attack ;

- (b) where the trade was, as a consequence of the war, removed in whole or in part to a different place, expenditure on again removing the trade or that part thereof back to the place where it was carried on before the first-mentioned removal, or, where the trade or that part thereof is not removed back to that place, expenditure on removing it to some other place up to the amount which would have been incurred in removing it back to that place ;
- (c) where any buildings, plant, machinery or other physical assets held for the purposes of the trade were, either as respects lay-out or otherwise, altered so as to adapt them to conditions prevailing as a result of the war, any expenditure incurred on again altering the assets so as to re-adapt them to peace-time requirements, except so far as that expenditure represents an improvement of the character or condition of the assets as compared with their character and condition before the first mentioned alteration,

the expression " exceptional depreciation allowance " means an allowance made under section nineteen of the Finance Act, 1941, 4 & 5 Geo. 6. and any reference in this section to an allowance made or deduction allowed includes a reference to an allowance or deduction which would be made or allowed but for an insufficiency of profits or gains against which to make it. c. 30.

(5) Nothing in this section applies in relation—

- (a) to any rehabilitation costs which, apart from the provisions of this section, would be deductible in computing the profits or gains of the trade in question for the purposes of income tax ; or
- (b) to so much of any rehabilitation costs as has been or is to be met 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 the trade in question,

and references in this section to rehabilitation costs shall be construed accordingly.

(6) This section shall have effect as respects the year 1939-40 and subsequent years of assessment and all necessary adjustments of any assessments made before the passing of this Act, for any year of assessment, shall be made accordingly ; but it shall not apply for the purposes of excess profits tax.

25. Sums disbursed in discharge of any liability to the profits tax shall, for the purposes of section thirty-three of the Income Tax Act, 1918 (which gives relief to assurance companies and others in respect of expenses of management), be treated as sums Payments of the profits tax to be treated as expenses of management.

PART III.  
—cont.

disbursed as expenses of management, and, in the case of a claim for relief made by virtue of this section, the time allowed by subsection (2) of that section for the making of claims shall be extended until twelve months after the end of the year of assessment during which the disbursement in question is made.

Amendment of  
s. 4 of Income  
Tax Act, 1945.

26.—(1) After subsection (6) of section four of the Income Tax Act, 1945, there shall be inserted the following subsection :—

“(6A) If any exceptional depreciation allowance is made in respect of a building or structure for the year of assessment in which the appointed day falls, an amount equal to that allowance shall be written off as at the end of the immediately preceding year of assessment.”

(2) This section shall be deemed always to have had effect, and such additional assessments shall be made (including assessments for the year 1946-47) as are necessary to give effect to this subsection.

Exemption  
from income  
tax of training  
expenses  
allowances  
and bounties  
of reserve and  
auxiliary  
forces.

27. The sums known as training expenses allowances payable out of the public revenue to members (whether men or women) of the reserve and auxiliary forces of the Crown, and the sums payable by way of bounty out of the public revenue to such members in consideration of their undertaking prescribed training and attaining a prescribed standard of efficiency, shall not be regarded as income for any of the purposes of the Income Tax Acts.

Exemption  
from income  
tax of  
gratuities  
payable to  
certain women  
who re-engage  
in the forces.

28. Where, under the scheme relating to members of the Women's Royal Naval Service, the Auxiliary Territorial Service and the Women's Auxiliary Air Force announced on behalf of His Majesty's Government in the United Kingdom on the twentieth day of November, nineteen hundred and forty-six, or under any other scheme certified by the Treasury to make analogous provision for classes of persons to whom the first mentioned scheme does not apply, a woman who has served in or with the armed forces of the Crown at any time during the continuance in force of the Emergency Powers (Defence) Act, 1939, voluntarily undertakes to serve in or with those forces for a further period, any sum payable to her in pursuance of the scheme out of moneys provided by Parliament by way of gratuity at the end of her further period of service shall not be regarded as income for any of the purposes of the Income Tax Acts.

2 & 3 Geo. 6.  
c. 62.

Assets trans-  
ferred under  
Coal Industry  
Nationalisa-  
tion Act,  
1946.  
9 & 10 Geo. 6.  
c. 59.

29.—(1) Where, whether before or after the passing of this Act, any assets consisting of or of an interest in any property vest in the National Coal Board by virtue of section five or section six of the Coal Industry Nationalisation Act, 1946, or by virtue of section forty-four of, and the Third Schedule to, that

Act, and, immediately before the date of the vesting thereof, the assets were assets of a colliery concern, a subsidiary of a colliery concern, a body administering a scheme under Part I of the Coal Mines Act, 1930, or the South Yorkshire Mines Drainage Committee, the provisions of the Seventh Schedule to this Act shall have effect in computing the liability to income tax of the person who was, immediately before the said date, the owner of the said assets, and of the said Board respectively.

PART III.  
—cont.

21 & 22 Geo. 5.  
c. 27.

(2) If, in computing the liability to income tax for any year of assessment of any such owner or of the said Board, anything has been done otherwise than in accordance with the provisions of the said Schedule, such adjustments may be made by way of additional assessment or otherwise as may be necessary to secure compliance with the provisions thereof.

(3) In this section and the said Seventh Schedule, the expression "colliery concern" has the meaning assigned to it by section sixty-three of the Coal Industry Nationalisation Act, 1946, and the expression "subsidiary" has the meaning assigned to it by paragraph 25 of the First Schedule to that Act.

#### PART IV.

#### THE PROFITS TAX.

##### *Principal changes of the law.*

30.—(1) Subject to the provisions of this Part of this Act— Rate of the profits tax.

(a) the profits tax to be charged for any chargeable accounting period on the profits of a trade or business shall be of an amount equal to twelve and a half per cent. of the profits; and

(b) accordingly, in subsection (1) of section nineteen of the Finance Act, 1937, for the words "of an amount equal to five per cent. of those profits in a case where the trade or business is carried on by a body corporate and four per cent. of those profits in any other case" there shall be substituted the words "of an amount equal to twelve and a half per cent. of those profits".

(2) Subject to the provisions of this Part of this Act, if, in the case of any trade or business, the net relevant distributions to proprietors (as defined in the subsequent provisions of this Part of this Act) for any chargeable accounting period are less than the profits thereof for that period chargeable to the profits tax, the amount chargeable by way of the profits tax in respect of that period shall be reduced by an amount equal to seven and a half per cent. of the difference.

(3) Subject to the provisions of this Part of this Act, if, in the case of a trade or business, the net relevant distributions to

PART IV.  
—cont.

proprietors (as defined in the subsequent provisions of this Part of this Act) for any chargeable accounting period are greater than the profits thereof for that period chargeable to the profits tax, there shall be charged for that period, in addition to the other profits tax, if any, chargeable therefor, profits tax at the rate of seven and a half per cent. on the amount of the difference :

Provided that the amount on which tax is chargeable under this subsection for any chargeable accounting period shall not, when added to the total of the amounts on which tax is charged thereunder for previous chargeable accounting periods, exceed the total of the differences in respect of which reductions have been made under subsection (2) of this section for previous chargeable accounting periods.

(4) The reductions falling to be made under subsection (2) of this section and the charges falling to be made under subsection (3) thereof are hereafter in this Act respectively referred to as "reliefs for non-distribution" and "distribution charges."

Exemption of  
individuals  
and  
partnerships  
of individuals  
from the  
profits tax.

31.—(1) Subject to the provisions of this Part of this Act relating to partnerships where one or more of the partners is a body corporate and to the provisions thereof relating to trades or businesses carried on by liquidators, receivers, managers, trustees, judicial factors and other similar persons,—

- (a) section nineteen of the Finance Act, 1937 (being the section which charges the profits tax) shall not apply to any trade or business unless it is carried on by a body corporate or by an unincorporated society or other body ; and
- (b) the chargeable accounting periods of any other trade or business to which the said section nineteen ceases to apply by virtue of this subsection shall be determined as if the years of charge to the profits tax had ended at the end of the year nineteen hundred and forty-six :

Provided that—

- (i) the reference in paragraph (a) of this subsection to an unincorporated society or other body shall be deemed not to include a reference to individuals in partnership or to persons acting as the personal representatives of a deceased person ; and
  - (ii) the reference in the said paragraph (a) to a body corporate shall be deemed not to include a reference to a body corporate acting as the personal representative, or as one of the personal representatives, of a deceased person.
- (2) The said section nineteen shall not apply to any trade or business carried on by a body corporate during any chargeable accounting period if, for a year or period which includes, or for



years or periods which together include, the whole of the chargeable accounting period, the actual income of the body corporate from all sources is apportioned under or for the purposes of section twenty-one of the Finance Act, 1922, and all the persons to whom it is apportioned are individuals.

PART IV.  
—cont.

12 & 13 Geo. 5.  
c. 17.

(3) If, for a year or period which includes, or for years or periods which together include, the whole of a chargeable accounting period of a trade or business carried on by a body corporate, the actual income of the body corporate from all sources is apportioned under or for the purposes of the said section twenty-one, and some (but not all) of the persons to whom the income is apportioned are individuals, then if by notice in writing given to the Commissioners within six months from the end of that chargeable accounting period, or such longer time as the Commissioners may in any case allow, the body corporate and the persons other than individuals to whom the income is apportioned jointly so elect as respects that chargeable accounting period and each subsequent chargeable accounting period the whole of which is included in a year or period or years or periods for which the said actual income is so apportioned to those persons and persons who are individuals, the provisions of this Part of this Act shall apply as if—

- (a) the trade or business had been carried on, during that and each such subsequent chargeable accounting period, in partnership by the persons to whom the income is apportioned, and the share of any one of them of the profits and losses of the trade or business therefor had been equal to the proportion of the income apportioned for the year or period or years or periods in question which is apportioned therefor to that one of them ; and
- (b) any payment which is received from the body corporate during that or any such subsequent chargeable accounting period by any of the persons to whom the income is apportioned, and which is not allowable as a deduction in computing the profits of the trade or business therefor, had not been made ;

and the body itself shall not be chargeable to profits tax for that or any such subsequent chargeable accounting period.

(4) In ascertaining for the purposes of the last two preceding subsections to what persons income is apportioned, account shall, in cases where an original apportionment, as defined in subsection (4) of section thirteen of the Finance Act, 1939, and any sub-apportionment, as so defined, are involved, be taken only of persons to whom income is finally apportioned as the result of the whole process of original apportionment and sub-apportionment.

PART IV.  
—cont.  
Investment  
income to be  
included in  
computing  
profits.

32.—(1) For sub-paragraph (1) of paragraph 7 of the Fourth Schedule to the Finance Act, 1937, there shall be substituted the following sub-paragraphs :—

“ 7.—(1) Income received from investments or other property shall be included in the profits except—

(a) income received directly by way of dividend or distribution of profits from a body corporate carrying on a trade or business to which section nineteen of this Act applies ; and

(b) income so received from any other body corporate, being income received indirectly by way of dividend or distribution of profits from a body corporate carrying on such a trade or business as aforesaid ; and

(c) income to which the persons carrying on the trade or business are not beneficially entitled :

Provided that the profits of a body corporate which, either alone or in conjunction with any statutory undertakers carrying on a trade or business to which subsection (5) of the said section nineteen applies, has a controlling interest in any other body corporate, being such statutory undertakers as aforesaid, shall not in any case include any income received from that other body corporate.

(1A) Any reference in any enactment relating to the profits tax to franked investment income shall be construed as a reference to the income which would be included in the profits if paragraphs (a) and (b) of the preceding sub-paragraph had been omitted, and, in computing profits for the purposes of so much of any such enactment as refers to profits including franked investment income, the said sub-paragraph shall have effect as if the said paragraphs (a) and (b) were omitted.”

1 & 2 Geo. 6.  
c. 46.

(2) Section forty-five of the Finance Act, 1938 (which limits the amount of investment income to be included in the profits of certain assurance businesses) shall cease to have effect.

Abatement  
of profits  
in certain  
cases.

33.—(1) Where the profits arising in any chargeable accounting period from a trade or business, computed apart from the provisions of this and the two next succeeding subsections and including franked investment income, do not exceed two thousand pounds, the profits arising from the trade or business for that period shall, subject to the provisions of subsection (4) of this section, be deemed for all the purposes of the enactments relating to the profits tax to be nil.

(2) Where the profits arising in any chargeable accounting period from a trade or business, computed apart from the provisions of the preceding subsection, this subsection and the next succeeding subsection, and including franked investment income, exceed two thousand pounds but are less than twelve thousand pounds, the profits arising from the trade or business in that period shall, subject to the provisions of subsection (4) of this section, be deemed for all the purposes of the enactments relating to the profits tax, to be reduced—

- (a) where there is no franked investment income, by a sum equal to one-fifth of the difference between the amount of the profits computed as aforesaid and twelve thousand pounds ;
- (b) where there is franked investment income, by a sum which bears to one-fifth of the difference between the profits, computed as aforesaid and including franked investment income, and twelve thousand pounds the same proportion that the profits arising in that period from the trade or business, computed as aforesaid but not including franked investment income, bear to the profits arising in that period from the trade or business, computed as aforesaid but including franked investment income.

(3) In relation to a chargeable accounting period of less than twelve months, references in this section to two thousand pounds and twelve thousand pounds shall be construed as references to a sum which bears the same proportion to two thousand pounds or twelve thousand pounds, as the case may be, as the length of the period bears to twelve months.

(4) Notwithstanding anything in subsections (1) to (3) of this section, any profits which, under any of the following provisions of this Part of this Act or any other provision of any enactment relating to the profits tax, are directed to be computed "without abatement" shall be computed as if those subsections had not passed.

The said subsections (1) to (3) are hereafter in this Act referred to as "the provisions for abatement."

(5) Section twenty-one of the Finance Act, 1937, shall cease to have effect.

*Supplementary provisions as to non-distribution relief and distribution charges.*

34.—(1) The provisions of this and the three next succeeding sections shall, subject to the subsequent provisions of this Part of this Act, have effect for the purpose of determining, in relation to any body corporate, unincorporated society or other body, what is to be taken, for the purposes of the provisions of this Act

Meaning of "net relevant distributions to proprietors".

PART IV.  
—cont.

relating to reliefs for non-distribution and distribution charges, as the net relevant distributions to proprietors for any chargeable accounting period of that body corporate, society or other body.

(2) The net relevant distributions to proprietors for any chargeable accounting period of a body corporate, society or other body are so much of the gross relevant distributions to the proprietors for that period of that body corporate, society or other body (as defined by the next succeeding section) as bears to the whole of the said gross relevant distributions the same proportion that the profits for that period bear to the profits therefor computed without abatement and including franked investment income :

Provided that where the said gross relevant distributions exceed the profits computed without abatement and including franked investment income, the net relevant distributions shall be the sum of—

- (a) the profits for the period computed with due regard to the provisions for abatement but not including franked investment income ; and
- (b) the amount of the excess.

Meaning of  
“ gross  
relevant  
distributions  
to  
proprietors ”.

35.—(1) Subject to the provisions of this and the two next succeeding sections, the gross relevant distributions to proprietors for any chargeable accounting period of a body corporate, society or other body, are the total distributions to the members of the body corporate, society or other body, not being distributions allowable as deductions in computing the profits of the trade or business for any period for the purposes of the profits tax, and being either—

- (a) dividends declared not later than six months after the end of that period which are expressed to be paid in respect of that period or any part thereof ; or •
- (b) distributions (other than dividends which, under paragraph (a) of this subsection, are to be treated as part of the gross relevant distributions to proprietors for any previous chargeable accounting period) made in the period ; or
- (c) in the case of the last chargeable accounting period in which the trade or business is carried on, so much of any distribution made after the end of that period (not being a distribution to which paragraph (a) of this subsection applies) as is not a distribution of capital,

and, for the purposes of paragraph (c) of this subsection, the distributions which are to be treated as distributions of capital shall not, in the case of distributions made by a body corporate with a share capital, exceed an amount equal to the total nominal

amount of the paid-up share capital thereof together, where the body corporate has issued shares at a premium for cash, with the aggregate of the amounts of the premiums.

(2) If the Commissioners are satisfied, with respect to a dividend declared more than six months after the end of a chargeable accounting period which is expressed to be paid in respect of that period or any part thereof, that the dividend could not reasonably have been declared before the expiration of the said six months, they may, if they think fit, direct that it shall be treated for the purposes of subsection (1) of this section as if it had been declared within the said six months.

(3) Where the person carrying on the trade or business so elects by notice in writing given to the Commissioners within six months from the passing of this Act or such longer time as they may in any case allow, subsections (1) and (2) of this section shall apply, in relation to all chargeable accounting periods of that trade or business, with the substitution for references therein to six months of references to nine months, or, in the case of a company carrying on business or having interests abroad, twelve months.

(4) If, in the case of any chargeable accounting period falling wholly or partly before the beginning of the year nineteen hundred and forty-seven, the total of the dividends expressed to be paid in respect of, or of any part of, that period exceeds the total of the dividends expressed to be paid in respect of, or of any part of, the immediately preceding chargeable accounting period, the dividends in respect of the whole or any part of the first mentioned chargeable accounting period declared after the fifteenth day of April, nineteen hundred and forty-seven, shall, to the extent of the excess, be treated as a distribution for the chargeable accounting period in which they are paid and not of the period in respect of which they are expressed to be paid :

Provided that—

- (a) where the amount of any class of paid-up share capital on which dividends are expressed to be paid in respect of, or of any part of, the preceding chargeable accounting period is less than the amount of that class of paid-up share capital on which dividends are expressed to be paid in respect of, or of any part of, the succeeding chargeable accounting period, the dividends on that class of capital expressed to be paid in respect of, or of part of, the said preceding period shall, if the person carrying on the trade or business so elects, be treated for the purposes of this subsection as correspondingly increased ; and
- (b) where the preceding chargeable accounting period is longer or shorter than the succeeding chargeable

PART IV.  
—cont.

accounting period, the total dividends expressed to be paid in respect of, or of any part of, the said preceding period shall be treated for the purposes of this subsection as correspondingly reduced or increased.

(5) In this section, the expression "dividend" includes an interim dividend, and a dividend shall be treated as being declared—

- (a) in the case of a dividend declared by a body or society in general meeting, at the date of the declaration ;
- (b) in any other case, at the date on which it is paid :

Provided that—

- (i) where a dividend is declared in general meeting in accordance with a recommendation of the directors and the directors' decision to make that recommendation was, with the authority of the directors, publicly announced at an earlier date, the dividend shall, for the purposes of this section, be treated as declared at that earlier date ; and
- (ii) where a dividend not so declared is paid in accordance with a decision of the directors, and that decision was, with their authority, publicly announced at an earlier date, the dividend shall, if the body or society so elects, for the purposes of this section be treated as declared at that earlier date.

Meaning of  
"distribution"  
and provision  
with respect  
to repaid  
loans.

36.—(1) Subject to the provisions of the next succeeding subsection, wherever—

- (a) any amount is distributed directly or indirectly by way of dividend or cash bonus to any person ; or
- (b) assets are distributed in kind to any person ; or
- (c) where the trade or business is carried on by a body corporate the directors whereof have a controlling interest therein, an amount is applied, whether by way of remuneration, loans or otherwise, for the benefit of any person,

there shall be deemed for the purposes of the last preceding section to be a distribution to that person of that amount or, as the case may be, of an amount equal to the value of those assets :

Provided that no sum applied in repaying a loan or in reducing the share capital of the person carrying on the trade or business shall be treated as a distribution.

(2) Where a distribution is one in respect of which the person making it is authorised or required to deduct income tax, the amount of the distribution shall be taken for the purposes of the last preceding section to be the amount which represents or would be deemed to represent income for the purposes of the Income Tax Acts.

## (3) Where—

- (a) a loan has been treated as part of the gross relevant distributions to proprietors for a chargeable accounting period ; and
- (b) as a result, the amount of tax payable for that period has been increased,

then, if the loan is repaid, the gross relevant distributions to proprietors for the period in which repayment is made, or, if the repayment is made after the end of the last chargeable accounting period of the trade or business, the gross relevant distributions to proprietors for the said last period, shall be treated as reduced by the amount corresponding to the increase, that is to say, by the amount tax on which, at seven and a half per cent., would be equal to the increase ; and if the said corresponding amount is greater than the said gross relevant distributions, the excess shall be carried forward so as to reduce the gross relevant distributions to proprietors for the next chargeable accounting period and so on for subsequent chargeable accounting periods.

## (4) Where—

- (a) as part of a scheme of amalgamation or reconstruction a trade or business carried on by a body corporate (in this subsection referred to as “ the first company ”) is transferred to another body corporate (in this subsection referred to as “ the second company ”) ;
- (b) the consideration for the transfer consists wholly or mainly of shares in the second company ; and
- (c) the first and second companies jointly so elect by notice in writing given to the Commissioners within six months after the transfer or such longer time as the Commissioners may in any case allow,

the provisions of this Part of this Act shall apply subject to the following modifications, that is to say—

- (i) any distribution of those shares to any person in a winding up of the first company shall, notwithstanding anything in subsection (1) of this section, not be deemed for the purposes of the last preceding section to be a distribution to that person ; and
- (ii) in considering what distribution charge, if any, falls to be made on the second company, any difference on which non-distribution relief for chargeable accounting periods before the transfer was given to the first company or other person assessable to profits tax on the profits of the trade or business of the first company shall, except so far as it has already operated to increase a distribution charge on the first company, be taken into account as

PART IV.  
—cont.

if it had been a difference arising in relation to the second company on which non-distribution relief had been given to that company, and shall also be taken into account, in the case of the last chargeable accounting period of the second company, so as to increase the amount which, for the purposes of paragraph (c) of subsection (1) of the last preceding section, is to be treated as not a distribution of capital.

Apportionments to be made to arrive at gross relevant distributions for a period.

37.—(1) Where a chargeable accounting period is not a period for which the accounts of the trade or business have been made up, the gross relevant distributions to proprietors shall be computed in relation to the periods for which accounts relating to the trade or business have been made up (being periods falling wholly or partly within the chargeable accounting period) as if those periods were chargeable accounting periods, and such division and apportionment to specific periods of the amounts so computed and such aggregation of any such amounts or of any apportioned parts thereof shall be made as appears necessary to arrive at the gross relevant distributions to proprietors for the chargeable accounting period.

(2) Any apportionment under this section shall be made in proportion to the number of months or fractions of months in the respective periods.

*Provisions applicable in special cases.*

Subsidiary companies.

38.—(1) Where a notice under subsection (1) of section twenty-two of the Finance Act, 1937 (which relates to subsidiary companies) is in force—

- (a) the franked investment income, and the gross relevant distributions, of the subsidiary to which the notice relates for any chargeable accounting period shall for all purposes be included in the franked investment income and the gross relevant distributions of the principal company for the corresponding chargeable accounting period of that company; but
- (b) no franked investment income received by the principal company directly from that subsidiary, or received by the subsidiary directly from the principal company or directly from any other subsidiary of the principal company with respect to which such a notice is in force given by that company, and no distributions made by the principal company to the subsidiary, or by the subsidiary to the principal company or to any such other subsidiary of the principal company as aforesaid, shall be so included.



(2) Where the following conditions are fulfilled, that is to say—

- (a) while such a notice as aforesaid is in force, the net relevant distributions to proprietors for any chargeable accounting period are, in the case of the principal company, greater than the profits for that period chargeable to the profits tax ; and
- (b) in any chargeable accounting period of the subsidiary, being a period before the notice came into force, the net relevant distributions to proprietors were, in the case of the subsidiary, less than the profits for that period chargeable to the profits tax and non-distribution relief was given to the subsidiary accordingly on the amount of the difference,

then, in considering what distribution charge, if any, falls to be made by reason of the excess referred to in paragraph (a) of this subsection on the principal company, the difference on which non-distribution relief was given to the subsidiary as aforesaid shall, except so far as it has already operated to increase a distribution charge on the subsidiary or on any other body corporate which has been a principal company of that subsidiary, be taken into account as if it had been a difference arising in relation to the principal company on which non-distribution relief had been given to the principal company.

(3) Where—

- (a) such a notice as aforesaid is in force ; and
- (b) the subsidiary to which the notice relates pays to the principal company an amount by way of reimbursement of profits tax which by virtue of the notice having been given is payable by that company for any chargeable accounting period ending after the thirty-first day of December, nineteen hundred and forty-six ; and
- (c) the principal company and the subsidiary jointly so elect by notice in writing given to the Commissioners of Inland Revenue within six months from the end of that chargeable accounting period or such longer time as those Commissioners may in any case allow,

the amount so paid, and any amount so paid in relation to a subsequent chargeable accounting period, by the subsidiary to the principal company shall for all the purposes of the Income Tax Acts be treated—

- (i) as regards the subsidiary, as an amount of profits tax payable in respect of its profits arising in the chargeable accounting period of the subsidiary corresponding to the chargeable accounting period to which the payment relates ; and

PART IV.  
—cont.

(ii) as regards the principal company, as reducing the amount of the profits tax payable by the principal company for the chargeable accounting period to which the payment relates.

(4) If at any time after the end of the year nineteen hundred and forty-six a body corporate is a subsidiary of another body corporate, there shall be made such alterations, if any, of the periods which would otherwise be chargeable accounting periods of either body corporate as the Commissioners may direct.

(5) The principal company may, at any time within six months from the passing of this Act, or such longer time as the Commissioners may allow, by notice in writing to the Commissioners revoke any such notice as aforesaid which was given before the passing of this Act, and where a notice is so revoked—

(a) the notice shall be deemed to have ceased to have effect as from the first day of January, nineteen hundred and forty-seven, without, however, reviving any previous notice which had ceased to be in force by reason of the giving thereof; and

(b) where any accounting period of either body corporate falls partly before and partly after the end of the year nineteen hundred and forty-six, the parts thereof falling before and after the end of that year shall be separate chargeable accounting periods.

(6) This section shall be construed as one with the said section twenty-two.

Persons  
resident  
outside  
United  
Kingdom.

39.—(1) Where the person carrying on a trade or business is ordinarily resident outside the United Kingdom throughout a chargeable accounting period, the profits tax payable by that person shall be ascertained as if no net relevant distributions to proprietors had been made in the case of that person for that period.

(2) Where a trade or business is carried on by a body corporate and, throughout a chargeable accounting period, both the following conditions are fulfilled, that is to say—

(a) that that body corporate is ordinarily resident in the United Kingdom; and

(b) that another body corporate which is not ordinarily resident in the United Kingdom controls, directly or indirectly, not less than one half of the voting power in the first-mentioned body corporate,

distributions to that other body corporate shall be left out of account in determining, in relation to the first-mentioned body corporate, the net relevant distributions to proprietors for that period.

(3) Where the franked investment income of a person includes income received from a body corporate ordinarily resident outside the United Kingdom to which subsection (1) or subsection (2) of this section applies, the preceding provisions of this Part of this Act relating to the determination of the net relevant distributions for any period by reference to the gross relevant distributions therefor shall have effect subject to the following modification, that is to say, that any reference therein to the profits for the period (not being a reference to profits computed without abatement and including franked investment income) shall be construed as a reference to the first mentioned profits increased by the said income received from the said body corporate.

40.—(1) Where the person carrying on a trade or business is a body corporate with a share capital and, throughout a chargeable accounting period, no person other than the Crown has any beneficial interest in any of the share capital thereof, the profits tax payable by that person shall be computed as if no net relevant distributions to proprietors had been made for that period. Nationalised undertakings.

(2) Subsection (5) of section nineteen of the Finance Act, 1937, (which exempts from the charge to the profits tax certain trades or businesses carried on by statutory undertakings) shall not apply to—

- (a) the North of Scotland Hydro-Electric Board constituted under the Hydro-Electric Development (Scotland) Act, 1943; or 6 & 7 Geo. 6.  
c. 32.
- (b) any Authority or Board constituted by any Act of the present Session (whether passed before or after the passing of this Act) which provides, amongst other matters, for the establishment of a British Electricity Authority and Area Electricity Boards; or
- (c) any Transport Commission established by, or any body constituted by any scheme made under, any Act of the present Session (whether passed before or after the passing of this Act) which provides, amongst other matters, for the establishment of a British Transport Commission concerned with transport and certain other related matters; or
- (d) any Authority, Board, Commission or body constituted by or under any Act passed after the passing of this Act which embodies any scheme for the carrying on of any industry, or part of an industry, or any undertaking, under national ownership or control; or
- (e) any body corporate with a share capital if no person other than the Crown has any beneficial interest in any of the share capital thereof,

PART IV.  
—cont.

and nothing in, or in any scheme having effect under, any such Act as is mentioned in paragraph (b), paragraph (c) or paragraph (d) of this subsection which has the effect of applying to any such Authority, Board, Commission or other body as is mentioned in those paragraphs any provisions relating to an undertaking the whole or any part of which is transferred to that Authority, Board, Commission or other body, shall be construed as applying the provisions of the said subsection (5) of the said section nineteen to that Authority, Board, Commission or body, either generally or in relation to any part of the undertakings carried on by them.

(3) The following payments, that is to say—

- (a) payments of interest by any such Authority, Board, Commission or other body as is mentioned in paragraph (b), paragraph (c) or paragraph (d) of subsection (2) of this section, or by any of the three corporations as defined by section one of the Civil Aviation Act, 1946, being payments of interest on stock issued as, or to raise the money for paying, compensation to be made for or in connection with the acquisition of any property or of the whole or any part of any undertaking, or on stock which directly or indirectly replaces any such stock as aforesaid, or being payments of interest payable to recipients of such compensation, or to persons who held securities carrying the right to such compensation, in respect of periods beginning with the acquisition ;
- (b) payments of interest by the said North of Scotland Hydro-Electric Board on any stock issued by that Board to any such Authority as is mentioned in the said paragraph (b), and repayments by that Board to that Authority of any such payments of interest by that Authority as are mentioned in paragraph (a) of this subsection ;
- (c) so much of any payments by the National Coal Board to the Crown under paragraph (a) of subsection (1) of section twenty-eight of the Coal Industry Nationalisation Act, 1946 as would, apart from this subsection, be deducted in computing the profits of that Board for the purposes of the profits tax ; and
- (d) payments by any such Board as is mentioned in paragraph (b) of the said subsection (2) to any such Authority as is mentioned in that paragraph, being payments by way of contribution towards the satisfaction of the obligations of that Authority in respect of any such interest as is mentioned in paragraph (a) of this subsection,

shall not be allowed to be deducted in computing the profits for the purposes of the profits tax of the Boards, Authorities,

9 & 10 Geo. 6.  
c. 70.

Commissions, corporations or other bodies in question; and the payments mentioned in paragraphs (b) and (d) of this subsection shall not be taken into account in computing the profits for the purposes of the profits tax of the Authority which receives the said payments:

PART IV.  
—cont.

Provided that where immediately before the acquisition of the whole or any part of any undertaking or any of the property thereof by any such Board, Authority, Commission, corporation or other body, the capital of that undertaking consisted wholly or partly of debentures, debenture stock or other loan capital, this subsection shall not apply to so much of any of the payments therein mentioned relating to the acquisition as in the opinion of the Commissioners may be appropriate having regard to the extent to which the capital consisted of such capital.

41.—(1) Where the person carrying on a trade or business is a registered society, the profits tax payable by the society shall be computed as if no net relevant distributions to proprietors had been made in the case of that trade or business for any chargeable accounting period. Industrial and provident societies.

(2) For the purposes of this section, the expression “registered society” means a society registered under the Industrial and Provident Societies Acts, 1893 to 1928, or under the enactments in force in Northern Ireland known as the Industrial and Provident Societies Acts (Northern Ireland), 1893 to 1929.

42.—(1) The amount of the profits tax chargeable on the profits arising in any chargeable accounting period from the business of a building society, including any distribution charge, shall not exceed three per cent. of the amount of those profits, computed without allowing any deduction for interest paid on money borrowed by the society from members or depositors. Building societies.

(2) Where the amount of the profits tax payable by a building society for any chargeable accounting period is reduced by the operation of subsection (1) of this section, any distribution charges for subsequent chargeable accounting periods shall be computed as if no reduction had taken place and the full amount of tax had been paid.

(3) This section shall have effect in substitution for subsection (1) of section twenty-three of the Finance Act, 1937, and, in this section, the expression “building society” has the meaning assigned to it by subsection (2) of that section.

43.—(1) All trades or businesses to which section nineteen of the Finance Act, 1937, applies carried on by the same person shall be treated as one trade or business for the purposes of the enactments relating to the profits tax. Persons carrying on several trades or businesses

PART IV.  
—cont.  
and changes  
in the persons  
carrying on  
trades or  
businesses.

(2) Where trades or businesses which were, in previous chargeable accounting periods, treated as separate trades or businesses are, by virtue of subsection (1) of this section, treated as one trade or business, the like sums may be carried forward under paragraph 2 and sub-paragraph (2) of paragraph 3 of the Fourth Schedule to the said Act from the said previous periods for the purposes of the profits tax in respect of the one trade or business as might have been carried forward from those periods for the purposes of the profits tax in respect of the separate trades or businesses if they had still fallen to be treated as separate trades or businesses.

(3) Nothing in this section shall apply to any trade or business which had ceased to be carried on before the end of the year nineteen hundred and forty-six.

(4) Where trades or businesses to which the said section nineteen applies are carried on by the same person during the whole or any part of the year nineteen hundred and forty-six and also during the whole or any part of the following year, and the periods which, apart from this section, would be the accounting periods of those trades or businesses for the purposes of the profits tax do not coincide, and any of those periods fall partly before and partly after the end of the year nineteen hundred and forty-six—

- (a) the parts of the last mentioned periods which fall before the end of the said year shall be treated for the purposes of the profits tax as separate accounting periods; and
- (b) accounting periods (the first of which shall begin immediately after the end of the said year) shall be determined for the purposes of the profits tax in relation to the combined trade or business as if it had been commenced to be carried on immediately after the end of the said year; and
- (c) subsection (1) of this section shall not apply with respect to the accounting periods mentioned in paragraph (a) of this subsection but shall apply with respect to the accounting periods mentioned in paragraph (b) thereof.

(5) When any change takes place in the persons carrying on a trade or business, the trade or business shall be deemed for the purposes of the profits tax to be discontinued at the time of the change and a new trade or business to have then been set up and commenced.

Liquidations,  
receiverships,  
partnerships,  
etc.

44.—(1) Where the trade or business of a body corporate, or of an unincorporated society or other body, is being carried on by a liquidator, receiver, manager, trustee or judicial factor, or by any person acting in any capacity similar to the capacities as aforesaid, the trade or business shall, for all the purposes of

the enactments relating to the profits tax, be treated as if it were being carried on by the body corporate, society or other body, except that the tax shall be assessed on the liquidator, receiver, manager, trustee, judicial factor or other person and any returns or particulars required to be furnished with respect to the trade or business shall be furnished by the liquidator, receiver, manager, trustee, judicial factor or other person.

PART IV.  
—cont.

(2) Where a trade or business is carried on by two or more persons in partnership and one or more of them are bodies corporate, each of those bodies corporate shall be treated as if it were carrying on the trade or business itself and not in partnership with any other person, but as if the profits and losses thereof were confined to its share in those profits or losses :

Provided that where such a body corporate as aforesaid is also carrying on, or is by virtue of this subsection to be treated as carrying on, another trade or business, the references in this subsection to profits shall be construed as a reference to the profits computed without abatement, and effect shall be given to the provisions of the last preceding section before giving effect to the provisions for abatement.

*Miscellaneous provisions as to the profits tax.*

45. In paragraph 11 of the Fourth Schedule to the Finance Act, 1937 (which limits the amount of the deduction to be allowed in respect of the remuneration of certain directors in computing for the purposes of profits tax the profits arising from a trade or business carried on by a company in which the directors have a controlling interest), for the words " fifteen hundred pounds ", wherever those words occur, there shall be substituted the words " two thousand five hundred pounds. "

Amendment  
of limit on  
amount  
allowable as  
deduction in  
respect of  
directors'  
remuneration.

46.—(1) The provisions of Parts I and II of the Eighth Schedule to this Act shall have effect with a view to securing that the treatment of persons for the purposes of the profits tax accords, as respects the matters, and to the extent, specified in those Parts of that Schedule, with the treatment which they receive as respects those matters for the purposes of income tax and excess profits tax.

Co-ordination  
of treatment  
for profits tax  
purposes with  
treatment for  
income tax and  
excess  
profits tax  
purposes, etc.

(2) The provisions of Part III of the said Schedule (being miscellaneous amendments of the law relating to the computation of profits for the purposes of the profits tax and other related matters) shall have effect for the purposes of the profits tax.

47.—(1) Subject to the provisions of this section, the provisions of this Part of this Act relating to the profits tax shall have effect with respect to all chargeable accounting periods any part of which falls after the end of the year nineteen hundred and forty-six :

Commence-  
ment of  
Part IV and  
transitional  
provisions.

PART IV.  
—cont.

Provided that this subsection shall not apply to any of those provisions in so far as other express provision is made by them respectively as to the chargeable accounting periods with respect to which they are to have effect.

(2) In the case of a chargeable accounting period falling partly before and partly after the end of the year nineteen hundred and forty-six, the profits tax shall be computed first on the basis that the provisions to which subsection (1) of this section applies do not have effect with respect to the period and secondly on the basis that the said provisions do have effect with respect thereto and the sums so ascertained shall be apportioned between the part of the period which falls before, and the part of the period which falls after, the end of the said year ; and, subject to the provisions of subsection (3) of this section—

(a) the profits tax payable for the whole period shall be the sum of so much of the amount ascertained on the first basis as is apportioned to the first part of the whole period and so much of the amount ascertained on the second basis as is apportioned to the second part thereof, and

(b) any apportionment required for any of the purposes of section nineteen of the Finance (No. 2) Act, 1939, or of the Sixth Schedule to the Finance Act, 1940 (the provisions of which have effect as respects the relation of excess profits tax to the profits tax and the assessment and collection of those taxes) shall, instead of being made in accordance with subsection (6) of the said section nineteen or paragraph 8 of the said Sixth Schedule, be made in the proportion arrived at by comparing that part of the amount ascertained on the said first basis which is apportioned as aforesaid to the first part of the whole period with that part of the amount ascertained on the said second basis which is apportioned as aforesaid to the second part thereof.

(3) The provisions of paragraph 3 of Part II of the Eighth Schedule to this Act shall, so far as they provide for a reduction of tax, be left out of account in computing the tax payable on both the first and second bases mentioned in subsection (2) of this section, and the reduction of tax provided for by that paragraph shall be made, and made only, by reducing that part of the tax computed on the first basis which is apportioned to the first part of the period ; and the provisions of the said subsection (2) shall have effect accordingly.

(4) Where non-distribution relief is given for a chargeable accounting period falling partly before and partly after the end of the year nineteen hundred and forty-six, the difference on which the relief is given shall, for the purpose of arriving at

2 & 3 Geo. 6.  
c. 109.  
3 & 4 Geo. 6.  
c. 29.



the distribution charges, if any, falling to be made for subsequent chargeable accounting periods, be treated as reduced by so much thereof as is apportionable to the part of the chargeable accounting period which falls before the end of the said year.

PART IV.  
—cont.

(5) Any apportionment which is required for the purposes of subsection (2) of this section of the profits tax of a period falling partly before and partly after the end of the said year, on either of the bases referred to in that subsection, and any apportionment which is required for the purposes of subsection (4) of this section, shall be made by reference to the number of months or fractions of months in each of the parts of the whole period :

Provided that where the profits of the whole period have been apportioned in any other manner for the purposes of excess profits tax between the first part of the period and the remainder of the period, the said apportionments under subsections (2) and (4) of this section shall also be made in that manner.

48.—(1) References in this Part of this Act to the computation of profits include references to the computation of any such losses as, under any enactment relating to the profits tax, fall to be computed in the same manner as profits are to be computed for the purposes of the profits tax. Interpretation of Part IV.

(2) References in this Part of this Act to shares include references to stock, and the expression "share capital" shall be construed accordingly.

(3) References in this Part of this Act to the personal representatives of a deceased person include references to trustees of the estate, or part of the estate, of that person.

## PART V.

### DEATH DUTIES.

49.—(1) On every legacy subject to legacy duty under the existing law, and on every succession subject to succession duty under the existing law, there shall be charged a further legacy or succession duty (as the case may be) at a rate equal to that of the duty to which it is subject under the existing law (or in the case of a succession subject to the additional duty under section twenty-one of the Customs and Inland Revenue Act, 1888, the aggregate rate of the duty to which it is subject under the existing law) : Charge of additional duty.  
51 & 52 Vict. c. 8.

Provided that the further duty shall not be charged—

- (a) on any legacy or succession given or created for public or charitable purposes ; or

PART V.  
—cont.

(b) except in the cases and to the extent mentioned in the next following subsection, on any legacy derived from a testator or intestate dying before the sixteenth day of April, nineteen hundred and forty-seven, or any succession arising before that day.

(2) The further duty shall be charged on any such legacy or succession as is mentioned in proviso (b) to the foregoing subsection, if and to the extent to which duty under the existing law—

- (a) is payable thereon in connection with any such event as is mentioned in the next following subsection ; or
- (b) would be payable as aforesaid if the provisions applicable in cases where all persons having successive interests are chargeable with the same rate of duty were the same as those applicable where they are chargeable with different rates of duty ; or
- (c) would be payable as aforesaid but for any payment made in advance and not made under the enactments relating to commutations or compositions ;

and references in this subsection 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.

(3) The events referred to in the last foregoing subsection are any of the following events happening on or after the sixteenth day of April, nineteen hundred and forty-seven, 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 under the existing law is or would 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) ;

30 Geo. 3.  
c. 52.

16 & 17 Vict.  
c. 51.

- (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.

(4) Subject to the next following subsection, the further duty charged by virtue of this section shall, where the duty under the existing law was before the said sixteenth day of April paid on the capital value of property given for successive interests to persons all chargeable with the same rate of duty, be accounted for, paid and borne by the same persons and in the same manner as if the provisions applicable in cases where all persons having successive interests are chargeable with the same rate of duty were the same as those applicable where they are chargeable with different rates of duty.

(5) Where an interest in expectancy in any property has before the said sixteenth day of April been bona fide sold or mortgaged for full consideration in money or money's worth, then no other duty on that property shall be payable by the purchaser or mortgagee when the interest falls into possession than would have been payable if this Part of this Act had not been passed, and in the case of a mortgage any higher duty payable by the mortgagor shall rank as a charge subject to the mortgage.

(6) For the purposes of this section, the expression "legacy" includes residue and share of residue and the expression "the existing law" means the law apart from this section, and—

- (a) references to a legacy or succession being subject to duty shall be taken as referring to its being or having at any time been charged or chargeable therewith; and
- (b) a succession shall be deemed to arise on the happening of the death by reason of which the successor, or any person in his right or on his behalf, becomes entitled in possession to the succession or to the receipt of the income or profits thereof.

**50.—(1)** In the case of a person dying on or after the sixteenth day of April, nineteen hundred and forty-seven, the following value. Limits of  
enactments, namely—

- (a) subsection (3) of section sixteen of the Finance Act, 1894 57 & 58 Vict. c. 30.  
(which provides for treating as an estate by itself for the purposes of estate duty, and for exempting from legacy and succession duty, any estate not exceeding one thousand pounds exclusive of property settled otherwise than by the will of the deceased); and

PART V.  
—cont.  
4 & 5 Geo. 5.  
c. 10.

- (b) subsection (2) of section thirteen of the Finance Act, 1914 (which makes consequential provision for reducing the legacy or succession duty payable when the margin above the limit of value under the said section sixteen is small) ;

shall have effect with the words " two thousand pounds " instead of the words " one thousand pounds ", and accordingly the said section thirteen shall have effect also with the words " estate duty is payable on the death of the deceased " instead of the words substituted therefor by the Tenth Schedule to the Finance Act, 1946.

(2) In respect of a legacy or succession which would apart from this provision be chargeable with the further duty under this Act, no legacy or succession duty shall be charged—

- (a) if the amount or value of the legacy or succession together with any other legacies or successions derived by the same person from the testator, intestate or predecessor or passing to that person on the same death as the first mentioned legacy or succession does not exceed one hundred pounds ; or
- (b) if the person taking the legacy or succession (whatever his age) is a child of the testator, intestate or predecessor and, had he been under the age of twenty-one years, the legacy or succession would have been exempt from duty under proviso (c) to subsection (2) of section fifty-eight of the Finance (1909-10) Act, 1910, (which exempts legacies and successions of widows and infant children with a limit of value of two thousand pounds).

(3) Where, by virtue of any of the provisos to subsection (2) of the said section fifty-eight or by virtue of the last foregoing subsection, any legacy or succession charged with the further duty under this Act would have been exempt from duty if the limit of value for the exemption had not been exceeded, the amount of legacy and succession duty on the legacy or succession and any other such legacies and successions which would have been exempt with it shall not be greater than the amount by which the limit of value is exceeded.

(4) The exemption of property from legacy duty by virtue of this section shall not affect any exemption from succession duty which would have applied had the legacy duty been chargeable.

(5) For the purposes of this section the expression " legacy " includes residue and share of residue and in subsections (2) and (3) thereof—

- (a) any reference to a legacy or succession passing to any person shall include a legacy or succession passing in his right or on his behalf to some other person ; and

10 Edw. 7. &  
1 Geo. 5. c. 8.

- (b) any reference to a legacy or succession chargeable or charged with the further duty under this Act shall include a legacy or succession which would be so if it had not been given or created for public or charitable purposes.

PART V.  
—cont.

51. Where, in consequence of the restrictions imposed by the Defence (Finance) Regulations, 1939, or the Exchange Control Act, 1947, on the issue of coupons representing dividends or interest, bearer securities situate outside the United Kingdom have been or are converted into or exchanged for registered securities situate in Great Britain, then for the purposes of any claim for estate duty in respect of the passing of the registered securities on a death occurring after the thirty-first day of March, nineteen hundred and forty-seven, they shall be treated as situate outside Great Britain :

Relief from estate duty on bearer securities compulsorily registered.  
10 & 11 Geo. 6.  
c. 14.

Provided that this section shall apply only if, between the conversion or exchange and the death (or, in a case where the securities pass by reason of a gift inter vivos or of the disposition or determination of an interest limited to cease on the death, between the conversion or exchange and the gift, disposition or determination), the securities neither have been disposed of nor have passed on the death of a person competent to dispose thereof.

## PART VI.

### STAMP DUTIES.

#### *Increase of existing duties.*

52.—(1) Subject to the following provisions of this Part of this Act, the stamp duties chargeable under the provisions mentioned in this section shall, as from the first day of August, nineteen hundred and forty-seven, be double the duties which would have been chargeable immediately before that day.

Increase of existing duties and provisions consequential thereon.

(2) The said provisions are—

(a) the following headings or parts of headings in the First Schedule to the Stamp Act, 1891, namely,—

- (i) Bond, Covenant or Instrument ;
- (ii) Conveyance or Transfer, whether on sale or otherwise ;
- (iii) Conveyance or Transfer on sale ;
- (iv) Lease or Tack ;
- (v) Letter of Allotment and Letter of Renunciation and Scrip Certificate, Scrip or other document ;
- (vi) Marketable Security, except paragraph (2) of the heading (which charges certain transfers, etc. with a fixed duty of ten shillings) ;

PART VI.  
—*cont.*

(vii) Mortgage, Bond, Debenture, Covenant and Warrant of Attorney ;

(viii) Share Warrant and Stock Certificate to Bearer ;

(b) the following further provisions relating to stocks and marketable securities, contract notes, compositions for duty on transfers of stocks, etc. and loan capital, namely—

40 & 41 Vict.  
c. 59.

(i) section eight of the Colonial Stock Act, 1877 ;

(ii) section one hundred and fourteen of the Stamp Act, 1891, and section thirty-seven of the Finance Act, 1939 ;

(iii) section one hundred and fifteen of the Stamp Act, 1891 ;

62 & 63 Vict.  
c. 9.

(iv) sections four and eight of the Finance Act, 1899 ;

(v) sections seventy-seven and seventy-nine of the Finance (1909-10) Act, 1910 ;

1 & 2 Geo. 5.  
c. 48.

(vi) subsection (2) of section thirteen of the Finance Act, 1911 ;

(vii) subsection (2) of section fifty-five of the Finance Act, 1946 ;

(c) any other provision in so far as it charges duty by reference to the provisions specified in sub-paragraphs (i), (ii), (iii), (iv) and (vii) of paragraph (a) of this subsection.

(3) As from the said first day of August, the references to the duty of one penny and the duty of sixpence on a letter of renunciation in subsection (2) of section seventy-nine of the Stamp Act, 1891, and subsection (3) of section nine of the Finance Act, 1899 (which both provide for payment by adhesive stamps), shall be construed as references to the duty of twopence and the duty of a shilling.

7 Edw. 7.  
c. 13.

(4) Subsection (1) of section ten of the Finance Act, 1907 (which provides for a repayment in respect of duty where loan capital is applied for the purposes of the conversion or consolidation of existing capital), shall have effect, in relation to duty paid at the increased rate provided for by this section, with the substitution of the words " four shillings " for the words " two shillings ".

53.—(1) The duty chargeable under section one hundred and fifteen of the Stamp Act, 1891, on any half yearly account required to be delivered on or within seven days before the first day of August, nineteen hundred and forty-seven, shall be the same as if the account had been delivered on the said first day of August; and, where any such account has been delivered before the passing of this Act and the full amount of the duty thereon has not been paid in accordance with this subsection, a supplementary account shall be delivered, and the additional duty shall be paid, within fifteen days thereafter.

PART VI.  
—cont.

Transitional provisions as to compositions for transfers of stock, etc. and as to loan capital.

(2) In the event of any neglect or failure to deliver a supplementary account or to pay any additional duty in compliance with the foregoing subsection, the said section one hundred and fifteen shall apply as it applies in relation to a neglect or failure under that section.

(3) Where delivery of a statement of loan capital for the purposes of section eight of the Finance Act, 1899, which should otherwise have taken place before the said first day of August has, under subsection (2) of section ten of the Finance Act, 1907, been postponed to that or a later day, the duty chargeable on the statement so far as it relates to capital issued before the said first day of August shall be the same as if this Act had not been passed.

(4) Any agreement entered into for the purposes of section thirty-seven of the Finance Act, 1939, before the passing of this Act shall, so far as it relates to payments to be made on or after the said first day of August, have effect as if it provided for the making of those payments at the increased rate at which duty is chargeable under that section by virtue of this Act.

(5) Notwithstanding anything in the last foregoing section, the duty chargeable on a conveyance or transfer on sale of any stock or marketable security, though first executed on or after the said first day of August, shall be the same as if this Act had not been passed, in any case where the Commissioners are satisfied either that—

- (a) the instrument gives effect to a sale made before the said first day of August and does not give effect to a sale made on or after that day; and
- (b) the instrument or the document of title to the stock or marketable security had to be sent to Great Britain from overseas;

or that the instrument, signed by or on behalf of the vendor or vendors, was lodged for certification before the said first day of August.

For the purposes of this subsection an instrument sent by post for certification shall be deemed to be lodged on the day on which it is posted.

PART VI.  
—*cont.*  
Savings for  
certain  
conveyances  
and leases.

54.—(1) This Part of this Act so far as it increases any duty chargeable under or by reference to the heading "Conveyance or Transfer whether on sale or otherwise," the heading "Conveyance or Transfer on sale," or the heading "Lease or Tack," in the First Schedule to the Stamp Act, 1891, shall not apply in any case where the conveyance, transfer or letting is made or agreed to be made to a body of persons established for charitable purposes only or to the trustees of a trust so established :

Provided that no instrument not stamped with the duty to which it would apart from this subsection be liable shall be deemed by virtue of this subsection to be duly stamped unless it has in accordance with the provisions of section twelve of the Stamp Act, 1891, been stamped with a particular stamp denoting that it is duly stamped.

(2) This Part of this Act, so far as it increases any duty chargeable under or by reference to the heading "Lease or Tack" in the First Schedule to the Stamp Act, 1891, shall not apply in any case where there is no consideration consisting of money, stock or security, other than rent, and—

(a) the term does not exceed thirty-five years or is indefinite ;  
and

(b) the rent, whether reserved as a yearly rent or otherwise, is at a rate or average rate not exceeding one hundred pounds a year.

(3) This Part of this Act, so far as it increases any duty chargeable under or by reference to the heading "Conveyance or Transfer on sale" in the said First Schedule shall not apply, except as hereafter provided in this section,—

(a) in any case where the amount or value of the consideration for the sale does not exceed fifteen hundred pounds and the instrument contains a statement certifying that the transaction thereby effected does not form part of a larger transaction or of a series of transactions, in respect of which the amount or value, or the aggregate amount or value, of the consideration exceeds fifteen hundred pounds ; or

(b) in any case where the amount or value of the consideration for the sale exceeds fifteen hundred pounds but does not exceed nineteen hundred and fifty pounds and the instrument contains a statement certifying that the transaction thereby effected does not form part of a larger transaction or of a series of transactions :

Provided that this subsection shall not affect any duty chargeable under or by reference to that heading as it applies to a conveyance or transfer of stock or marketable securities, or any duty chargeable by reference to that heading by virtue of the



said heading "Lease or Tack" where part of the consideration consists of rent and that rent exceeds the sum of twenty pounds a year.

(4) In any such case as is mentioned in paragraph (b) of the last foregoing subsection, the duty chargeable apart from this provision shall be increased by two pounds for every fifty pounds or fractional part of fifty pounds by which the amount or value of the consideration exceeds fifteen hundred pounds.

(5) In the two last foregoing subsections any reference to the amount or value of any consideration shall be construed—

- (a) in relation to duty chargeable on a conveyance or transfer operating as a voluntary disposition *inter vivos*, as a reference to the value of the property; and
- (b) in relation to duty chargeable by virtue of the said heading "Lease or Tack", as a reference to the amount or value of the consideration in money, stock or security, other than rent.

(6) An instrument containing the statement required by section seventy-three of the Finance (1909-10) Act, 1910, or by section fifteen of the Revenue Act, 1911, for the purpose of obtaining exemption thereunder shall not be required to contain any additional statement for the purpose of obtaining exemption under paragraph (a) of subsection (3) of this section from the increase of duty under this Part of this Act. 1 & 2 Geo. 5. c. 2.

55.—(1) This Part of this Act, so far as it increases the duty chargeable under any provision, shall not affect the operation of any enactment directing that the amount of duty under that provision shall not exceed a figure specified in that enactment. Savings for maximum rates.

(2) This Part of this Act, so far as it increases the duty chargeable by reference to the heading "Mortgage, Bond, Debenture, Covenant and Warrant of Attorney" in the First Schedule to the Stamp Act, 1891, shall not increase the duty chargeable under the heading in that Schedule "Bond given pursuant to the directions of any Act" or under the heading in that Schedule "Bond of any kind whatsoever not specifically charged with any duty" beyond the maximum amount chargeable thereunder immediately before the passing of this Act, and accordingly—

- (a) under the said heading "Bond given pursuant to the directions of any Act", five shillings shall be the amount of the duty where the penalty of the bond exceeds one hundred pounds (instead of one hundred and fifty pounds); and

PART VI.  
—cont.

- (b) under the said heading “ Bond of any kind whatsoever not specifically charged with any duty ”, ten shillings shall be the amount of the duty where the amount limited to be recoverable exceeds two hundred pounds (instead of three hundred pounds).

*Other provisions as to existing duties.*

Repeal or  
reduction of  
duties on legal  
professions.

56.—(1) The following headings in the First Schedule to the Stamp Act, 1891, shall cease to have effect, namely—

- (a) Admission in England of any person to the degree of barrister-at-law ;
- (b) Admission in Scotland of any person as an advocate ;
- (c) Admission of any person to be a member of either of the four Inns of Court in England ;
- (d) Admission of any person as a solicitor of the Supreme Court in England ;
- (e) Admission in Scotland of any person as a law agent (both paragraphs) ;
- (f) Faculty, Licence, Commission or Dispensation for admitting or authorising any person to act as a notary public ;

22 & 23 Geo. 5.  
c. 37.  
63 & 64 Vict.  
c. 14.

and no stamp duty shall be payable on the admission of any person as a solicitor under section thirty-five of the Solicitors Act, 1932, or, in Scotland, section one of the Colonial Solicitors Act, 1900.

(2) The duty chargeable under either of the headings “ Articles of Clerkship ” in the said First Schedule shall in all cases be two shillings and sixpence and accordingly for those headings there shall be substituted the following heading :—

s. d.

“ Articles of Clerkship whereby any person becomes bound to serve as a clerk in order to his admission as a solicitor of the Supreme Court in England or as a solicitor in Scotland ... 2 6 ”.

(3) The duty chargeable under the heading “ Certificate to be taken out yearly ” in the said First Schedule shall be one twentieth of the amount chargeable immediately before the coming into force of this subsection.

(4) This section shall be deemed to have come into operation on the sixth day of April, nineteen hundred and forty-seven, and where it is shown to the satisfaction of the Commissioners that any stamp duty has on or after that date become payable and been paid at the rates in force apart from the provisions of this section, the Commissioners shall repay to the person who paid that duty the difference between the duty which was paid and the duty (if any) payable by virtue of this section.

57.—(1) Where the payment of principal and interest on any stock to which this section applies is guaranteed by the Treasury, transfers of the stock shall be exempt from all stamp duties.

PART VI.  
—cont.

Exemption of transfers of stock guaranteed by Treasury.

(2) This section applies to all stock issued by any of the following bodies, that is to say :—

- The British Overseas Airways Corporation ;
- The North of Scotland Hydro-Electric Board ;
- The British European Airways Corporation ; and
- The British South American Airways Corporation ;

and to any other stock to which it may be applied by direction of the Treasury, being stock issued by a body corporate constituted for the purposes of any scheme for the carrying on of any industry or part of an industry, or of any undertaking, under national ownership or control which may be embodied in any Act passed after the beginning of the present Session.

58.—(1) As from the first day of August, nineteen hundred and forty-seven, in the heading " Bond given pursuant to the directions of any Act " in the First Schedule to the Stamp Act, 1891, any reference to duties of excise or customs shall include a reference to purchase tax and, in relation to purchase tax, the expression " drawback " shall include allowance.

Extension and explanation of charge on customs bonds.

(2) It is hereby declared that in the said heading and in subsection (1) of section five of the Finance Act, 1905 (which extends the exemption under that heading), references to shipping include references to lading on an aircraft.

Edw. 7. c. 4.

59.—(1) Section one hundred and thirteen of the Stamp Act, 1891 (which requires delivery of, and charges stamp duty on, a statement of the nominal capital and any increase of the nominal capital of certain statutory and other companies) shall have effect, as respects any capital authorised by an Act or other instrument passed or made during a period of control of capital issues, as if delivery of the statement were thereby required to be made within one month after the end of the year in which the capital is issued or the said period ends, whichever first occurs (instead of within one month after the passing or making of the Act or other instrument) :

Time for payment of companies capital duty by statutory companies.

Provided that this section shall not apply in relation to a statement which has been or should have been delivered before the coming into force of this section.

(2) Any reference in this section to a period of control of capital issues shall be taken as referring to any period (whether before or after the passing of this Act) throughout which, by virtue of the Defence (Finance) Regulations, 1939, or any order made under section one of the Borrowing (Control and Guarantees) Act, 1946, the issue of capital in Great Britain is or was subject to restrictions.

9 & 10 Geo. 6.  
c. 58.

PART VI.  
—cont.

(3) In relation to capital authorised by an Act or other instrument passed or made before the passing of this Act, this section shall have effect notwithstanding anything in that Act or instrument.

*Duty on bonus issues of securities.*

Charge of  
duty on  
bonus issues  
of securities,  
etc.

60.—(1) Where, on or after the sixteenth day of April, nineteen hundred and forty-seven, a company incorporated or formed in Great Britain either—

(a) issues any securities ; or

(b) varies the rights or liabilities attached to any securities either by increasing the amount of the capital sums which are or may become payable to holders of the securities or by reducing the amount of the capital sums which are or may become payable by them ;

and does so by way of bonus to its members or debenture holders or to those of another company, the company doing so shall deliver to the Commissioners a statement of that fact and of the particulars necessary for the purposes of this section, signed on behalf of the company.

(2) Every such statement shall be charged with an ad valorem stamp duty of ten pounds for every one hundred pounds and any fraction of one hundred pounds over any multiple of one hundred pounds of the value of the bonus in respect of the securities to which the statement relates, and the amount of the duty shall be a debt due to His Majesty.

(3) A company delivering a statement for the purposes of this section shall be taken thereby to require the Commissioners to express their opinion thereon under section twelve of the Stamp Act, 1891.

(4) Where a company makes default in delivering a statement required for the purposes of this section, or in paying the duty thereon within twenty-one days after the date of its assessment, or fails without reasonable excuse to furnish to the Commissioners any evidence required by them under subsection (2) of the said section twelve, the company shall be liable to a fine not exceeding fifty pounds for every day during which the default continues, and shall also be liable to pay His Majesty, in addition to the duty, interest thereon at the rate of five per cent. per annum from the date when the default begins.

(5) For the purposes of this section the expression " securities " means shares and debentures, and the expression " shares " and the expression " debentures " have the same meanings as in the Companies Act, 1929.

19 & 20 Geo. 5.  
c. 23.

PART VI.  
—cont.Special  
provisions  
as to issue of  
securities.

61.—(1) Notwithstanding anything in the last foregoing section a statement shall not be required thereby in relation to any issue of securities for which permission was given under the Defence (Finance) Regulations, 1939, before the sixteenth day of April, nineteen hundred and forty-seven, and a statement relating to an issue of securities shall not be chargeable with any duty under that section if the issue was decided upon by the company and announced to the members or debenture holders concerned before that day or, if the issue is made by way of bonus to members or debenture holders of a company other than that issuing the securities and forms part of a bona fide scheme for the amalgamation or grouping of two or more businesses including that of the other company.

(2) For the purposes of the last foregoing section, securities shall be deemed to be issued when they are allotted, and to be issued by way of bonus to members or debenture holders of a company, if—

(a) the right to the securities (whether or not it may be renounced or assigned) is conferred on those members or debenture holders or any class of them as such ; or

(b) the securities are issued in pursuance—

(i) of an offer made specially to those members or debenture holders or any class of them as such (including an offer providing special terms for them as compared with persons who are not members or debenture holders of the company) ; or

(ii) of applications to which preference is given as being made by or in right of those members or debenture holders or any class of them as such :

Provided that this subsection shall not apply to securities issued under a scheme of arrangement to preference shareholders as consideration for relinquishment by them of rights to arrears of preference dividend.

(3) Subject to the following provisions of this section the value of the bonus, as respects any securities issued by way of bonus to members or debenture holders of a company, shall be taken to be the amount (if any) by which the aggregate amount or value of the consideration received or receivable by the company issuing the securities is less than the following amount, that is to say :—

(a) if letters of right relating to the securities are or have been quoted on a recognised stock exchange (within the meaning of the Prevention of Fraud (Investments) Act, 1939), the aggregate value of the letters of right on the day of the first quotation ;

PART VI.  
—cont.

- (b) if no such letters of right are or have been quoted as aforesaid but the securities are or have been so quoted within one month after allotment, the aggregate value of the securities on the day of the first quotation ;
- (c) in any other case, the aggregate value of the securities at the date of allotment :

Provided that where, apart from this provision, this subsection would apply to different securities of the same class comprised in the same issue so as to require the value of the bonus to be determined in relation to them in different ways or as at different dates, and the consideration received or receivable by the company issuing the securities is the same, the value of the bonus as respects those securities shall be taken to be the amount arrived at by—

- (i) applying this subsection to those of the securities in relation to which the value of the bonus falls to be determined as at the earliest date ; and
- (ii) increasing the resulting amount in the proportion which the total number of the securities bears to the number of those to which the subsection is so applied.

(4) Subject to the next following subsection, in determining the value of the bonus as respects any securities issued by way of bonus to members or debenture holders of a company,—

- (a) the value of the securities or the letters of right, as the case may be, shall be determined according to the same principles as would apply for the purposes of estate duty apart from the special provisions of sections fifty-five and fifty-six of the Finance Act, 1940 ; and
- (b) there shall be disregarded any consideration consisting either—
  - (i) of the retention by the company issuing the securities, by way of set-off or otherwise, of any sums or property distributable among those members or debenture holders ; or
  - (ii) of any prospective liability (whether contingent or not) attached to the securities or the letters of right, as the case may be, or treated as attached thereto in determining their value.

(5) In the case of securities of a private company (within the meaning of the Companies Act, 1929) other than redeemable preference shares and irredeemable debentures or debentures redeemable at a price which is not fixed and the same for all circumstances,—

- (a) the value of the securities shall be taken—
  - (i) in the case of shares to be the same as their nominal value ; and

(ii) in the case of debentures, to be the same as the price at which they are redeemable ; and

(b) in determining the amount or value of the consideration, sub-paragraph (ii) of paragraph (b) of the last foregoing subsection shall not apply, but no deduction shall be made in relation to any liability to pay for the securities or any liability attached to the securities, for the fact that the liability is prospective or contingent.

(6) Notwithstanding anything in the foregoing provisions of this section where securities are issued by way of bonus to members or debenture holders of a company, the value of the bonus as respects any of the securities shall be taken to be nil if, as determined in accordance with the said provisions, it does not exceed one-twentieth of the amount or value of the consideration received or receivable by the company issuing the security, other than any consideration such as is referred to in sub-paragraph (i) of paragraph (b) of subsection (4) of this section and any consideration consisting of a contingent liability attached to the security.

In determining for the purposes of this subsection the amount or value of the consideration aforesaid, no deduction shall be made in relation to any liability to pay for the security or any liability attached to the security for the fact that the liability is prospective.

(7) Where any securities are issued by way of bonus to members or debenture holders of a company, a statement shall be delivered under the last foregoing section at the expiration of one month after the earliest date on which any of the securities comprised or to be comprised in the issue are allotted or the date of the passing of this Act, whichever last occurs, and shall relate to all the said securities which have been allotted before the date of its delivery ; and where the first statement does not deal with all the said securities a supplementary statement shall be delivered at the expiration of every month thereafter during which any of the said securities are allotted and shall relate to all the said securities which have been allotted before the date of its delivery and have not been dealt with in a previous statement :

Provided that—

- (a) if the company sees fit, securities allotted within one week before the delivery of any statement may be treated as allotted immediately thereafter ; and
- (b) where the value of the bonus as respects any securities falls to be determined as at a date after their allotment, this subsection shall apply in relation to them as if that were the date on which they were allotted.

PART VI.  
—cont.

(8) Securities shall also be deemed to be issued by way of bonus to members or debenture holders of a company if paragraph (b) of subsection (2) of this section is satisfied in relation, not to the issue of the securities, but to a sale thereof (or of other securities substituted or to be substituted therefor), being a sale with a view to which the securities were issued or agreed to be issued; and where this subsection applies—

- (a) references to sale shall be substituted for references to allotment; and
- (b) any consideration received or receivable on the sale shall be deemed to be received or receivable by the company issuing the securities, instead of the consideration actually received or receivable by it; and
- (c) references in subsections (3) to (7) of this section to the securities issued by way of bonus shall, where the sale is of substituted securities, be taken as referring to the substituted securities.

(9) In paragraphs (a) and (b) of the said subsection (2) any reference to a member or debenture holder of a company shall include a reference to the personal representatives of a deceased member or debenture holder.

Special provisions as to variation of rights or liabilities on securities.

62.—(1) Any variation of the rights or liabilities attached to a company's securities shall be deemed for the purposes of the last but one foregoing section to be made by way of bonus to members or debenture holders of the company if made wholly or partly in consideration of the retention by the company, by way of set-off or otherwise, of sums or property distributable among its members or debenture holders.

(2) In the case of any such variation as aforesaid, the value of the bonus shall be taken to be equal to the amount or value of the sums or property in question, and the statement shall be delivered within one month after the variation becomes effective or after the passing of this Act, whichever last occurs.

PART VII.

MISCELLANEOUS.

Excess profits tax and profits tax—provisions as to remuneration of directors.

63.—(1) In the enactments relating to excess profits tax and the enactments relating to the profits tax, the expression "remuneration" in relation to a director of a company includes, save in so far as is otherwise expressly provided in those enactments respectively, all remuneration paid or payable to the director by the company whether in respect of his services as a director or otherwise, including, in particular, remuneration for



services to the company of a secretarial, managerial, advisory or technical nature.

PART VII.  
—cont.

(2) The references in paragraph 11 of the Fourth Schedule to the Finance Act, 1937, and in paragraph 10 of Part I of the Seventh Schedule to the Finance (No. 2) Act, 1939, to the remuneration of directors shall be deemed—

- (a) where a director carries on a trade or profession and is assessable to income tax under Case I or Case II of Schedule D in respect of the profits or gains thereof or would be so assessable but for the fact that there are no such profits or gains, not to include any sums received by him for services rendered to the company in the course of the carrying on by him of that trade or profession, being such sums as fall to be taken into account in computing the profits or gains of that trade or profession for the purposes of income tax under the said Case I or the said Case II for any year of assessment, or as would fall to be taken into account as aforesaid but for the fact that there are no such profits or gains for the relevant year of assessment, or the fact that the periods by reference to the facts of which assessments to income tax fall to be made on him under the said Case I or the said Case II in respect of the profits or gains of the trade or profession do not include the period when the said sums became payable or were paid ;
- (b) where a director is a member of a profession and is separately remunerated as an employee of the company for services rendered to the company in his professional capacity and the services are services rendered as a solicitor or accountant or are services (not being services of a secretarial or managerial nature) which are not of such a nature as to be directly connected with the trade or business carried on by the company, not to include any reasonable and necessary remuneration for those services.
- (3) This section shall be deemed always to have had effect :  
Provided that nothing in this section shall affect, as respects the chargeable accounting period to which the determination or judgment relates,—
- (a) any determination of any Commissioners or any judgment of any court made or given on or before the twenty-second day of January, nineteen hundred and forty-seven ; or
- (b) any appeal from or case stated in respect of any such determination, or any appeal from any such judgment.

## PART VII.

—cont.

Provision applicable where joint and several liability has been imposed under Finance Act, 1943, s. 24.

## 64.—(1) Where—

- (a) a payment has been made by any person in or towards the discharge of a joint and several liability for excess profits tax which arises by virtue of a direction given under section twenty-four of the Finance Act, 1943 ; and
- (b) the Commissioners are of opinion as respects the whole or part of that payment that the funds for the making thereof have come directly or indirectly out of the trading receipts of any trade or business, other than proceeds of the sale of stock which gave rise to the direction ; and
- (c) the Commissioners are further of opinion that, as a result of the funds for making the payment or part of the payment having so come out of those trading receipts, any sum which is or may thereafter become payable by way of excess profits tax, the profits tax or income tax in respect of any profits, or profits or gains, of that trade or business is, apart from this section, unlikely to be recovered,

the Commissioners may direct that the provisions of this section shall apply to that payment or, as the case may be, to that part thereof.

(2) Where a direction is given under this section with respect to a payment or part of a payment—

- (a) for all the purposes of section twenty-four of the Finance Act, 1943, and any other enactment referring to that section, the payment or part of the payment shall be deemed never to have been made and the rights and liabilities of all persons shall be determined or adjusted accordingly, and, in particular, and without prejudice to the generality of the preceding provision, the Commissioners shall, under and by virtue of the original direction under the said section twenty-four, be entitled to recover the amount of the payment or part of the payment from the persons from whom, and in the manner in which, they would have been entitled to recover that amount if the payment or part of the payment had never been made ; and
- (b) the Commissioners may appropriate the payment or part of the payment in or towards the discharge of any such other liabilities as they think fit, being liabilities for sums which are or may thereafter become payable by way of excess profits tax, the profits tax or income tax in respect of profits, or profits or gains, of the trade or business ; and

- (c) until the payment or part of the payment is so appropriated, the Commissioners may retain the payment or part of the payment.

PART VII.  
—cont.

(3) A direction may be given, and, if given, shall have effect, under this section, with respect to a payment or part of a payment—

- (a) whether or not the person who made the payment is one of the persons subject to the original joint and several liability imposed under the said section twenty-four ;  
and
- (b) whether or not the trading receipts out of which the funds for the making of the payment or part of the payment have directly or indirectly come fall wholly or in part to be included in the computation of the profits, or profits or gains, tax in respect of which is, in the opinion of the Commissioners, unlikely to be recovered ;  
and
- (c) notwithstanding that the payment has been made or accepted or agreed to be accepted or acknowledged to be in discharge of all or any part of the liability of all or any of the persons liable under the original direction under the said section twenty-four ; and
- (d) notwithstanding that the payment or part of the payment may have been made as a result of any judgment or order of any court,

and where the payment or part of the payment has been made as a result of a judgment or order, fresh proceedings may be taken for recovering the amount thereof as if that judgment or order had never been made.

(4) For the purposes of this section, and without prejudice to the generality of the words thereof, funds for the making of a payment shall be deemed to have come directly or indirectly out of any trading receipts of a trade or business to the extent that those trading receipts have, directly or indirectly, been used—

- (a) for making the payment ; or
- (b) for exonerating, either wholly or in part, the person who made the payment ; or
- (c) for discharging obligations contracted to provide funds for the making of the payment ; or
- (d) for replacing funds used directly or indirectly for any of the purposes aforesaid or property disposed of for the purpose of providing, directly or indirectly, any such funds.

PART VII.  
—cont.

(5) Any reference in this section to tax in respect of profits, or profits or gains, of a trade or business includes a reference to tax which has not become due or has not been assessed, and, in the case of income tax, also to tax which may be expected ultimately to become due for a year of assessment income tax for which has not yet been imposed.

(6) The enactments relating to excess profits tax shall be deemed always to have had effect as amended and extended by the foregoing provisions of this section.

(7) The provisions of subsection (9) of the said section twenty-four (which relates to the giving of information) shall apply for the purposes of this section as they apply for the purposes of the said section twenty-four.

Relaxation  
of rules as  
to use of  
post-war  
refunds of  
excess profits  
tax in case of  
nationalised  
undertakings,  
etc.

65.—(1) The provisions of this section shall have effect in relation to the excess profits tax post-war refunds to which Part IV of the Finance (No. 2) Act, 1945, relates, and expressions used in this section have the same meanings as they have for the purposes of the said Part IV.

(2) Where, whether before or after the passing of this Act—

(a) the assets, or a substantial part of the assets, held for the purposes of the original trade or business, or for the purposes of a part of the original trade or business, have been compulsorily acquired (whether under the law of the United Kingdom or any part thereof or under the law of any other country); and

(b) in consequence of the acquisition, the original trade or business, or that part thereof, as the case may be, can no longer be carried on by the persons who were carrying it on immediately before the acquisition,

no such undertakings or authorities as are mentioned in section thirty-nine of the Finance (No. 2) Act, 1945, shall be required in relation to the use of the net amount of the refund, or, as the case may be, in relation to the use of that portion of the net amount of the refund which is attributable to that part of the original trade or business.

(3) Where, whether before or after the passing of this Act—

(a) such an undertaking as is mentioned in section thirty-nine of the Finance (No. 2) Act, 1945, has been given in relation to the use of the whole or any part of a post-war refund; and

(b) after the giving of the undertaking, the assets, or a substantial part of the assets, held for the purposes of the trade or business specified in that undertaking, or for the purposes of a part of that trade or business, have been compulsorily acquired (whether under the law of the United Kingdom or any part thereof or under the law of any other country); and

- (c) in consequence of the acquisition, that trade or business, or that part thereof, as the case may be, can no longer be carried on by the persons who were carrying it on immediately before the acquisition,

PART VII.  
—cont.

that undertaking shall not, as from the passing of this Act or the date of the acquisition, whichever last occurs, operate to restrict the use which may be made of that sum or, as the case may be, of the portion thereof which is attributable to that part of the said trade or business, and, where the said trade or business is permanently discontinued as a consequence of the acquisition, no sum shall be recoverable, or be deemed ever to have been recoverable, by the Crown under subsection (1) of section forty-one of the said Act by reason of the discontinuance.

(4) The references in subsections (2) and (3) of this section to the portion of the net amount of a refund, or of a part of the net amount of a refund, which is attributable to a part of a trade or business shall be construed as references to the portion of the net amount, or, as the case may be, of the part of the net amount, which bears to the whole of the net amount or of that part thereof the same proportion as, immediately before the relevant compulsory acquisition, the value of the assets held for the purposes of that part of the trade or business which were compulsorily acquired bore to the total value of all the assets then held for the purposes of the trade or business.

(5) Where the original trade or business is that of the principal company of a group of companies, subsection (2) of this section shall have effect subject to the following modifications—

- (a) the said subsection (2), subject as hereinafter provided, shall apply in relation to trades or businesses carried on by subsidiary members of the group as it applies in relation to the original trade or business ; but
- (b) in relation to the trades or businesses carried on by subsidiary members, the references to the net amount of the refund shall be construed as references to a part thereof equal to the net amount recoverable by the subsidiary member from the principal company under paragraph 5 of the Sixth Schedule to the Finance (No. 2) Act, 1945 (except that, if an undertaking has been given in relation to the use of a sum representing any of the net amount of the refund in the trade or business of the subsidiary and subsection (3) of this section takes effect so as to negative the operation of that undertaking as to that sum, the said references shall be construed as references to a part of the net amount of the refund equal to the said net amount recoverable less that sum) ; and

PART VII.  
—cont.

(c) in relation to the original trade or business, the references to the net amount of the refund shall be construed as references to the net amount thereof reduced by the total of the net amounts recoverable from the principal company under the said paragraph 5 (except that, if an undertaking has been given in relation to the use of a sum representing any of the net amount of the refund in the original trade or business and subsection (3) of this section takes effect so as to negative the operation of that undertaking as to that sum, the said references shall be construed as references to the net amount of the refund reduced as aforesaid and less that sum).

(6) Where any such compulsory acquisition as is mentioned in the preceding provisions of this section is effected under the law of the United Kingdom or any part thereof, nothing in this section shall be construed as limiting the effect of so much of any Act, scheme, order or other instrument relating to the acquisition (whether passed, made or issued before or after the passing of this Act) as operates to transfer the right to receive, or any sums representing, the whole or any part of a post-war refund, and where the right to part only of the refund, or to part only of any such sum, is transferred by the operation of any provision of any such Act, scheme, order or instrument the provisions of this section shall be taken as applicable, as far as may be, to that part of that refund or sum rather than to the remainder thereof.

Amendments  
as to granting  
of credit for  
foreign<sup>2</sup> tax.

66.—(1) The provisions of Part I of the Ninth Schedule to this Act (being provisions applying where arrangements which have effect by virtue of section fifty-one of the Finance (No. 2) Act, 1945, provide that tax payable under the laws of a territory outside the United Kingdom shall be allowed as a credit against tax payable in the United Kingdom) shall, as respects the income and profits specified in, and subject to the provisions of, Part II of that Schedule, have effect in lieu of the provisions of the Seventh Schedule to that Act, and accordingly, in subsection (4) of the said section fifty-one, the reference to the provisions of the said Seventh Schedule shall, in relation to the said income and profits, and subject to the provisions of the said Part II, be construed as a reference to the said Part I.

(2) In subsection (5) of section fifty-two of the said Act, for the words "any credit for foreign income tax" there shall be substituted the words "any credit for tax payable in any territory outside the United Kingdom".

Treatment of  
farm animals  
etc. for income  
tax and profits  
tax purposes.

67.—(1) The provisions of the Tenth Schedule to this Act shall have effect in relation to the treatment, for the relevant tax purposes, of animals and other living creatures kept for the purposes of farming or for the purposes of any trade.

(2) In this section and in the said Schedule, the expression "the relevant tax purposes" means —

PART VII  
—cont.

- (a) the computation of profits or gains for the purposes of an assessment under Case I of Schedule D ;
- (b) the computation, for the purposes of a claim under Rule 6 of the Rules applicable to Schedule B, of the profits or gains arising from the occupation of any land ;
- (c) the computation of the profits of a dealer in cattle or a dealer in or a seller of milk for the purposes of Rule 4 of the Rules applicable to Case III of Schedule D ;
- (d) the computation of any loss for the purposes of a claim for relief under any of the provisions of the Income Tax Acts ; and
- (e) the computation of profits or losses for the purposes of the enactments relating to the profits tax.

68.—(1) The permanent annual charge for the National Debt for the financial year ending with the thirty-first day of March, nineteen hundred and forty-eight, shall be the sum of five hundred and twenty-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.

(2) 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, for providing any sums required during the said financial year for the purposes mentioned in paragraph (a) or paragraph (b) of subsection (4) of section twenty-three of the Finance Act, 1928, and the amount required by the said subsection (4) to be issued from the permanent annual charge for the National Debt for the purposes aforesaid in that year shall be decreased by the amount raised under this subsection.

2 & 3 Geo. 6.  
c. 117.

(3) Any securities created and issued to raise money under the last preceding subsection shall be deemed for all purposes to have been created and issued under the National Loans Act, 1939.

69. No issue shall be made out of the Consolidated Fund under section forty-eight of the Finance Act, 1930 (which provides in the case of a deficit in any year for the redemption in the next year of a corresponding amount of debt), in respect of the deficit for the financial year ending with the thirty-first day of March, nineteen hundred and forty-seven.

Amendment as to deficit for 1946-47.  
20 & 21 Geo. 5.  
c. 28.

70. Any amount applied out of revenue during the current financial 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.

Reduction of debt.  
38 & 39 Vict.  
c. 45.

## PART VII.

—cont.

Winding up of  
Essential  
Commodities  
Reserves Fund.

71. The Essential Commodities Reserves Fund shall be wound up and the sum of nine hundred and seventy-three thousand and forty-one pounds fourteen shillings and sixpence, being the balance remaining in the said Fund, shall, in accordance with the directions of the Treasury, be paid into the Exchequer.

Payment out  
of Consolidated  
Fund of  
deficiencies of  
interest on  
Post Office  
Savings Banks  
Fund and  
Fund for the  
Banks for  
Savings.  
40 & 41 Vict.  
c. 13.

72.—(1) Where the annual account of the Post Office Savings Banks Fund provided for by section seventeen of the Customs, Inland Revenue and Savings Banks Act, 1877, shows with respect to the year for which the account is made up that the gross amount of interest accrued from the securities standing in the name of the National Debt Commissioners to the credit of that Fund was less than the interest paid and credited to depositors in pursuance of the Acts relating to Post Office Savings Banks, and the expenses, including a sum, to be determined by the Treasury, to provide against depreciation in the value of the securities, incurred in the execution of those Acts, an amount equal to the deficiency shall, at such times as the Treasury may direct, be paid into that Fund out of the Consolidated Fund of the United Kingdom or the growing produce thereof.

(2) Where the annual account of the Fund for the Banks for Savings provided for by the said section seventeen shows with respect to the year for which the account is made up that the gross amount of interest accrued from the securities standing in the name of the National Debt Commissioners to the credit of that Fund was less than the gross amount of interest paid or credited to the trustees of Savings Banks in pursuance of the enactments relating to Trustee Savings Banks, together with—

- (a) a sum, to be determined by the Treasury, to provide against the depreciation in the value of the securities ; and
- (b) such of the expenses (including the remuneration of members and officers) incidental to the exercise by the Inspection Committee established under section two of the Savings Banks Act, 1891, of the powers conferred on them by the said enactments as may be sanctioned by the Treasury on the recommendation of the National Debt Commissioners ; and
- (c) the expenses incurred by the National Debt Commissioners in the execution of the said enactments,

54 & 55 Vict.  
c. 21.

an amount equal to the deficiency shall, at such times as the Treasury may direct, be paid out of the Consolidated Fund of the United Kingdom or the growing produce thereof and shall be applied in defraying the said expenses of the Inspection Committee and the National Debt Commissioners and, so far as not so applied, shall be paid into the Fund for the Banks for Savings.



(3) Subsection (2) of section four of the Savings Banks Act, 1891 (which requires expenses of the said Inspection Committee to be levied from the Trustee Savings Banks in certain cases) shall cease to have effect.

PART VII.  
—cont.

73.—(1) The condition to be attached under section fourteen of the Licensing (Consolidation) Act, 1910, for securing monopoly value on the grant of a new justices' on-licence shall, where the requirements of the next following subsection are satisfied, provide for reducing the amount to be paid if, on or before the grant of an excise licence in pursuance of the new licence, there is surrendered another justices' on-licence, being either—

Monopoly value of new on-licence where current on-licence surrendered.  
10 Edw. 7. & 1 Geo. 5. c. 24.

- (a) a licence for the same premises as the new one, or a licence in suspense which was last in force for those premises ; or
- (b) a licence for other premises in the same licensing district or the same licensing planning area, or a licence in suspense which was last in force for other premises there.

(2) The foregoing subsection shall not apply unless—

- (a) the justices are satisfied that the surrender will not reduce the amount payable on some other grant ; and
- (b) in the case of the surrender of a licence for, or last in force for, other premises than those for which the new licence is granted,—

(i) the other premises are specified in the application for the new licence ; and

(ii) a copy of the notice of the application is served personally on, or sent by registered post to, any person (other than the applicant) who is a registered owner of the other premises or who is the holder of the licence to be surrendered ; and

(iii) the justices are satisfied that no objection is made by any such person as aforesaid or by any other person whom they may determine to have the right to object.

(3) The amount of the reduction to be provided for shall be the amount (or, if more than one licence is surrendered, aggregate amount) of the monopoly value given up by the surrender.

(4) The amount of the monopoly value given up by the surrender of a licence for, or last in force for, any premises shall be determined by the licensing justices for the district where those premises are or were ; and—

- (a) an application to have the said amount determined may be made either at the general annual licensing meeting or at a transfer sessions and may be made before the application for the new licence ; and

PART VII.  
—cont.

- (b) where the two applications are made separately, then in the proceedings relating to the determination of the said amount any person authorised by the Commissioners of Customs and Excise shall have the like right to be heard as if the proceedings related to the grant of the new licence.

(5) Subject to the next following subsection, the said amount shall be that which is represented by the difference between the value which the premises would bear, in the opinion of the justices, if the licence to be surrendered were to remain in force therefor and the value of the same premises as unlicensed premises :

Provided that, in estimating the value with the licence to be surrendered,—

- (a) any outstanding liability under the condition imposed for securing monopoly value on the grant of that licence shall be taken into consideration ; and
- (b) in the case of a hotel or other premises where the profits are not wholly derived from the sale of intoxicating liquor, any increased value arising from profits not so derived shall not be taken into consideration.

(6) In the case of the surrender of a licence in suspense or of a licence in force for temporary premises, the amount of the monopoly value given up shall be such as the justices may in their discretion determine.

(7) In considering whether a justices' on-licence ought to be renewed, the justices and, if the case is referred to them, the compensation authority shall not take into consideration the fact that a proposal for its surrender, if renewed, has been or is to be made for the purposes of this section.

(8) This section shall be construed as one with the Licensing (Consolidation) Act, 1910, except that, for the purposes of this section, the expression " on-licence " does not include a licence for the sale of wine alone or sweets alone.

Short title,  
construction,  
extent and  
repeals.  
39 & 40 Vict.  
c. 36.

74.—(1) This Act may be cited as the Finance Act, 1947.

(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 Part V of the Finance (No. 2) Act, 1940.

PART VII.  
—cont.

(4) Part III of this Act, and so much of Part VII thereof as relates to income tax, shall be construed as one with the Income Tax Acts.

(5) Part IV of this Act, and so much of Part VII thereof as relates to profits tax, shall be construed as one with Part III of the Finance Act, 1937, and the other enactments relating to profits tax; and in all enactments relating to profits tax references to the Commissioners shall, unless the context otherwise requires, be construed as references to the Commissioners of Inland Revenue.

(6) Part V of this Act shall be construed as one with Part I of the Finance Act, 1894.

(7) Part VI of this Act shall be construed as one with the Stamp Act, 1891.

(8) So much of Part VII of this Act as relates to excess profits tax shall be construed as one with Part III of the Finance (No. 2) Act, 1939.

(9) 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.

(10) 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.

(11) 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—

- (a) the provisions of Part IV of this Act relating to the commencement of the said Part IV, and the transitional provisions contained in the said Part IV, shall have effect in relation to the repeal of the enactments specified in Part II of the said Schedule as if this subsection and the said Part II were provisions of Part IV of this Act;
  - (b) the repeal of the enactments specified in Part III of the said Schedule shall have effect subject to the provisions of Part II of the Ninth Schedule to this Act.
-

## SCHEDULES

Section 3.

### FIRST SCHEDULE.

#### TOBACCO (RATES OF DUTY AND DRAWBACK).

##### PART I.

##### CUSTOMS DUTIES.

Description of Tobacco.	Rates of duty per pound.	
	Full rates.	Preferential rates.
Tobacco unmanufactured—	£ s. d.	£ s. d.
containing 10 lbs. or more of moisture in every 100 lbs. weight thereof—		
unstripped ... ..	2 14 10	2 13 3½
stripped... ..	2 14 10½	2 13 3½
containing less than 10 lbs. of moisture in every 100 lbs. weight thereof—		
unstripped ... ..	2 15 10	2 14 1½
stripped... ..	2 15 10½	2 14 1½
Tobacco manufactured, viz. :—		
Cigars ... ..	3 4 5	3 1 5½
Cigarettes ... ..	3 0 4	2 17 11½
Cavendish or Negrohead ... ..	2 19 4	2 17 1
Cavendish or Negrohead manufactured in bond ... ..	2 17 4	2 15 4½
Other manufactured tobacco ... ..	2 17 7	2 15 7½
Snuff—		
containing more than 13 lbs. of moisture in every 100 lbs. weight thereof ... ..	2 16 10	2 14 11½
containing not more than 13 lbs. of moisture in every 100 lbs. weight thereof ... ..	2 19 4	2 17 1
and so in proportion for any less quantity.		

##### PART II.

##### EXCISE DUTIES.

Description of Tobacco.	Rates of duty per pound.
Tobacco unmanufactured—	£ s. d.
containing 10 lbs. or more of moisture in every 100 lbs. weight thereof ... ..	2 13 1½
containing less than 10 lbs. of moisture in every 100 lbs. weight thereof ... ..	2 13 11½
Tobacco manufactured, viz. :—	
Cavendish or Negrohead manufactured in bond ... ..	2 15 4½
and so in proportion for any less quantity.	

PART III.  
DRAWBACK.

1ST SCH.  
—cont.

Description of Tobacco.	Rates per pound.	
	In respect of tobacco on which full customs duty has been paid.	In respect of tobacco on which customs duty at a preferential rate or excise duty has been paid.
	£ s. d.	£ s. d.
Cigars ... ..	2 18 10	2 17 3½
Cigarettes ... ..	2 15 10	2 14 3½
Cut, roll, cake or other manufactured tobacco ... ..	2 15 7	2 14 0½
Snuff (not being offal snuff) ... ..	2 15 4	2 13 9½
Stalks, shorts or other refuse of tobacco, including offal snuff ... ..	2 15 1	2 13 6½

SECOND SCHEDULE.

Section 5.

ARTIFICIAL SILK DUTIES.

PART I.

REDUCED DUTIES OF CUSTOMS ON ARTIFICIAL SILK YARN AND TISSUES UNDER SECTION 4 OF THE FINANCE ACT, 1925.

Description of Article.	Reduced amount of duty chargeable per pound.
Artificial Silk	d.
Yarn ... .. the lb.	9
Tissues ... .. the lb.	11

PART II.

AMENDMENTS OF PART II OF THE FIRST SCHEDULE TO THE SILK DUTIES (NO. 1) ORDER, 1934 (S.R. & O. 1934 No. 653).

In the second column (which sets out the rates of duties of customs chargeable on articles made wholly or partly of silk or artificial silk where the article is made wholly of silk or artificial silk or where the value of the silk or artificial silk component or the aggregate of the values of all such components exceeds 20 per cent. of the aggregate of the values of all the components of the article)—

- (a) for the words "An amount equal to 43½ per cent. of the value of the article or an amount calculated at the rate of 5s. the

2ND SCH.  
—cont.

pound on the weight of the article, whichever is the greater." there shall be substituted the words "An amount equal to 42 per cent. of the value of the article or an amount calculated at the rate of 4s. 8d. the pound on the weight of the article, whichever is the greater."; and

- (b) for the words "An amount equal to 43½ per cent. of the value of the article." where they last occur in that column there shall be substituted the words "Where any component is silk, an amount equal to 43½ per cent. of the value of the article and, where no component is silk, an amount equal to 42 per cent. of the value of the article".

### PART III.

#### ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
15 & 16 Geo. 5. c. 36.	The Finance Act, 1925.	In section five, in subsection (1), the words from "be charged" to "the date aforesaid", the words "both duties and" and the proviso, and subsections (2), (3) and (5); in Part III of the Second Schedule, paragraph 5 and in paragraph 8 the words "or excise".

Section 10.

### THIRD SCHEDULE.

#### PURCHASE TAX.

##### INTERMEDIATE RATE (GOODS CHARGEABLE).

1. Glass mirrors (whether framed or not), not being optically worked or specially designed for use with machinery, tools or instruments, and mirrors (whether framed or not) being toilet requisites and not being articles supplied as part of a toilet set.

2. Domestic appliances and domestic apparatus, being appliances and apparatus of a kind suitable for operation from electric or gas mains, of the following descriptions—

- Space heating appliances and apparatus, including appliances and apparatus of a kind used for boiling or cooking and also for space heating;
- Instantaneous water heaters;
- Immersion water heaters;
- Storage water heaters;
- Circulator water heaters for tank storage;
- Water boilers for tank storage or central heating.

3. Lawn mowers of a kind suitable for operation from electric mains.

4. Mechanically propelled road vehicles constructed or adapted solely or mainly for the carriage of passengers, or having, to the rear of the driver's seat, roofed accommodation lit by side windows and fitted with, or constructed or adapted for the fitting of, seating for passengers, being vehicles of a retail value of more than one thousand two hundred and eighty pounds the vehicle.

3RD SCH.  
—cont.

## FOURTH SCHEDULE.

Section 10.

### PURCHASE TAX.

#### INTERMEDIATE RATE (CONSEQUENTIAL AND SUPPLEMENTARY PROVISIONS).

##### PART I.

##### AMENDMENTS OF PURCHASE TAX ENACTMENTS.

1. In subsection (1) of section twenty of the Finance (No. 2) Act, 1940, in paragraph (a) after the words "the higher rate" there shall be inserted the words "at the intermediate rate", in paragraph (b) after the words "the higher rate" there shall be inserted the words "the intermediate rate," and in paragraph (c) after the words "or in the Seventh Schedule to the Finance Act, 1942" there shall be inserted the words "or in the Third Schedule to the Finance Act, 1947".

2. In the Seventh Schedule to the Finance (No. 2) Act, 1940—  
(a) for the headings to the first, second and third columns there shall be substituted the following headings respectively:—

"Basic rate.      Reduced rate.      Goods which are not chargeable goods." ;

(b) in the first column—

the entries relating to jewellery and imitation jewellery and other goldsmiths' and silversmiths' wares, and to pictures, prints, engravings, photographs, figures, busts, reliefs, vases and similar articles shall be deleted ;

in the entry relating to garden furniture and garden ornaments the words "and garden ornaments" shall be deleted ;

for the entry relating to articles made wholly or partly of ivory, amber, jet, coral, mother-of-pearl, natural shells or tortoiseshell, or of semi-precious stones there shall be substituted the following entry:—

"Articles of all kinds made wholly or partly of mother-of-pearl." ;

after the entry relating to fancy or household goods, the words "other fancy or ornamental articles of a kind suitable for personal or domestic use (including artificial flowers, photograph frames and paper weights)." shall be deleted ;

in the entry relating to perfumery and toilet preparations the words "Perfumery and" shall be deleted ;

4TH SCH.  
—cont.

(c) in the second column—

for the entry relating to lawn mowers and garden rollers there shall be substituted the following entry :—

“Lawn mowers other than those of a kind suitable for operation from electric mains.  
Garden rollers.” ;

(d) in the third column—

in the entry relating to domestic cooking, space heating and water heating appliances, after the word “appliances” there shall be added the words “not being goods comprised in the list of exceptions set out at the end of this entry,” and at the end of that entry there shall be added the words—

“The list of exceptions above referred to.  
Domestic appliances and domestic apparatus, being appliances and apparatus of a kind suitable for operation from electric or gas mains, of the following descriptions :—

Space heating appliances and apparatus, including appliances and apparatus of a kind used for boiling or cooking and also for space heating.  
Instantaneous water heaters.

Immersion water heaters.

Storage water heaters.

Circulator water heaters for tank storage.

Water boilers for tank storage or central heating” ;

at the end of the entries relating respectively to furniture and component parts of furniture, to cupboards, dressers, draining boards and similar articles, and to fireguards, there shall be added the words “but not including goods comprised in the list of exceptions set out at the end of the entry in this column relating to domestic cooking, space heating and water-heating appliances.”

3. For subsection (1) of section seventeen of the Finance Act, 1942, there shall be substituted the following subsection :—

“(1) Goods falling within any of the classes specified in the Seventh Schedule to this Act and not falling within any of the classes specified in the third column of the Seventh Schedule to the Finance (No. 2) Act, 1940, shall be chargeable goods, and in the case of those goods, not being goods falling within any of the classes specified in the second column of the said Seventh Schedule to the Finance (No. 2) Act, 1940, purchase tax shall be charged at a rate to be called the “higher rate” which shall be one hundred per cent. of the wholesale value of the goods”.

4. In the Seventh Schedule to the Finance Act, 1942—

the entry relating to glass mirrors shall be deleted ;

in the entry relating to toilet requisites, there shall be added in the exceptions, after the word “towels,” the word “mirrors.”



## PART II.

## ASCERTAINMENT OF RETAIL VALUE OF ROAD VEHICLES IN CONNECTION WITH THE TAX.

1. The following provisions of this Part of this Schedule shall have effect for the purpose of ascertaining in connection with the tax whether a vehicle is of a retail value of more than a specified amount.

2. The retail value of a vehicle shall be taken to be the price which it would fetch on a sale made by a person selling it by retail in the open market in the United Kingdom at the time when the tax chargeable in respect thereof becomes due, on the assumption that the seller has suffered the incidence of tax at the basic rate and that the price includes the amount of such tax.

3. For the purpose of computing the price which a vehicle would fetch on such a sale as is mentioned in the last preceding paragraph, the following circumstances shall be assumed, that is to say—

- (a) the like assumptions shall be made (apart from that required by the last preceding paragraph) as are required for the purpose of valuations under section twenty-one of the Finance (No. 2) Act, 1940, by the Eighth Schedule to that Act (which requires assumptions as to the seller's bearing incidental expenses and being independent of the buyer, as to patent and trade mark rights, and as to other matters), substituting therein references to the last preceding paragraph for references to the said section twenty-one;
  - (b) if the purchase or importation of the vehicle in connection with which it is necessary to determine its retail value is of the vehicle without some part, accessory or other article of a kind with which it is for the time being the practice of the manufacturer of the vehicle to sell vehicles of the model in question or to advertise them for sale, or if it is shown that that purchase or importation is the subject of a transaction or of one of a series of transactions which includes or include also a transfer of the property in, or other dealing with, some part, accessory or other article suitable for use with the vehicle, it shall be assumed that the vehicle was sold as mentioned in the last preceding paragraph with that part, accessory or other article.
-

## Section 11.

## FIFTH SCHEDULE.

## PURCHASE TAX: EXEMPTIONS AND REDUCTIONS.

## PART I.

## CLASSES OF GOODS BECOMING EXEMPT, AND DATES FROM WHICH EXEMPTIONS OPERATE.

*Classes of Goods**Dates from which exemptions operate*

Domestic water filters designed to remove bacteria and other suspended impurities from drinking water by mechanical means, but not including filters also employing chemical reaction.

16th April 1947

Children's safety reins and children's safety harness.

Thermostats.

Dustbins, buckets and pails and lids for any of those articles.

Projectors for sub-standard film, and lenses and other parts of, and accessories to, such projectors.

10th July 1947

Appliances, apparatus, accessories and requisites for sports, games, gymnastics or athletics, not being mechanically operated articles, the following,—swings, slides (including water chutes), see-saws, roundabouts and giant strides.

## PART II

## CLASSES OF GOODS BECOMING CHARGEABLE AT REDUCED RATE, AND DATES FROM WHICH REDUCTIONS OPERATE.

*Classes of Goods**Dates from which reductions operate*

Floor coverings, including linoleum, but not including the following articles—

(a) carpets, carpeting, mats and matting, being articles of textile material ;

(b) rugs ;

(c) wooden floor coverings.

Chambers not supplied as part of a toilet service, and chair pans and commode pans, and lids for such chambers and pans as aforesaid.

Hot water bottles of a kind designed for use as bed warmers or foot warmers.

16th April, 1947

Requisites for cricket of the following descriptions,—bats, balls, stumps and bails, and wicket-keepers' and batsmen's pads and gloves.

Football and parts of footballs, and footballers' shinguards.

Requisites for hockey, but not for ice hockey, of the following descriptions,—sticks, balls and shinguards.

Boxing gloves.

Rowing boats specially designed as racing boats.

<i>Class of Goods</i>	<i>Dates from which reductions operate</i>	<i>5TH SCH. —cont.</i>
Floor coverings of the following descriptions :— (a) rush, grass, raffia, straw or reed woven mats and rush, grass, raffia, straw or reed woven matting ; (b) woven mats and woven matting, being mats and matting whereof the warp or weft consists of tow of flax.		
Requisites for shinty and hurley of the following descriptions,— sticks, balls and shinguards.		
Requisites for lawn bowls of the following descriptions,—bowls and jacks.		
Requisites for lacrosse of the following descriptions,—crosses, balls and gauntlets.	10th July 1947	
Netballs.		
Requisites for athletics, the following,—throwing hammers and handles therefor, regulation shot, relay batons, discuses, vaulting poles, hurdles, and javelins and heads and shafts therefor.		
Inflatable leather balls made in panels or sections, and parts thereof.		
Racing oars, spoon-bladed, not less than 12 feet in length.		

## PART III.

## CLASSES OF GOODS BECOMING CHARGEABLE AT BASIC RATE, AND DATES FROM WHICH REDUCTIONS OPERATE.

<i>Classes of Goods</i>	<i>Dates from which reductions operate</i>
Razor strops and razor sharpeners, but not including strops and sharpeners supplied as part of a toilet set.	16th April 1947
Dental sticks and toothpicks.	
Reproductions produced in quantity for general sale, irrespective of size, and whether plain or coloured, of such pictures, prints, engravings and similar articles as were executed more than one hundred years before the date on which tax becomes due in respect of the reproductions.	10th July 1947

## Section 11.

## SIXTH SCHEDULE.

## PURCHASE TAX: AMENDMENTS OF SEVENTH SCHEDULES TO FINANCE (No. 2) ACT, 1940, AND FINANCE ACT, 1942, CONSEQUENTIAL ON EXEMPTIONS AND REDUCTIONS PROVIDED BY FIFTH SCHEDULE TO THIS ACT.

## PART I.

## AMENDMENTS CONSEQUENTIAL ON EXEMPTIONS AND REDUCTIONS OPERATING FROM 16TH APRIL 1947.

*Amendments of Seventh Schedule to Finance (No. 2) Act, 1940.*

REFERENCE TO PLACE FOR MAKING AMENDMENT	AMENDMENT
In the first column, the entry relating to carpets, rugs, mats, linoleum and other floor coverings.	Substitute :— “Carpets, carpeting, mats and matting, being articles of textile material, rugs, and wooden floor coverings.”
In the second column, opposite the entry directed to be substituted for the entry in the first column relating to carpets, rugs, mats, linoleum and other floor coverings.	Insert :— “Floor coverings, including linoleum, but not including— (a) carpets, carpeting, mats or matting, being articles of textile material ; (b) rugs ; (c) wooden floor coverings.”
In the second column, opposite the entry in the first column relating to articles of china, porcelain, earthenware, stoneware, or other pottery ware.	Insert :— “Chambers not supplied as part of a toilet service, and chair pans and commode pans and lids for such chambers and pans as aforesaid.” “Hot water bottles of a kind designed for use as bed warmers or foot warmers.”
In the second column, opposite the entry in the first column relating to appliances, apparatus, accessories and requisites for sports, games, gymnastics or athletics.	Insert :— “Requisites for cricket of the following descriptions,—bats, balls, stumps and bails, and wicket-keepers' and batsmen's pads and gloves.” “Footballs and parts of footballs, and footballers' shinguards.” “Requisites for hockey, but not for ice hockey, of the following descriptions,—sticks, balls, and shinguards.” “Boxing gloves.” “Rowing boats specially designed as racing boats.”

REFERENCE TO PLACE FOR  
MAKING AMENDMENT

## AMENDMENT

In the third column, after the entry relating to articles of china, porcelain, earthenware, stoneware or other pottery ware.

Insert :—

“ Domestic water filters designed to remove bacteria and other suspended impurities from drinking water by mechanical means, but not including filters also employing chemical reaction.”

*Amendment of Seventh Schedule to Finance Act, 1942.*REFERENCE TO PLACE FOR  
MAKING AMENDMENT

## AMENDMENT

In the entry relating to toilet requisites.

After “ of all kinds except,” insert “ dental sticks, toothpicks and ”, and after “ razors and razor blades,” insert “ razor strops, razor sharpeners.”

## PART II.

AMENDMENTS CONSEQUENTIAL ON EXEMPTIONS AND REDUCTIONS  
OPERATING FROM 10TH JULY, 1947.*Amendments of Seventh Schedule to Finance (No. 2) Act, 1940.*REFERENCE TO PLACE FOR  
MAKING AMENDMENT

## AMENDMENT

In the first column, in the entries relating to projectors for sub-standard film and to parts of, and accessories to, cameras, enlargers and projectors.

Delete “ Projectors for sub-standard film ”, and for “ enlargers or projectors ” substitute “ or enlargers.”

In the first column, after the entry relating to pencils, pens, &c.

Insert :—

“ Reproductions produced in quantity for general sale, irrespective of size, and whether plain or coloured, of such pictures, prints, engravings and similar articles as were executed more than one hundred years before the date on which tax becomes due in respect of the reproductions.”

In the second column, after the entry relating to floor coverings.

Insert :—

“ Floor coverings of the following descriptions :—

Rush, grass, raffia, straw or reed woven mats and rush, grass, raffia, straw or reed woven matting ;

Woven mats and woven matting, being mats and matting whereof the warp or weft consists of tow of flax.”

6TH SCH.  
—cont.

REFERENCE TO PLACE FOR  
MAKING AMENDMENT

AMENDMENT

In the second column, after the entry relating to rowing boats.

Insert :—

“ Requisites for shinty and hurley of the following descriptions,—sticks, balls and shinguards.

Requisites for lawn bowls of the following descriptions,—bowls and jacks.

Requisites for lacrosse of the following descriptions,—crosses, balls and gauntlets.

Netballs.

Requisites for athletics, the following,—throwing hammers and handles therefor, regulation shot, relay batons, discuses, vaulting poles, hurdles, and javelins and heads and shafts therefor.

Inflatable leather balls made in panels or sections, and parts thereof.

Racing oars, spoon-bladed, not less than 12 feet in length.”

In the third column, after the entry relating to haberdashery.

Insert “ Children’s safety reins and children’s safety harness.”

In the third column, after the entry relating to thermal insulating covers.

Insert “ Thermostats.”

In the third column, after the entry relating to hollow-ware of iron or steel.

Insert “ Dustbins, buckets and pails and lids for any of those articles.”

In the third column, the entry relating to projectors for slides.

Substitute “ Projectors for sub-standard film or for slides (including projectors for film-strips).”

In the third column, after the entry relating to passenger gliders.

Insert :—

“ Appliances, apparatus, accessories and requisites for sports, games, gymnastics and athletics, not being mechanically operated articles, the following,—swings, slides (including water chutes), see-saws, roundabouts and giant strides.”

## Amendment of Seventh Schedule to Finance Act, 1942.

6TH SCH.  
—cont.REFERENCE TO PLACE FOR  
MAKING AMENDMENT

## AMENDMENT

The entry relating to pictures,  
prints, engravings, &c.

At end add :—

“ but excluding reproductions, irrespective of size, and whether plain or coloured, of such pictures, prints, engravings and similar articles as were executed more than one hundred years before the date on which tax becomes due in respect of the reproductions.”

## SEVENTH SCHEDULE.

INCOME TAX IN RELATION TO ASSETS TRANSFERRED UNDER COAL INDUSTRY NATIONALISATION ACT, 1946. Section 29.

## PART I.

## INTERPRETATION.

## 1. In this Schedule—

“ the Board ” means the National Coal Board ;

“ relevant property ” means property which, or an interest in which, vests in the Board by virtue of section five or section six of the Coal Industry Nationalisation Act, 1946, or by virtue of section forty-four of, and the Third Schedule to, that Act, being property which, or, as the case may be, an interest in which, was, immediately before the vesting, an asset of a colliery concern, a subsidiary of a colliery concern, a body administering a scheme under Part I of the Coal Mines Act, 1930, or the South Yorkshire Mines Drainage Committee ; and “ relevant building or structure ” and “ relevant machinery or plant ” shall be construed accordingly ;

“ vest ” means vest in the Board under the said section five, the said section six, or the said section forty-four and the said Third Schedule ;

“ the vesting date ” means, in relation to any relevant property, the date of the vesting of that property or of any interest therein, as the case may be ;

“ the transferor ” means, in relation to any relevant property, the person who immediately before the vesting date owned the property or, as the case may be, the interest in the property which vests.

2. The provisions of Part VIII of the Income Tax Act, 1945, shall, so far as applicable, apply in relation to the provisions of this Schedule as they apply in relation to other provisions of that Act.

7TH SCH.  
—cont.

## PART II.

## LIABILITY TO INCOME TAX OF THE TRANSFEROR.

1. The provisions of this Part of this Schedule shall have effect for the purpose of computing the liability to income tax, for any year of assessment, of the transferor.

7 & 8 Geo. 6.  
c. 23.

2. Parts I, II, III, V and VI of the Income Tax Act, 1945, and Part IV of the Finance Act, 1944, shall be deemed never to have applied in relation to the relevant property or any expenditure represented thereby :

Provided that nothing in this paragraph shall affect the application in relation to any machinery or plant of section sixteen of the Income Tax Act, 1945.

## PART III.

## LIABILITY TO INCOME TAX OF THE BOARD.

*General.*

1. The provisions of this Part of this Schedule shall have effect for the purposes of computing the liability of the Board to income tax for any year of assessment.

2. In relation to any relevant property, the vesting date or the date on which the property is first used for the purposes of the trade of the Board, whichever is the earlier, shall be treated as substituted for the sixth day of April, nineteen hundred and forty-six, as the date fixed as the appointed day for the purposes of Parts I, II, III, V and VI of the Income Tax Act, 1945, and Part IV of the Finance Act, 1944, and references in this Schedule to the appointed day shall be construed accordingly.

3. The vesting of, or of an interest in, any relevant property shall not be treated as a sale, or as a purchase, for any of the purposes of Parts I, II, III, V and VI of the Income Tax Act, 1945, or of Part IV of the Finance Act, 1944.

*Industrial Buildings and Structures, etc.*

4. For the purposes of section one of the Income Tax Act, 1945, any capital expenditure incurred by the transferor on the construction of a relevant building or structure which was to be an industrial building or structure occupied for the purposes of a trade carried on by the transferor shall be treated as if the expenditure had been incurred by the Board and as if the building or structure was to have been an industrial building or structure occupied for the purposes of the corresponding trade carried on by the Board.

5. For the purposes of subsection (5) of section three of the Income Tax Act, 1945, any relevant mills, factories or exceptional depreciation allowances made to the transferor in respect of any relevant building or structure shall be treated as having been made to the Board.



6. Any relevant mills, factories and exceptional depreciation allowances made in respect of any relevant building or structure to the transferor for the year of assessment in which the appointed day falls shall be treated for the purposes of subsection (3) of section one and subsection (6) of section four of the Income Tax Act, 1945, as if they had been made for a year of assessment before that in which the appointed day falls.

*Machinery and Plant.*

7. For the purpose of determining whether any and if so what deduction, allowance or charge is to be allowed or made under Part II of the Income Tax Act, 1945, or under Rule 6 or Rule 7 of the Rules applicable to Cases I and II of Schedule D, in respect of any relevant machinery or plant—

- (a) any expenditure incurred by the transferor on the provision of the machinery or plant for the purposes of his trade (including any such expenditure incidental to the provision thereof as is mentioned in subsection (1) of section twenty-one of the said Act) shall be treated as if it had been incurred by the Board on the provision thereof for the purposes of their corresponding trade ;
- (b) any allowances or deductions made in respect of, or of any expenditure on, that machinery or plant to the transferor shall be treated as if they had been allowed or made to the Board ; and
- (c) for the purposes of subsection (2) of section fifteen of the said Act and of paragraph (6) of Rule 6 of the Rules applicable to Cases I and II of Schedule D, any deduction allowed in respect of the said machinery or plant to the transferor for the year of assessment in which the appointed day falls shall be treated as if it had been allowed for a year of assessment previous to that year :

Provided that nothing in this paragraph shall be construed as allowing any deduction allowed to the transferor to which full effect could not be given owing to an insufficiency of profits or gains of the transferor to be added to or form part of any deduction allowed to the Board.

*Allowances and charges under Part III of Income Tax Act, 1945.*

8.—(1) The provisions of subsection (1) of section twenty-six of the Income Tax Act, 1945, shall apply in relation to any expenditure incurred on or after the sixth day of April, nineteen hundred and forty-four, but before the appointed day, by the transferor for the purposes of a trade, as if it had been incurred by the Board on the appointed day for the purposes of their corresponding trade :

Provided that—

- (a) in the case of expenditure on a building or structure, the amount by reference to which the initial allowance is to be calculated shall, instead of being the amount of the expenditure, be the amount of the expenditure less any relevant mills, factories and exceptional depreciation allowances made in respect of the building or structure to the transferor for the year of assessment in which the appointed day falls or any previous year of assessment ;

7TH SCH.  
—cont.

- (b) no initial allowance shall be made in respect of any expenditure if the asset representing the expenditure has been sold by the transferor between the date when the expenditure was incurred and the appointed day.

9. In the application of the First Schedule to the Income Tax Act, 1945, to expenditure on or in connection with any relevant property—

- (a) references in Parts II and III of that Schedule to the trader shall be construed as references to the transferor ; and
- (b) references in Part III of that Schedule to any predecessor in the working of the source shall be construed as not including references to the transferor ; and
- (c) references in Parts II and III of that Schedule to any relevant mills, factories or exceptional depreciation allowances for any year of assessment before that in which the appointed day falls shall be deemed to include references to any relevant mills, factories or exceptional depreciation allowances for the year of assessment in which the appointed day falls.

#### *Patent Rights.*

10. Where the relevant property consists of patent rights, any capital expenditure incurred by the transferor on the purchase thereof which was incurred on or after the sixth day of April, nineteen hundred and forty-six, shall be treated for the purposes of Part V of the Income Tax Act, 1945, as if it had been incurred by the Board on the appointed day :

Provided that where, after the purchase of those rights by the transferor, part thereof has been sold by him, the said expenditure shall be treated as reduced by the net proceeds of the sale, so far as they consist of capital sums.

11. Where the relevant property consists of patent rights, any sale of those rights to the transferor, being a sale on or after the sixth day of April, nineteen hundred and forty-six, shall be left out of account for the purposes of section thirty-eight of the Income Tax Act, 1945.

12. Section forty-three of the Income Tax Act, 1945, shall apply for the interpretation of the two last preceding paragraphs as it applies for the interpretation of Part V of that Act.

#### *Scientific Research Expenditure.*

13. Where, on or after the first day of January, nineteen hundred and thirty-seven and before the appointed day, the transferor incurred expenditure of a capital nature on scientific research related to his trade and that expenditure is represented by any relevant property, the provisions of Part IV of the Finance Act, 1944, and Part VI of the Income Tax Act, 1945, shall apply as if that expenditure had been made by the Board immediately after the appointed day for the purposes of their corresponding trade :

Provided that that expenditure shall be treated as reduced by the aggregate amount of all allowances made to the transferor in respect of the property for the year of assessment in which the appointed day falls and previous years of assessment, being such allowances as are mentioned in paragraphs (a) to (d) of the proviso to section forty-five of the Income Tax Act, 1945.

7TH SCH.  
—cont.

14. Any reference in the last preceding paragraph to scientific research related to a trade has the meaning assigned to such references by section thirty-one of the Finance Act, 1944.

## EIGHTH SCHEDULE.

Section 46

### COMPUTATION OF PROFITS, ETC., FOR PURPOSES OF THE PROFITS TAX.

#### PART I.

##### INCOME TAX ALLOWANCES, DEDUCTIONS, ETC.

1.—(1) Where any of the following allowances, that is to say—

- (a) an allowance 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 (which relate to allowances for wear and tear of machinery and plant); or
- (b) an initial allowance, an annual allowance or a balancing allowance made under any of the provisions of the Income Tax Act, 1945; or
- (c) an allowance under section twenty-eight, or paragraph (b) of subsection (1) or paragraph (a) of subsection (2) of section twenty-nine, of the Finance Act, 1944 (which relate to allowances for capital expenditure on scientific research); or
- (d) an allowance under section thirty-three of the Income Tax Act, 1945 (which provides for allowances in the case of certain farming and forestry works),

is made to any person for the purposes of income tax for any year of assessment, and the allowance is related to any trade or business carried on by that person, the whole amount of the allowance or, as the case may be, the appropriate proportion thereof shall be deducted in computing the profits of that trade or business for the purposes of the profits tax for any accounting period any part of which falls within that year of assessment.

(2) For the purposes of this paragraph, an allowance shall be treated as related to a trade or business if, and only if, either—

- (a) it is made in charging the profits or gains of a trade which is or is comprised in that trade or business; or
- (b) it is an allowance under section twenty of the Income Tax Act, 1945, or an initial, annual or balancing allowance made by way of discharge or repayment of tax and is in respect of, or of expenditure on, property the rent of which is included in the profits of the trade or business for the purposes of the profits tax for any accounting period or would have been so included if there had been any such rent; or

8TH SCH.  
—cont.

(c) it is an allowance under section thirty-three of the Income Tax Act, 1945, and is in respect of expenditure on property used for the purposes of the trade or business or property the rent of which is or would be so included as aforesaid.

(3) In this paragraph, the expression “the whole amount of the allowance or, as the case may be, the appropriate proportion thereof” means—

- (a) where the year of assessment in question and the accounting period in question coincide, the whole amount of the allowance ;
- (b) where part only of that year of assessment falls within that accounting period, such portion of the amount as is apportioned to the part of the year of assessment which falls within the accounting period :

Provided that, in a case in which the trade or business is commenced or discontinued during the year of assessment in question, the said expression—

- (i) if no more than one accounting period of the trade or business falls, whether wholly or partly, within the year of assessment, means the whole amount of the allowance ; and
- (ii) if more than one accounting period of the trade or business falls, whether wholly or partly, within the year of assessment, means, in relation to each such accounting period, the portion of the allowance which bears to the whole amount thereof the same proportion that the length of the accounting period, so far as included in the said year, bears to the total length of all such accounting periods, so far as so included.

(4) Sub-paragraph (1) of paragraph 3 of the Fourth Schedule to the Finance Act, 1937 (which allows a deduction for wear and tear) shall cease to have effect.

2.—(1) Where any of the following charges, that is to say—

- (a) a balancing charge under any of the provisions of the Income Tax Act, 1945 ; or
- (b) a charge under section thirty-seven of that Act (which relates to capital sums received for the sale of patent rights),

is made on any person for the purposes of income tax for any year of assessment, and the charge is related to a trade or business, the whole amount on which the charge is made or, as the case may be, the appropriate proportion thereof shall be treated as a trading receipt in computing the profits of that trade or business for the purposes of the profits tax for any accounting period any part of which falls within that year of assessment.

(2) For the purposes of this paragraph, a charge shall be treated as related to a trade or business if, and only if, either—

- (a) it is made in charging the profits or gains of a trade which is or is comprised in that trade or business ; or
- (b) it is a balancing charge in respect of, or of expenditure on, property the rent of which is included in the profits of the trade or business for the purposes of the profits tax for any accounting period or would have been so included if there had been any such rent ; or

(c) it is a charge under the said section thirty-seven and the patent rights in question have at any time been used for the purposes of the trade or business.

(3) In this paragraph, the expression "the whole amount on which the charge is made or, as the case may be, the appropriate proportion thereof" means—

- (a) where the year of assessment in question and the accounting period in question coincide, the whole amount on which the charge is made ;
- (b) where part only of that year of assessment falls within that accounting period, such portion of the amount on which the charge is made as is apportioned to that part of the year of assessment which falls within that accounting period :

Provided that, in a case in which the trade or business is commenced or discontinued during the year of assessment in question, the said expression—

- (i) if no more than one accounting period of the trade or business falls, whether wholly or partly, within the year of assessment, means the whole amount on which the charge is made ; and
- (ii) if more than one accounting period of the trade or business falls, whether wholly or partly, within the year of assessment, means, in relation to each such accounting period, the portion of the said amount which bears to the whole of the said amount the same proportion as the length of the accounting period, so far as included in the said year, bears to the total length of all such accounting periods, so far as so included.

3.—(1) Where, under Rule 7 of the Rules applicable to Cases I and II of Schedule D, or section fifteen of the Finance Act, 1937 (which relate respectively to the replacement of plant and machinery and to deductions in respect of mills, factories and other similar premises), an amount is deducted in computing the profits or gains of a trade for any period for the purposes of income tax under the said Case I, the whole of that amount or, as the case may be, the appropriate proportion thereof shall be deducted in computing the profits of that trade, or of any trade or business which comprises that trade, for the purposes of the profits tax for any accounting period any part of which falls within the first-mentioned period ; and save as aforesaid, the said Rule 7 and the said section fifteen shall not apply to the computation of profits for the purposes of profits tax.

(2) Where, by virtue of subsection (2) of section twenty-nine of the Finance Act, 1944 (which relates to the sale of assets in respect of which allowances have been made under section twenty-eight of that Act), any amount is treated as a trading receipt of a trade for any period for the purposes of income tax under Case I of Schedule D, the whole of that amount or, as the case may be, the appropriate proportion thereof shall be treated as a trading receipt of the trade, or of any trade or business which comprises that trade, for the purposes of the profits tax for any accounting period any part of which falls within the first-mentioned period.

8TH SCH.  
—cont.

(3) In this paragraph, the expression "the whole of that amount or, as the case may be, the appropriate proportion thereof" means—

- (a) where the period which is in question as respects income tax coincides with or falls wholly within the accounting period, the whole of that amount ; and
- (b) where part only of the first-mentioned period coincides with or falls within the said accounting period, such proportion of that amount as is apportioned to the part of the first-mentioned period which falls within the accounting period.

(4) Where an amount would fall to be deducted or fall to be treated as a trading receipt of a trade for the purposes of income tax under Case I of Schedule D but for the fact that there are no profits or gains of the trade for the relevant period or the fact that the periods by reference to the facts of which assessments to income tax fall to be made under that Case do not include the relevant period, the like consequences shall ensue under the preceding provisions of this paragraph as would have ensued if the amounts had been so deducted or had been so treated as trading receipts.

4. Where the profits of a trade or business are not chargeable or not wholly chargeable to income tax under Case I of Schedule D, the like deductions and additions shall be made under paragraphs 1 to 3 of this Part of this Schedule in computing the profits of the trade or business for the purposes of the profits tax (being deductions and additions in respect of matters in respect of which no deductions or additions otherwise fall to be made under those paragraphs respectively) as would have fallen to be made for income tax purposes if the profits of the trade or business had been so chargeable or wholly so chargeable.

5.—(1) So much of any enactment as prevents any of the following provisions, that is to say—

- (a) section twenty-seven of the Finance Act, 1944 (which allows the deduction for income tax purposes of certain expenditure on scientific research not of a capital nature and of payments to research associations, universities, etc.),
- (b) subsection (1) of section thirty-nine of the Income Tax Act, 1945 (which allows the deduction for income tax purposes of expenses incurred in obtaining the grant or extension of patents),
- (c) section sixty-two of the Income Tax Act, 1945 (which allows the deduction for income tax purposes of expenses incurred in obtaining the registration of a design or a trade mark or the extension of the period of copyright in a design or the renewal of registration of a trade mark), and
- (d) section twenty-nine of the Finance Act, 1946 (which allows the deduction for income tax purposes of certain payments in aid of technical education),

applying, by virtue of subsection (1) of section twenty of the Finance Act, 1937, to the computation of profits for the purposes of the profits tax shall cease to have effect.

(2) Subject to the provisions of Part II of this Schedule, the provisions of Part III of this Act relating to relief for income tax purposes for capital expenditure on rehabilitation costs shall apply and be deemed always to have applied to the computation of the profits of a trade or business for the purposes of the profits tax as they apply to the computation of profits or gains of a trade for the purposes of income tax, subject, however, to any necessary adaptations and, in particular, to the adaptation that for the reference to section nineteen of the Finance Act, 1941, there shall be substituted a reference to paragraph 3 of Part I of the Seventh Schedule to the Finance (No. 2) Act, 1939, and subsection (1) of section thirty-three of the Finance Act, 1940, as applied to the profits tax by subsection (2) of section forty-three of the Finance Act, 1941, and as amended by any subsequent enactment.

This sub-paragraph shall, in relation to the said provisions of Part III of this Act, have effect to the exclusion of any other enactment which would otherwise operate to apply the said provisions to the computation of profits for the purposes of the profits tax.

6.—(1) Section thirty-four of the Finance (No. 2) Act, 1945 (which directs that, for the purposes of excess profits tax and the profits tax, certain contributions and other payments made under redundancy schemes shall be left out of account) shall cease to have effect as respects the profits tax.

(2) Section twenty-five of the Finance (No. 2) Act, 1945 (which relates to the effect, for income tax purposes, of the cancellation of certificates granted under section twenty-five of the Finance Act, 1935) shall have effect also in relation to the profits tax, subject, however, to any necessary adaptations, and, in particular, as if—

- (a) the body of persons carrying on the scheme carried on a trade or business ; and
- (b) the year of assessment specified in subsection (1) of the first-mentioned section twenty-five were a chargeable accounting period of that trade or business ; and
- (c) the amount of the deductible contributions not repaid at the time specified in that subsection were profits arising from that trade or business ; and
- (d) no net relevant distributions had been made for that chargeable accounting period by the body ; and
- (e) the provisions for abatement had not been passed ; and
- (f) references to deductible contributions were references to contributions allowed to be deducted for the purposes of the profits tax.

(3) Any profits tax chargeable by virtue of sub-paragraph (2) of this paragraph on the body of persons therein mentioned for any year of assessment shall be an allowable deduction in computing the amount, if any, on which income tax is to be charged for that year on that body under Case VI of Schedule D by virtue of section twenty-five of the Finance (No. 2) Act, 1945, and any repayment of the profits tax chargeable by virtue of that sub-paragraph on that body for any year of assessment shall be deemed to be an amount on which income tax is to be charged for that year on that body under Case VI of Schedule D by virtue of the said section twenty-five.

8TH SCH.  
—cont.

7.—(1) Any reference in this Part of this Schedule to an allowance or deduction includes a reference to an allowance or deduction which would be made but for an insufficiency of profits or gains, or other income, against which to make it.

(2) Any reference in this Part of this Schedule to an allowance made for any year of assessment shall be construed as a reference to the allowance which would fall to be made for that year if no regard were had to the operation of paragraph (3) of Rule 6 of the Rules applicable to Cases I and II of Schedule D (either as originally enacted or as applied by any subsequent enactment) or to the operation of subsection (1) of section fifty-six of the Income Tax Act, 1945.

(3) Where, under this Part of this Schedule, an amount falls to be apportioned to a part of a year of assessment or period, the apportionment shall be made by reference to the number of months or fractions of months contained in that part, and in the remainder, of that year of assessment or period.

## PART II.

### EXCESS PROFITS TAX DEDUCTIONS.

I. Where the following conditions are fulfilled, that is to say—

(a) for the purposes of excess profits tax—

(i) costs of deferred repairs and renewals have, by virtue of paragraph (a) of subsection (1) of section thirty-seven of the Finance Act, 1946, been treated as reducing the profits of a trade or business for any accounting period which, or a part of which, is a chargeable accounting period for the purposes of excess profits tax ; or

(ii) a deduction representing any sum dealt with under subsection (2) of section thirty-three of the Finance Act, 1940, has been allowed wholly or partly for any such accounting period ; or

(iii) a deduction in respect of any payment or payments which, apart from the provisions of section twenty-three of the Finance Act, 1943 (which relates to payments to superannuation funds and certain other payments in respect of back service) would have been allowed, has not been allowed, or an election has been made under paragraph (i) or paragraph (ii) of the proviso to subsection (1) of that section in respect of any payment or payments ; and

(b) apart from this paragraph, a deduction in respect of the costs in question or a deduction representing the sum in question or a deduction in respect of any of the payments in question, as the case may be, would be made in computing for the purposes of the profits tax, the profits of that trade or business for any accounting period ending after the end of the year nineteen hundred and forty-six, or would have been so made but for the fact that the trade or business is carried on by an individual or by individuals in partnership and the profits thereof are accordingly no longer chargeable to the profits tax,



there shall, in computing the profits of the trade or business for the purposes of the profits tax for all accounting periods (including periods ending before the end of the said year) be made in respect of the costs in question, the sum in question or the payment or payments in question, as the case may be, the same deductions, if any, and no other deductions as were, or if excess profits tax had continued to be chargeable would have been, made in computing the profits of the trade or business for those accounting periods respectively for the purposes of excess profits tax :

Provided that if the person carrying on the trade or business so elects as respects any payment or payments to which paragraph (iii) of sub-paragraph (a) of this paragraph applies and as respects which the conditions specified in this paragraph are fulfilled but as respects which an election under paragraph (ii) of the proviso to subsection (1) of section twenty-three of the Finance Act, 1943, has not been made, the like consequences shall follow under this paragraph as would have followed thereunder if such an election had been made (and, in a case in which there was not in fact a right to make such an election, if there had been such a right).

2. Where the following conditions are fulfilled, that is to say—

(a) for the purposes of excess profits tax—

(i) a deduction representing any sum dealt with under subsection (2) of section thirty-three of the Finance Act, 1940, would, if the tax had continued to be chargeable, have been allowed wholly or partly in computing the profits of a trade or business for any accounting period ending after the end of the year nineteen hundred and forty-six ; or

(ii) a deduction in respect of any payment or payments would, if the tax had continued to be chargeable, have, by virtue of an election under paragraph (ii) of the proviso to subsection (1) of section twenty-three of the Finance Act 1943, been allowed partly for such an accounting period or periods ; and

(b) a deduction representing the sum in question or a deduction in respect of the payment or payments in question fell to be made in computing for the purposes of the profits tax the profits of the trade or business in question for an accounting period ending at or before the end of the year nineteen hundred and forty-six,

the like consequences shall follow as would have followed if the conditions specified in the preceding paragraph had been fulfilled, and that paragraph shall have effect accordingly.

3. Where, by virtue of paragraph (b) of subsection (1) of section thirty-seven of the Finance Act, 1946, the profits of a trade or business for a chargeable accounting period for the purposes of excess profits tax are treated as reduced by the amount of any rehabilitation costs or cancellation costs, the profits tax, if any, payable for any chargeable accounting period for the purposes of the profits tax which coincides with or includes the first mentioned chargeable accounting period shall, subject to the provisions of Part IV of this Act relating to chargeable accounting periods falling partly before and partly after the end of the year nineteen hundred and forty-six, be reduced by such percentage of

8TH SCH.  
—cont.

the amount of those costs as is equal to the rate per cent. at which the profits tax would have been chargeable on the profits of the trade or business if this Act had not been passed; and no deduction shall be made in respect of those costs in computing the profits of that trade or business for the purposes of the profits tax for any accounting period.

### PART III.

#### MISCELLANEOUS AMENDMENTS AS TO COMPUTATION OF PROFITS, ETC.

1. In paragraph 4 of the Fourth Schedule to the Finance Act, 1937, for the words "the directors shall be deemed to be carrying on the trade or business" there shall be substituted the words "the directors, other than whole-time service directors, shall be deemed to be carrying on the trade or business".

2. In sub-paragraph (c) of paragraph 13 of the said Schedule, after the words "is not the beneficial owner of" there shall be inserted the words "or able, either directly or through the medium of other companies or by any other indirect means, to control".

3. In computing the profits of a trade or business for the purposes of profits tax for any accounting period, there may be deducted expenditure incurred therein on additions or improvements to farm-houses, farm buildings or cottages owned by the persons carrying on the trade or business and forming part of the assets thereof, but only if no increased rent is payable in respect of the additions or improvements and only in so far as they are made in order to comply with the provisions of any statute or the regulations or bye-laws of a local authority.

4.—(1) In computing the profits of a trade or business for the purposes of the profits tax for any accounting period, there may be deducted the whole, or, as the case may be, the appropriate proportion, of any mineral rights duty or royalties welfare levy payable in respect of any period the whole or any part of which falls within that accounting period.

(2) In this paragraph, the expression "the whole, or, as the case may be, the appropriate proportion, of any mineral rights duty or royalties welfare levy" means, where the period for which the duty or levy is payable coincides or falls wholly within the accounting period, the whole of the duty or levy which is payable, and where part only of that period falls within the accounting period, so much of the duty or levy as is apportioned to the part of that period which falls within the accounting period, and any apportionment under this paragraph shall be made by reference to the number of months or fractions of months in the part of the period which falls, and in the part of the period which does not fall, within the accounting period.

5.—(1) Where—

- (a) an assurance company carries on life assurance business; and
- (b) the functions of a company which is a subsidiary of that company consist wholly or mainly in the holding of investments or other property; and

- (c) the whole or any part of the ordinary share capital of that subsidiary is held by the assurance company and forms part of the investments of the life assurance fund of that company,

8TH SCH.  
—cont.

then, if the assurance company so elects, any income received from investments or other property held by the subsidiary shall, for the purposes of the profits tax, including, in its application to profits tax, the purposes of section sixteen of the Finance Act, 1923 (which confers relief in the case of profits belonging or allocated to or reserved for or expended on behalf of policy-holders or annuitants), be deemed not to be income of the subsidiary but to be profits of the assurance company in respect of its life assurance business :

Provided that where part only of the ordinary share capital of the subsidiary is held by and forms part of the life assurance fund of the assurance company, this paragraph shall apply in relation to so much only of the income received from investments or other property held by the subsidiary as bears to the whole amount of that income the same proportion as the said part of the said ordinary share capital bears to the whole of that ordinary share capital.

(2) Where an election is in force under this paragraph, the like consequences shall ensue in relation to the assurance company and the subsidiary as would have ensued if a notice given by the assurance company under subsection (1) of section twenty-two of the Finance Act, 1937, were in force with respect to the subsidiary.

(3) In this paragraph, the expressions " subsidiary " and " ordinary share capital " have the same meaning as they have for the purposes of section forty-two of the Finance Act, 1938.

---

## NINTH SCHEDULE.

Section 66.

### DOUBLE TAXATION.

#### PART I.

#### PROVISIONS AS TO RELIEF FROM INCOME TAX AND THE PROFITS TAX BY WAY OF CREDIT IN RESPECT OF FOREIGN TAX.

##### *Interpretation.*

1.—(1) In this Part of this Schedule, except where the context otherwise requires—

" the United Kingdom taxes " means income tax and the profits tax ;

" foreign tax " means, in relation to any territory arrangements with the Government of which have effect by virtue of Part V of the Finance (No. 2) Act, 1945, any tax chargeable under the laws of that territory for which credit may be allowed under the arrangements ;

" foreign income tax " means any foreign tax which corresponds to income tax ;

" income ", in relation to the profits tax, means profits.

9TH SCH.  
—cont.

(2) Where arrangements having effect by virtue of Part V of the said Act provide for any tax chargeable under the laws of the territory concerned being treated as income tax or as a profits tax, that tax shall, notwithstanding anything in the preceding provisions of this paragraph, be treated as foreign income tax or foreign tax other than foreign income tax, as the case may be.

(3) Any reference in this Part of this Schedule to foreign tax or foreign income tax shall be construed, in relation to credit to be allowed under any arrangements, as a reference only to tax chargeable under the laws of the territory with the Government of which the arrangements were made.

#### *General.*

2.—(1) Subject to the provisions of this Part of this Schedule, where, under the arrangements, credit is to be allowed against any of the United Kingdom taxes chargeable in respect of any income, the amount of the United Kingdom taxes so chargeable shall be reduced by the amount of the credit.

(2) The credit to be allowed shall be first applied in reducing the amount of any profits tax chargeable in respect of the income and, so far as it cannot be so applied, in reducing the income tax chargeable in respect thereof.

(3) Nothing in this paragraph authorises the allowance of credit against any United Kingdom tax against which credit is not allowable under the arrangements.

#### *Requirement as to residence.*

3. Credit shall not be allowed against the profits tax for any chargeable accounting period or against income tax for any year of assessment unless the person in respect of whose income the tax is chargeable is resident in the United Kingdom for that period or year.

#### *Limit on total credit—the profits tax.*

4. The amount of the credit to be allowed against the profits tax in respect of any income for foreign tax shall not exceed the profits tax attributable to that income.

#### *Limit on total credit—income tax.*

5.—(1) The amount of the credit to be allowed against income tax in respect of any income for foreign tax shall not exceed the sum which would be produced by computing the amount of that income in accordance with the Income Tax Acts, and then charging it to income tax for the year of assessment for which the credit is to be allowed, but at the following rate, that is to say—

- (a) in the case of a person whose income is chargeable to income tax at the standard rate only, a rate ascertained by dividing the income tax payable by him for the year by the amount of his total income for the year ;

(b) in the case of a person part of whose total income is chargeable to income tax at a rate or rates in excess of the standard rate, the sum of the following rates—

- (i) the rate which would have been the appropriate rate in his case if his income had been chargeable at the standard rate only; and
- (ii) the rate ascertained by dividing the surtax payable by him for the year by the amount of his total income for the year :

Provided that where, under the arrangements, credit is not to be allowed against surtax for the year, the rate shall be calculated in all cases as in the case of persons whose incomes are chargeable to income tax at the standard rate only, and where, under the arrangements, credit is not to be allowed except against surtax for the year, the rate shall be that ascertained by dividing the surtax payable by the person in question for the year by the amount of his total income for the year.

(2) For the purpose of determining the said rate, the tax payable by any person for any year shall be computed without regard to any relief in respect of life assurance premiums and without any reduction thereof for any credit allowed or to be allowed under any arrangements having effect by virtue of Part V of the Finance (No. 2) Act, 1945, but shall be deemed to be reduced by any tax which, otherwise than under Rule 20 of the General Rules, he is entitled to charge against any other person, and the total income of any person shall be deemed to be reduced by the amount of any income the income tax upon which he is entitled to charge as aforesaid.

6. Without prejudice to the provisions of the last preceding paragraph, the total credit to be allowed to a person against income tax for any year of assessment for foreign tax under all arrangements having effect by virtue of Part V of the Finance (No. 2) Act, 1945, shall not exceed the total income tax payable by him for that year of assessment, less any tax which, otherwise than under Rule 20 of the General Rules, he is entitled to charge against any other person.

*Effect on computation of income of allowance of credit.*

7.—(1) Subject to the provisions of this paragraph, where credit for foreign tax falls to be allowed against any of the United Kingdom taxes in respect of any income, no deduction for foreign tax (whether in respect of that or any other income) shall be made in computing the amount of that income for the purposes of the profits tax.

(2) Where the income includes a dividend and, under the arrangements, foreign tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what, credit is to be allowed against the United Kingdom taxes in respect of the dividend, the amount of the income shall, for the purposes of the profits tax, be treated as increased by the amount of the foreign tax not so chargeable which falls to be taken into account in computing the amount of the credit.

9TH SCH.  
—cont.

(3) Notwithstanding anything in the preceding provisions of this paragraph, where part of the foreign tax in respect of the income (including any foreign tax which, under sub-paragraph (2) of this paragraph, falls to be treated as increasing the amount of the income) cannot be allowed as a credit against any of the United Kingdom taxes, the amount of the income shall be treated for the purposes of the profits tax as reduced by that part of that foreign tax.

8.—(1) Where credit for foreign tax falls to be allowed against any of the United Kingdom taxes in respect of any income, the following provisions of this paragraph shall have effect as respects the computation, for the purposes of income tax, of the amount of that income.

(2) Where the income tax payable depends on the amount received in the United Kingdom, the said amount shall be treated as increased by the amount of the credit allowable against income tax.

(3) Where the last preceding sub-paragraph does not apply—

(a) no deduction shall be made for foreign tax (whether in respect of the same or any other income); and

(b) where the income includes a dividend and under the arrangements foreign tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what, credit is to be allowed against the United Kingdom taxes in respect of the dividend, the amount of the income shall be treated as increased by the amount of the foreign tax not so chargeable which falls to be taken into account in computing the amount of the credit; but

(c) notwithstanding anything in the preceding provisions of this sub-paragraph, where any part of the foreign tax in respect of the income (including any foreign tax which, under paragraph (b) of this sub-paragraph, falls to be treated as increasing the amount of the income) either falls to be allowed as a credit against the profits tax, or cannot be allowed as a credit against any of the United Kingdom taxes, the amount of the income shall be treated for the purposes of income tax as reduced by that part of that foreign tax.

(4) In relation to the computation of the total income of a person for the purpose of determining the rate mentioned in paragraph 5 of this Part of this Schedule, the preceding provisions of this paragraph shall have effect subject to the following modifications—

(a) for the reference in sub-paragraph (2) to the amount of the credit allowable against income tax, there shall be substituted a reference to the amount of the foreign tax in respect of the income (in the case of a dividend, foreign tax not chargeable directly or by deduction in respect of the dividend being left out of account); and

(b) paragraphs (b) and (c) of sub-paragraph (3) shall not apply, and subject to those modifications shall have effect in relation to all income in the case of which credit falls to be allowed for foreign tax under any arrangements for the time being in force by virtue of Part V of the Finance (No. 2) Act, 1945.

*Special provisions as to dividends.*9TH SCH.  
—cont.

9. Where, in the case of any dividend, foreign tax not chargeable directly or by deduction in respect of the dividend is, under the arrangements, to be taken into account in considering whether any, and if so what, credit is to be allowed against the United Kingdom taxes in respect of the dividend, the foreign tax not so chargeable which is to be taken into account shall be that borne by the body corporate paying the dividend upon the relevant profits in so far as it is properly attributable to the proportion of the relevant profits which is represented by the dividend.

The relevant profits are—

- (a) if the dividend is paid for a specified period, the profits of that period ;
- (b) if the dividend is not paid for a specified period, but is paid out of specified profits, those profits ;
- (c) if the dividend is paid neither for a specified period nor out of specified profits, the profits of the last period for which accounts of the body corporate were made up which ended before the dividend became payable :

Provided that if, in a case falling under sub-paragraph (a) or sub-paragraph (c) of this paragraph, the total dividend exceeds the profits available for distribution of the period mentioned in the said sub-paragraph (a) or the said sub-paragraph (c), as the case may be, the relevant profits shall be the profits of that period plus so much of the profits available for distribution of preceding periods (other than profits previously distributed or previously treated as relevant for the purposes of this paragraph or paragraph 9 of the Seventh Schedule to the Finance (No. 2) Act, 1945) as is equal to the excess ; and for the purposes of this proviso the profits of the most recent preceding period shall first be taken into account, then the profits of the next most recent preceding period, and so on.

10. Where—

- (a) the arrangements provide, in relation to dividends of some classes, but not in relation to dividends of other classes, that foreign tax not chargeable directly or by deduction in respect of dividends is to be taken into account in considering whether any, and if so what, credit is to be allowed against the United Kingdom taxes in respect of the dividends ; and
- (b) a dividend is paid which is not of a class in relation to which the arrangements so provide,

then, if the dividend is paid to a company which controls, directly or indirectly, not less than one half of the voting power in the company paying the dividend, credit shall be allowed as if the dividend were a dividend of a class in relation to which the arrangements so provide.

11. Any relief granted under section thirty-one of the Finance Act, 1946 (which provides for relief from income tax on dividends from companies resident abroad) shall, for the purposes of paragraph 2 of this Part of this Schedule, be deemed to reduce the amount of United Kingdom income tax chargeable in respect of the dividend in question.

9TH SCH.  
—cont.

*Miscellaneous.*

12. Credit shall not be allowed under the arrangements against the United Kingdom taxes chargeable in respect of any income of any person if he elects that credit shall not be allowed in respect of that income.

13.—(1) Subject to the provisions of paragraph 15 of this Part of this Schedule, any claim for an allowance by way of credit for foreign tax in respect of any income shall be made to the surveyor not later than six years from the end of the relevant year of assessment, and, if the surveyor objects to any such claim, it shall be heard and determined by the Special Commissioners as if it were an appeal to them against an assessment under Schedule D, and the provisions of the Income Tax Acts relating to the statement of a case for the opinion of the High Court on a point of law shall, with the necessary modifications, apply accordingly.

(2) In this paragraph, the expression "the relevant year of assessment" means, in relation to credit for foreign tax in respect of any income, the year of assessment for which that income falls to be charged to income tax or would fall so to be charged if any income tax were chargeable in respect thereof.

14.—(1) The provisions of this paragraph shall have effect where, by virtue of a notice given under section twenty-two of the Finance Act, 1937 (which relates to subsidiary companies), profits of a body corporate fall to be treated for any of the purposes of the enactments relating to the profits tax as profits of another body corporate :

Provided that this paragraph shall not apply where credit is not allowable under the arrangements against the profits tax.

(2) Any election under paragraph 12 of this Part of this Schedule as respects any income of the first mentioned body corporate and any claim for an allowance by way of credit for foreign tax in respect of any income of the first mentioned body corporate must be made jointly by both bodies corporate.

(3) If both bodies corporate jointly so elect, any credit falling to be allowed for foreign income tax in respect of income of the first mentioned body corporate shall, notwithstanding anything in paragraph 2 of this Part of this Schedule, be applied first in reducing the income tax chargeable in respect of that income.

15. Where the amount of any credit given under the arrangements is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in the United Kingdom or under the laws of any other territory, nothing in the Income Tax Acts or in the enactments relating to the profits tax limiting the time for the making of assessments or claims for relief shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later than six years from the time when all such assessments, adjustments and other determinations have been made, whether in the United Kingdom or elsewhere, as are material in determining whether any and if so what credit falls to be given.



## PART II.

9TH SCH.  
—cont.

## APPLICATION OF PART I.

1. In the case of income which is chargeable neither to excess profits tax nor to the profits tax, the Seventh Schedule to the Finance (No. 2) Act, 1945, shall apply as respects income tax for the year 1946-47 or any previous year of assessment and Part I of this Schedule shall apply as respects income tax for the year 1947-48 or any subsequent year of assessment.

2. In the case of profits chargeable to excess profits tax or the profits tax, the said Seventh Schedule shall apply in relation to the allowance of credit—

- (a) against excess profits tax ;
- (b) against the profits tax for any chargeable accounting period ending at or before the end of the year nineteen hundred and forty-six ;
- (c) against so much of the profits tax for any chargeable accounting period ending after the end of the said year as is apportionable to any part of the period falling before the end of the said year ;
- (d) against any income tax chargeable in respect of profits for a period falling wholly before the end of the said year ; and
- (e) against so much of any income tax chargeable in respect of profits for a period falling partly before and partly after the end of the said year as is properly attributable to the profits for the part of the period which ends at the end of the said year,

and, save as aforesaid, Part I of this Schedule shall apply.

3. Where a period on the profits of which foreign tax is chargeable falls partly before and partly after the end of the said year, and the profits in question are chargeable to excess profits tax or the profits tax, all such apportionments shall be made of that foreign tax between the two parts of the period as are necessary to secure that credit is allowed for the proper proportions thereof under the said Seventh Schedule and under Part I of this Schedule respectively.

4.—(1) In this Part of this Schedule, the expression " foreign tax " has the same meaning as in Part I of this Schedule, and references to profits chargeable to excess profits tax or profits chargeable to the profits tax shall be construed as references to profits which fall to be included in computing the profits of a trade or business for any chargeable accounting period for the purposes of those taxes respectively.

(2) Any apportionment of profits tax which falls to be made under sub-paragraph (c) of paragraph 2 of this Part of this Schedule shall be made in the same manner as for the purposes of section nineteen of the Finance (No. 2) Act, 1939.

## Section 67.

## TENTH SCHEDULE.

## TREATMENT OF FARM ANIMALS, ETC., FOR INCOME TAX AND PROFITS TAX PURPOSES.

*The general rule.*

1.—(1) Subject to the provisions of this Schedule, animals kept by a farmer for the purposes of his farming shall be treated for the relevant tax purposes as trading stock :

Provided that animals forming part of production herds with respect to which an election made under paragraph 2 of this Schedule has effect shall not be treated for the said purposes as trading stock but shall be treated for the said purposes in accordance with the rules set out in paragraph 3 of this Schedule.

(2) An election under the said paragraph 2 is hereafter in this Schedule referred to as "an election for the herd basis".

*Elections for the herd basis.*

2.—(1) An election for the herd basis shall apply to all production herds of a particular class kept by the farmer making the election, including herds which he has ceased to keep before the making of the election or first begins to keep after the making thereof.

(2) An election for the herd basis must be made in writing to the surveyor and must specify the class of herds to which it relates.

(3) An election for the herd basis must be made not later than twelve months after the end of the first year of assessment after the year 1946-47 for which the farmer making the election is chargeable under Case I of Schedule D to tax in respect of the profits or gains of his farming, or is charged to tax under Rule 4 of the Rules applicable to Case III of Schedule D in respect of the profits of his farming, or is given relief under Rule 6 of the Rules applicable to Schedule B or section thirty-four of the Income Tax Act, 1918, in respect of his farming, being profits or gains, profits, or, as the case may be, relief, the amount of which is computed by reference to the facts of a period during the whole or some part of which the farmer kept a production herd of the class in question :

Provided that where that farmer kept a production herd of the class in question at any time during the year ending with the fifth day of April, nineteen hundred and forty-seven, for the purpose of any farming the profits or gains of which are chargeable to income tax under Case I of Schedule D for the year 1947-48, or the profits of which are charged to tax for that year under Rule 4 of Case III of Schedule D, the election must be made not later than the fifth day of April, nineteen hundred and forty-eight.

(4) An election for the herd basis shall be irrevocable and shall have effect for the purposes of income tax for the said first year of assessment and all subsequent years of assessment, and for the purposes of the profits tax for all chargeable accounting periods not falling wholly before the period by reference to the facts of which the profits or gains are computed for the purposes of income tax for the said first year of assessment.

3.—(1) Where an election for the herd basis has effect, the consequences for the relevant tax purposes shall be as provided by the subsequent provisions of this paragraph.

(2) The initial cost of the herd and, subject to the provisions of this paragraph as to replacements, the cost of any animal added to the herd, shall not be deducted as an expense, and the value of the herd shall not be brought into account.

(3) Where an animal which has theretofore been treated as part of the trading stock of the farmer is added to the herd otherwise than by way of replacement, there shall be included as a trading receipt—

- (a) in the case of an animal bred by the farmer, a sum equal to the cost of breeding it and rearing it to maturity; and
- (b) in any other case, a sum equal to the initial cost to the farmer of acquiring the animal, together with any cost incurred by him in rearing it to maturity.

(4) Where an animal forming part of the herd dies or ceases to form part thereof and is replaced therein by another animal, any proceeds of sale of the animal which dies or ceases to form part of the herd shall be included as a trading receipt, and the cost of the animal which replaces it, except in so far as that cost consists of such costs as are allowable apart from the provisions of this Schedule as deductions in computing profits or gains of farming for the purposes of assessments under Case I of Schedule D, shall be deducted as an expense :

Provided that —

- (a) where the second-mentioned animal is of better quality than the animal which it replaces, the amount deducted shall not exceed the amount which it would have been necessary to expend in order to acquire an animal of the same quality as the animal which is replaced; and
- (b) where the animal which is replaced was slaughtered by the order of any Ministry, Government department or local or public authority under the law relating to diseases of animals, and the animal which replaces it is of worse quality, the amount included as a trading receipt shall not exceed the amount allowable as a deduction.

(5) Where the herd is sold as a whole and another production herd of the same class is acquired, the preceding provisions of this paragraph shall apply as though there had been sold from the original herd, and replaced therein, a number of animals equal to the number in the original herd or in the newly acquired herd, whichever is the less.

(6) If (either all at once or over a period not exceeding twelve months) either —

- (a) the whole of a herd is sold in circumstances in which the last preceding sub-paragraph does not apply; or
- (b) a part of a herd is sold on a substantial reduction being made in the number of animals in the herd,

any profit or loss arising from the transaction shall not be taken into account :

10TH SCH.  
—cont.

Provided that where, within five years of the sale, the seller acquires or begins to acquire another production herd of the class in question or, as the case may be, he acquires or begins to acquire animals to replace the part of the herd in question—

- (i) the provisions of the two last preceding sub-paragraphs shall apply to the acquisition or replacement, except that if the sale was one which the seller was compelled to effect by causes wholly beyond his control the amount included as a trading receipt in respect of any animal sold which is replaced by an animal of worse quality shall not exceed the amount allowable as a deduction in respect of the said animal of worse quality ; and
- (ii) for the purposes of the application of those sub-paragraphs, the proceeds of sale of the animals comprised in the original herd or part of a herd shall be brought into account as if they had been respectively received at the times of the corresponding acquisitions.

(7) If an animal forming part of the herd is sold and none of the three last preceding sub-paragraphs applies, any profit or loss arising from the transaction shall be included or deducted, as the case may be ; and for the purposes of this sub-paragraph the said profit or loss shall be computed by comparing —

- (a) in the case of an animal bred by the farmer, the cost of breeding it and rearing it to maturity ; and
- (b) in any other case, a sum equal to the initial cost to the farmer of acquiring the animal (or, in the case of an animal acquired otherwise than for valuable consideration, its market value when it was acquired by the farmer) together, in both cases, with any cost incurred by him in rearing it to maturity,

with the proceeds of the sale.

(8) Where the herd is sold as a whole, and another production herd of the same class is acquired, and the number of animals in the newly acquired herd is less than the number in the original herd, and the difference is not substantial, sub-paragraph (6) of this paragraph shall not apply, and the last preceding sub-paragraph shall apply to a number of animals in the original herd equal to the difference.

(9) The preceding provisions of this paragraph shall apply in relation to the death or destruction of animals as they apply in relation to the sale of animals, as if any insurance or compensation moneys received by reason of the death or destruction thereof were proceeds of sale, and any references in this paragraph to the proceeds of sale of an animal include references to any proceeds of sale of its carcase or any part thereof.

*Provisions applicable to special cases.*

4. A farmer who, having kept a production herd of a particular class, ceases altogether to keep herds of that class for a period of at least five years shall, as respects production herds kept by him after the end of that period, be treated as if he had never kept any production herds of that class before the end of that period.

5.—(1) Where a farmer transfers to another person all or any of the animals which form part of a production herd otherwise than by way of sale, or by way of sale but for a price other than that which they would have fetched if sold in the open market, and either—

- (a) the transferor is a body of persons over whom the transferee has control, or the transferee is a body of persons over whom the transferor has control, or both the transferor and the transferee are bodies of persons and some other person has control over both of them ; or
- (b) it appears with respect to the transfer, or with respect to transactions of which the transfer is one, that the sole or main benefit or one of the main benefits which, apart from the provisions of this paragraph, might have been expected to accrue to the parties or any of them was a benefit resulting from the obtaining of a right to make an election for the herd basis, or from such an election having effect or ceasing to have effect, or from such an election having a greater effect or a less effect,

10TH SCH.  
—cont.

then the like consequences shall ensue for all relevant tax purposes in relation to all persons concerned as would have ensued if the animals had been sold for the price which they would have fetched if sold in the open market.

(2) In this paragraph, the expression " body of persons " includes 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.

*Savings, interpretation and application to trades other than farming, etc.*

6. Nothing in this Schedule applies to any animals kept wholly or mainly for the work they do in connection with the carrying on of the farming.

7.—(1) In this Schedule, the expression " herd " includes a flock, and any other collection of animals, however named.

(2) For the purposes of this Schedule, immature animals kept in a herd shall not be treated as forming part of the herd unless the following conditions are fulfilled, that is to say, unless—

- (a) the land on which the herd is kept is such that animals which die or cease to form part of the herd cannot be replaced except by animals bred and reared on that land ; and
- (b) the immature animals in question are bred in the herd, are maintained therein for the purpose of replacement and are necessarily maintained for that purpose,

and references in this Schedule to herds shall be construed accordingly, and references therein to an animal being added to a herd include references to an immature animal which is kept in the herd becoming a mature animal :

Provided that not more immature animals shall in any case be treated as forming part of a herd than are required to prevent a fall in the numbers of the herd.

Female animals shall be treated for the purposes of this Schedule as becoming mature when they produce their first young.

(3) In this Schedule, the expression " a production herd " means, in relation to a farmer, a herd of animals of the same species (irrespective of breed) kept by him wholly or mainly for the sake of the products which they produce for him to sell, being products obtainable from the living animal.

10TH SCH.  
—cont.

In this sub-paragraph the expression "product obtainable from the living animal" means—

(a) the young of the animal; or

(b) any other product obtainable from the animal, not being a product obtainable only by slaughtering the animal itself.

(4) For the purposes of this Schedule, production herds kept by a farmer shall be deemed to be of the same class if and only if all the animals kept in the herds are of the same species (irrespective of breed) and the products produced for him to sell for the sake of which (either wholly or mainly) the herds are kept by him are of the same kinds in the case of all the herds; and elections for the herd basis shall be framed accordingly.

(5) Any reference to profits or gains chargeable to income tax under Schedule D includes a reference to profits or gains which would be so chargeable if there were any such profits or gains for the year of assessment in question.

8.—(1) The preceding provisions of this Schedule shall, with the necessary adaptations, apply in relation to trades other than farming, and trades consisting only in part of farming, as they apply in relation to farming, and references to farmers shall be construed accordingly.

(2) The said provisions (both in relation to farming and in relation to trades) shall apply in relation to living creatures other than animals as they apply in relation to animals.

Laying birds shall be treated for the purposes of this Schedule as becoming mature when they first lay.

(3) The provisions of this Schedule shall (both in relation to farming and in relation to trades) apply, with the necessary adaptations, in relation to animals or other creatures kept singly as they apply in relation to herds.

(4) Nothing in this Schedule shall apply in relation to any animal or other creature kept wholly or mainly for public exhibition or racing or other competitive purposes.

#### *Supplemental.*

9. Where an election for the herd basis is made, every person carrying on any farming or other trade affected by the election shall, if required to do so by notice from the surveyor, make and deliver to the surveyor, within the time specified in the notice, such returns as to, and as to the products of, the animals or other creatures kept by him for the purposes of the trade as may be required by the notice, and the provisions of section one hundred and seven of the Income Tax Act, 1918 (which relates to failure to deliver proper lists, declarations and statements) shall apply in relation to any such return as they apply in relation to the lists, declarations and statements therein referred to.

10.—(1) The provisions of this paragraph shall have effect where, after an assessment for a year or period has become final and conclusive, an election for the herd basis has effect for the purposes of income tax or, as the case may be, the profits tax, for that year or period.

(2) All such additional assessments and repayments of tax shall be made as are necessary to give effect to the election.

(3) Section forty-one of the Finance Act 1927, (which contains provisions with respect to the making and determination of claims) shall apply in relation to any claims for relief from income tax by reason of the operation of the election as it applies in relation to claims for deductions of tax under section forty of that Act :

10TH SCH.  
—cont.  
17 & 18 Geo. 5.  
c. 10.

Provided that any such claim to which objection is made shall, if the claimant so elects when he makes the claim, be heard and determined by the Special Commissioners, and subsection (2) of the said section forty-one shall have effect accordingly.

(4) Subsection (4) of section forty-two of the said Act (which makes standard rate tax assessments conclusive for surtax purposes, and prohibits certain allowances and adjustments being made for surtax purposes unless they have previously been made for the purposes of standard rate tax) shall apply to the reliefs mentioned in the last preceding sub-paragraph as it applies in relation to the allowances and adjustments mentioned in that subsection.

(5) Any claim for relief from the profits tax by reason of the operation of the election shall be made in writing to the Commissioners of Inland Revenue and the provisions of Part II of the Fifth Schedule to the Finance Act, 1937 (which relate to appeals against assessments to the profits tax), including the provisions thereof enabling the Commissioners to make regulations, shall, with the necessary modifications, apply in relation to any determination by the Commissioners of any such claim.

## ELEVENTH SCHEDULE.

Section 74.

### ENACTMENTS REPEALED.

#### PART I.

#### MISCELLANEOUS.

Session and Chapter.	Short Title.	Extent of Repeal.
54 & 55 Vict. c. 21.	The Savings Banks Act, 1891.	Subsection (2) of section four.
54 & 55 Vict. c. 39.	The Stamp Act, 1891.	In section eighteen the words "court, inn"; section twenty-one except as respects persons admitted as members of one of the Inns of Court in England before the passing of this Act; section twenty-six; in the First Schedule, the first, third, fourth, fifth, sixth and seventh of the headings relating to "Admissions," and the headings "Commission to act as a notary public in Scotland," "Faculty, Licence, Commission or Dispensation," and "Licence to act as a notary public."

11TH SCH.  
—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
63 & 64 Vict. c. 14.	The Colonial Solicitors Act, 1900.	In section one the words "stamp duties and."
19 & 20 Geo. 5. c. 27.	The Savings Banks Act, 1929.	In subsection (2) of section four the words from "and subsection (2) of section four" to the end of the section.
22 & 23 Geo. 5. c. 37.	The Solicitors Act, 1932.	In subsection (1) of section thirty-five, the words "stamp duties and".
23 & 24 Geo. 5. c. 21.	The Solicitors (Scotland) Act, 1933.	In section seven the words "stamp duty and"; in section fourteen the words "and shall be stamped with the stamps required by law to be impressed on the admission of solicitors"; in subsection (2) of section seventeen the words "on his paying the stamp duty for the time exigible by law from a notary public on admission"; in section twenty, in subsection (1) the words "who has paid the stamp duty exigible by law on admission to practice as a solicitor before the Court of Session," and in subsection (2) the words "who has paid the stamp duty exigible by law on admission to practice as a solicitor before a sheriff court"; and section twenty-three.
24 & 25 Geo. 5. c. 32.	The Finance Act, 1934.	Subsections (1), (2) and (4) of section two.
1 & 2 Geo. 6. c. 51.	The Essential Commodities Reserves Act, 1938.	Section three.
2 & 3 Geo. 6. c. 38.	The Ministry of Supply Act, 1939.	Subsection (3) of section three.
5 & 6 Geo. 6. c. 21.	The Finance Act, 1942.	In the Eighth Schedule the provisions amending section nineteen of, and the heading to the first column of the Seventh Schedule to, the Finance (No. 2) Act, 1940.
6 & 7 Geo. 6. c. 28.	The Finance Act, 1943.	Subsections (1), (2), (4) and (5) of section five; in subsection (1) of section eleven the words "and sub-paragraph (i) of paragraph (a) of subsection (3) of section nineteen of the Finance (No. 2) Act, 1940"; Parts I and II of the Fourth Schedule.



11TH SCH.  
—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
9 & 10 Geo. 6. c. 13.	The Finance (No. 2) Act, 1945.	In section five, as from the first day of January, nineteen hundred and forty-eight, subsection (1); in section eight, subsections (1) and (2), in subsection (4) the words from "except" to "power for consumption outside the refinery" and in subsection (5) paragraph (ii); and, as from the first day of September, nineteen hundred and forty-seven, subsection (3) except as respects oils removed to a refinery before that date, in subsection (4) the words "(not, being a refinery with respect to which a requirement under the last preceding subsection is in force)" and subsection (7).
9 & 10 Geo. 6. c. 64.	The Finance Act, 1946.	Section five and, as respects persons dying on or after the sixteenth day of April, nineteen hundred and forty-seven, paragraph 7 of Part III of the Tenth Schedule.

## PART II.

## REPEALS CONSEQUENTIAL ON PART IV OF THIS ACT.

Session and Chapter.	Short Title.	Extent of Repeal.
1 Edw. 8 & 1 Geo. 6. c. 54.	The Finance Act, 1937.	Subsection (3) of section nineteen; sections twenty-one and twenty-three; sub-paragraph (1) of paragraph 3, and paragraph 12, of the Fourth Schedule.
1 & 2 Geo. 6. c. 46.	The Finance Act, 1938.	Sections forty-four, forty-five and forty-six.
3 & 4 Geo. 6. c. 29.	The Finance Act, 1940.	Subsection (1) of section forty.
9 & 10 Geo. 6. c. 13.	The Finance (No. 2) Act, 1945.	In subsection (1) of section thirty-four the words "and the national defence contribution" and the words "or the national defence contribution"; and in subsection (3) of that section the words "and the national defence contribution".
9 & 10 Geo. 6. c. 64.	The Finance Act, 1946.	In section forty-five, the words "or the national defence contribution".

11TH SCH.  
—cont.

## PART III.

## REPEALS AS TO RELIEF FROM DOUBLE TAXATION.

Session and Chapter.	Short Title.	Extent of Repeal
9 & 10 Geo. 6. c. 13.	The Finance (No. 2) Act, 1945.	The Seventh Schedule.

~~~~~

### CHAPTER 36.

An Act to make temporary provision for the exemption of children from attendance at school to enable their employment in ingathering the potato crop.

[31st July 1947.]

**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 :—

Exemption of children from school attendance to assist in potato lifting.

1.—(1) Where the Secretary of State is satisfied that the labour available for the ingathering of the potato crop of any year in Scotland or in any part thereof is insufficient, he may serve on the education authority for any area a notice stating that in his opinion it is desirable that such number as may be specified in the notice of the children residing in the area should be exempted on such days as may from time to time be notified to the authority by or on behalf of the Secretary of State from the obligation to attend school in order to enable them to be employed in the ingathering of the said crop.

(2) Subject to regulations under this section an education authority on whom a notice has been served under the foregoing subsection shall grant, on the application of the parent of any child residing in their area, exemption from the obligation to attend school on the days notified as aforesaid in order to enable the child to be employed in the ingathering of the potato crop and any child so exempted may be so employed notwithstanding anything in paragraph (a) of subsection (1) of section twenty-eight of the Children and Young Persons (Scotland) Act, 1937 :

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

Provided that—

- (i) exemption shall not be granted to any child unless he has actually attained the age of thirteen years; and
- (ii) the number of such exemptions in force at any one time shall not exceed the number specified in the notice.

- (3) The Secretary of State may make regulations—
- (a) empowering education authorities to refuse or withdraw exemptions under this Act on such grounds as may be specified in the regulations ;
  - (b) prescribing the conditions on which children exempted under this Act may be employed ;
  - (c) prohibiting the employment of children so exempted otherwise than in the ingathering of the potato crop ;
  - (d) directing that any regulations made under paragraph (b) or paragraph (c) of this subsection shall have effect as if contained in subsection (1) of section twenty-eight of the Children and Young Persons (Scotland) Act, 1937 ; and
  - (e) providing for any matters incidental to or consequential on any of the matters aforesaid.

2.—(1) This Act may be cited as the Education (Exemptions) (Scotland) Act, 1947, and shall be construed as one with the Education (Scotland) Act, 1946, and that Act and this Act may be cited together as the Education (Scotland) Acts, 1946 and 1947. Citation, construction and duration. 9 & 10 Geo. 6. c. 72.

(2) This Act shall continue in force until the thirty-first day of December nineteen hundred and forty-eight and no longer, so however that the provisions of the Interpretation Act, 1889, relating to the effect of repealing enactments shall apply on the expiry of this Act in like manner as if this Act had then been repealed. 52 & 53 Vict. c. 63.

---

## CHAPTER 37.

### *Northern Ireland Act, 1947.*

#### ARRANGEMENT OF SECTIONS.

##### *Enlargement of legislative power of the Parliament of Northern Ireland.*

##### Section.

1. Power as regards certain schemes extending athwart land frontier.
2. Power as regards certain transfers of property of public utility undertakers and local authorities.
3. Power to provide for compulsory retirement of county court judges.
4. Power as regards provision of health services.
5. Power to adjust superannuation rights of Northern Irish civil servants to meet war circumstances.
6. Power as regards transport services.
7. Power as regards limitation of actions by and against the Crown.
8. Cesser of reservation of registration of deeds.
9. Cesser of reservation of registration of title to land in Northern Ireland.

10. Power to repeal or alter certain subordinate legislation.  
11. Validation of Fire Services (Emergency Provisions) Act (Northern Ireland), 1942.

*Application of Part III of Requisitioned Land and War Works Act, 1945, to Northern Ireland.*

12. Application of Part III of Requisitioned Land and War Works Act, 1945, to Northern Ireland.

*Amendment of s. 2 of Northern Ireland (Miscellaneous Provisions) Act, 1945.*

13. Extension of power of Governor to effect consequential transfers of functions.

*Supplementary.*

14. Interpretation.  
15. Short title.

SCHEDULES :—

First Schedule.—Amendments of the Northern Ireland Land Purchase (Winding Up) Act, 1935.

Second Schedule.—Modifications of Part III of the Requisitioned Land and War Works Act, 1945, in its application to Northern Ireland.

An Act to enlarge the legislative power of the Parliament of Northern Ireland in respect of certain matters and, in connection therewith, to remove doubts regarding the validity of certain laws made by that Parliament; to validate the Fire Services (Emergency Provisions) Act (Northern Ireland), 1942; to apply Part III of the Requisitioned Land and War Works Act, 1945, to Northern Ireland; to extend section two of the Northern Ireland (Miscellaneous Provisions) Act, 1945; and for purposes connected with the matters aforesaid.

[31st July 1947.]

**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 :—

*Enlargement of legislative power of the Parliament of Northern Ireland.*

1.—(1) This section applies to schemes for one or more of the following matters, namely, —

- (a) the use or development of water power for the purpose of generating electricity or for any other purpose ;  
(b) the storage or supply of water ;  
(c) the drainage or irrigation of land ;  
(d) the supply of electricity ;  
(e) the provision, maintenance, improvement, alteration or abandonment of highways, railways, inland waterways or bridges ;

Power as regards certain schemes extending athwart land frontier.

being schemes extending as well to the portion of Ireland outside the jurisdiction of the Parliament of Northern Ireland as to the portion of Ireland within the jurisdiction of that Parliament but not further.

(2) Neither —

(a) the general limitation imposed by section four of the Government of Ireland Act, 1920 (in this Act referred to as "the principal Act"), confining the legislative power of the Parliament of Northern Ireland to the making of laws in respect of matters exclusively relating to the portion of Ireland within their jurisdiction or some part thereof; nor

(b) the specific limitations imposed by paragraphs (4) and (7) of that section precluding that Parliament from making laws in respect of relations with foreign states or relations with other parts of His Majesty's dominions or in respect of trade with any place out of the part of Ireland within their jurisdiction,

shall apply to the making by that Parliament of laws with respect to schemes to which this section applies or for giving effect to arrangements or agreements entered into for the purposes of any such schemes; and section six of the principal Act (which precludes the Parliament of Northern Ireland from repealing or altering a provision of an Act passed by the Parliament of the United Kingdom after the appointed day and extending to the part of Ireland within the jurisdiction of the Parliament of Northern Ireland although the provision deals with a matter with respect to which that Parliament have power to make laws) shall not preclude the Parliament of Northern Ireland from effecting, as respects Northern Ireland, by a law made as aforesaid any requisite consequential repeal or alteration of a provision of an Act passed as aforesaid.

(3) Accordingly, the reference in subsection (8) of section eight of the principal Act (which section relates to the exercise of executive power in Northern Ireland) to matters with respect to which the Parliament of Northern Ireland have, under the provisions thereinbefore contained, no power to make laws, shall be construed as not including schemes to which this section applies.

2.—(1) No law made by the Parliament of Northern Ireland providing for the transfer, to an authority charged with the duty of providing or authorised to provide any public inland transport facilities or port facilities or charged with the duty of supplying or authorised to supply electricity or gas, of the property of persons carrying on public utility undertakings (being property held by them for the purposes of their undertakings) shall be void—

(a) as regards the transfer of property of persons other than local authorities, on the ground that a provision of the

Power as regards certain transfers of property of public utility undertakers and local authorities.

law with respect to the amount to be paid thereunder in respect of the transfer or the manner in which or the time at which that amount is to be satisfied contravenes the restriction imposed by section five of the principal Act on the making by the Parliament of Northern Ireland of a law so as to take any property without compensation ;

(b) as regards the transfer of property of local authorities, on the ground that the said restriction is contravened, if provision is made by the law—

(i) for recouping them sums required to be paid by them in respect of loans raised by them for the purposes of the undertakings in question (or, in the case of loans raised partly for those purposes and partly for other purposes, fractions of the sums required to be paid by them in respect thereof ascertained by reference to the proportions of the loans that were applied for the first-mentioned purposes) ; or

(ii) for the transfer to the authority of their debts and liabilities as former public utility undertakers.

(2) No law made by the Parliament of Northern Ireland providing for the transfer, without compensation, to an authority or person of property held by local authorities for the purposes of, or in connection with, any functions of theirs otherwise than as public utility undertakers shall be void on the ground that it contravenes the said restriction if the transfer is effected in conjunction with, or as a consequence of, the transfer to that authority or person of those functions.

(3) In relation to the Electricity (Supply) Act (Northern Ireland), 1931 (section thirty-two whereof provides for the transfer to the Electricity Board for Northern Ireland, upon the acquisition by them of the electricity undertaking of a local authority, of the debts and liabilities of the local authority as former undertakers) and to the Electricity (Emergency Supplies) Act (Northern Ireland), 1942 (paragraph 2 of Part II of the First Schedule whereto contains the like provisions as respects an acquisition by the Ministry of Commerce for Northern Ireland), subsection (1) of this section shall be deemed to have come into force immediately before the passing of those Acts respectively ; and in relation to the Public Health (Tuberculosis) Act (Northern Ireland), 1946 (section nine whereof provides for the transfer to the Northern Ireland Tuberculosis Authority of functions of councils under the Tuberculosis Prevention (Ireland) Acts, 1908 and 1913, and property of councils used for the purposes of or in connection with those functions) and to the Public Health and Local Government (Administrative Provisions) Act (Northern Ireland), 1946 (divers provisions whereof provide for the transfer

of functions of local authorities and section twenty-eight whereof provides for the transfer of property of local authorities enjoyed in connection with functions transferred), subsection (2) of this section shall be deemed to have come into force immediately before the passing of those Acts respectively.

(4) In this section—

- (a) the expression “local authority” means the council of a county, county borough, borough, urban or rural district, the board of guardians of a poor law union and the commissioners of a town, and includes a combination of local authorities; and
- (b) the expression “public utility undertaking” means a railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour or pier undertaking and an undertaking for the supply of electricity or gas, and “public utility undertakers” shall be construed accordingly.

3. The Parliament of Northern Ireland shall not be precluded, by reason only of the requirement contained in section forty-eight of the principal Act that a judge of a county court or other court with a like jurisdiction in Northern Ireland appointed after the appointed day shall hold his office on the same tenure as that by which the office was held at the time of the passing of that Act, from making a law providing for the vacation of his office by such a judge at such age (not being less than seventy years) as may be specified by the law.

Power to provide for compulsory retirement of county court judges.

4.—(1) None of the limitations or restrictions imposed (whether by the principal Act or by any subsequent Act) 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 a provision of the National Health Service Act, 1946, the National Health Service (Scotland) Act, 1947, or any enactment passed after the passing of this Act amending either of those Acts.

Power as regards provision of health services.  
9 & 10 Geo. 6. c. 81.  
10 & 11 Geo. 6. c. 27.

(2) In so far as it relates to provisions the purposes whereof are the taking of property, this section shall have effect in addition to, and not in derogation of, the provisions of section two of this Act.

5.—(1) None of the limitations imposed by section four of the principal Act on the power of the Parliament of Northern Ireland to make laws shall extend to prevent that Parliament from enacting—

Power to adjust superannuation rights of Northern Irish civil servants to meet war circumstances.  
9 & 10 Geo. 6. c. 60.

- (a) provisions having the like effect in relation to the Northern Irish Superannuation Acts as have sections one and four of the Superannuation Act, 1946 (which respectively provide for the counting for superannuation purposes of the war service of persons who subsequently

enter the civil service of the State and authorise the modification of the Superannuation Acts for the purposes of meeting war circumstances) in relation to the Superannuation Acts ;

- (b) provisions with respect to the reckoning for the purposes of the Northern Irish Superannuation Acts of any period during which a person was absent from his usual employment whilst serving in the armed forces of the Crown, in the merchant navy or the mercantile marine, or in any of the women's services specified in the First Schedule to the Superannuation Act, 1946.

(2) In this section the expression " the Northern Irish Superannuation Acts " means the Superannuation Acts, 1834 to 1919, as they apply to the civil service established in connection with the Government of Northern Ireland or any department thereof and the Superannuation Acts (Northern Ireland), 1921 to 1938, and the expression " the Superannuation Acts " means the Superannuation Acts, 1834 to 1943, as they apply to the civil service of the State.

Power as regards transport services.

6.—(1) The general limitation imposed by section four of the principal Act confining the legislative power of the Parliament of Northern Ireland to the making of laws in respect of matters exclusively relating to the portion of Ireland within their jurisdiction or some part thereof shall not apply to the making by that Parliament of a law which—

- (a) provides for the transfer to an authority charged with the duty of providing any public inland transport facilities of property situate in Northern Ireland of persons carrying on a railway undertaking partly within and partly outside Northern Ireland ; or

- (b) confers on such an authority as aforesaid powers and duties of providing transport facilities outside Northern Ireland in connection with the provision of transport facilities within Northern Ireland.

(2) So much of any Act passed after the appointed day as relates to a railway undertaking wholly or partly in Northern Ireland shall, notwithstanding that that Act was so passed, be deemed, for the purposes of section six of the principal Act, to be a provision of an Act passed before that day.

Power as regards limitation of actions by and against the Crown.

7.—(1) The limitation imposed by paragraph (1) of section four of the principal Act precluding the Parliament of Northern Ireland from making laws in respect of the Crown or the property of the Crown (including foreshore vested in the Crown) shall not extend to prevent that Parliament from enacting, in relation to Northern Ireland, provisions with respect to the limitation



of actions by and against the Crown (including the extinguishment of the title of the Crown on the expiration of a period of limitation).

(2) In this section the expression "action" includes any proceedings in a court of law and also includes arbitration.

8.—(1) The registration of deeds shall cease to be a reserved matter for the purposes of the principal Act, and accordingly,—

Cesser of reservation of registration of deeds.

(a) paragraph (d) of subsection (2) of section nine of that Act (which specifies the registration of deeds as a reserved matter) shall cease to have effect ;

(b) the public services in connection with the administration of the registration of deeds in Northern Ireland shall, by virtue of this section, be transferred from the Government of the United Kingdom to the Government of Northern Ireland and shall cease to be reserved services and shall become Irish services ;

(c) the members of the staff of the Registry of Deeds for Northern Ireland shall become officers of the Government of Northern Ireland ; and

(d) so much of any Act passed after the appointed day as relates to the registration of deeds in Northern Ireland or to the registration of other instruments or the doing of any other thing at the said Registry shall, notwithstanding that that Act was so passed, be deemed, for the purposes of section six of the principal Act, to be a provision of an Act passed before that day :

Provided that no person becoming an officer of the Government of Northern Ireland by virtue of this subsection shall be in a worse position as respects tenure of office, remuneration or superannuation rights than he would have been if he had not become an officer of the Government of Northern Ireland, and any question arising under the preceding provisions of this proviso shall, in default of agreement, be referred to and determined by the Civil Service Committee for Northern Ireland whose determination shall be final and conclusive.

(2) Section sixty-nine of the principal Act (which empowers His Majesty to make, by Order in Council, regulations as well for matters for which it seems to Him necessary or proper to make provision for giving full effect to any provisions of that Act or to any future transfer under or by virtue of that Act of a reserved service as for the other matters mentioned in that section), shall have effect as if references to the said provisions included references to this section and as if the reference to any such transfer included a reference to the transfer of services effected by this section, and an Order in Council made under the said section sixty-nine by virtue of this subsection may, to such

extent as it appears to His Majesty in Council to be requisite or expedient so to do in consequence of the enactment of this section, vary or revoke the Government of Ireland (Registration of Deeds in Northern Ireland) Order, 1923, or any other Irish Transfer Order.

(3) This section shall come into operation on such date as His Majesty may by Order in Council appoint.

Cesser of reservation of registration of title to land in Northern Ireland.

9.—(1) The reservation, by section forty-seven of the principal Act, of matters relating to the Supreme Court shall cease to be treated as extending to the registration of title to land in Northern Ireland, and paragraph (14) of section four and subsection (8) of section eight of that Act shall have effect accordingly, and,—

- (a) the public services in connection with the administration of the registration of title to such land shall, by virtue of this section, be transferred from the Government of the United Kingdom to the Government of Northern Ireland and shall cease to be reserved services and shall become Irish services ;
- (b) the Registrar of Titles in Northern Ireland and the officers and clerks attached to the central office shall cease to be officers of the Supreme Court and shall become officers of the Government of Northern Ireland ; and
- (c) section thirty-two of the Northern Ireland Land Act, 1925 (which contains provisions with respect to the registration of the ownership of certain land in Northern Ireland), section nine of the Northern Ireland (Miscellaneous Provisions) Act, 1945 (which contains provisions with respect to charges on land in Northern Ireland), and so much of any other Act passed after the appointed day as relates to the registration of title to land in Northern Ireland shall, notwithstanding that those Acts were so passed, be deemed, for the purposes of section six of the principal Act, to be provisions of Acts passed before that day :

15 & 16 Geo. 5.  
c. 34.

8 & 9 Geo. 6.  
c. 12.

Provided that no person becoming an officer of the Government of Northern Ireland by virtue of this subsection shall be in a worse position as respects tenure of office, remuneration or superannuation rights than he would have been if he had not become an officer of the Government of Northern Ireland, and any question arising under the preceding provisions of this proviso shall, in default of agreement, be referred to and determined by the Civil Service Committee for Northern Ireland whose determination shall be final and conclusive.

(2) No law made by the Parliament of Northern Ireland shall be deemed to be made in contravention of the limitations imposed

by section four of the principal Act on the power of that Parliament to make laws by reason only—

(a) that jurisdiction in a matter relating to the registration of title to land in Northern Ireland is thereby conferred on or withdrawn from the Supreme Court or the High Court or that, in connection with any such matter, a power to appoint officers is thereby conferred on a judge of the Supreme Court or rendered exercisable subject to the concurrence of such a judge ; or

(b) that, in connection with provision thereby made for or in connection with the registration of title to such land, provision is made with respect to property of the Crown or for enforcing a right on behalf of the Crown.

(3) Section sixty-nine of the principal Act shall have effect as if references to the provisions of that Act included references to this section and as if the reference to any future transfer under or by virtue of that Act of a reserved service included a reference to the transfer of services effected by this section, and an Order in Council made under the said section sixty-nine by virtue of this subsection may, to such extent as it appears to His Majesty in Council to be requisite or expedient so to do in consequence of the enactment of this section, vary or revoke Part III of the Government of Ireland (Supreme Court Matters, etc.) Order, 1922 (which relates to local registration of title in Northern Ireland) or any other Irish Transfer Order.

(4) The provisions of the Northern Ireland Land Purchase 25 & 26 Geo. 5. (Winding Up) Act, 1935, specified in the first column of the First c. 21. Schedule to this Act shall have effect subject to the amendments specified in relation to those provisions in the second column of that Schedule (being amendments consequential on the provisions of paragraph (b) of subsection (1) of this section).

(5) In this section—

(a) references to the registration of title to land in Northern Ireland shall be construed as including references to the registration of estates and interests in, rights and easements over, and charges and burdens on such land and the discharge of matters registered or capable of being registered as affecting such land ;

(b) the expression “ central office ” means the central office in the City of Belfast established under section four of the Local Registration of Title (Ireland) Act, 1891, for 54 & 55 Vict. the purposes of the registers kept under that Act ; and c. 66.

(c) the expressions “ Supreme Court ” and “ High Court ” mean respectively the Supreme Court of Judicature of Northern Ireland and His Majesty’s High Court of Justice in Northern Ireland.

(6) Paragraph (2) of Article 7 of the Government of Ireland (Supreme Court Matters, etc.) Order, 1922 (which defines the expression "Registrar of Titles in Northern Ireland" for the purposes of Part III of that Order) shall have effect with the omission of the words "of the Supreme Court of Judicature of Northern Ireland."

(7) This section shall come into operation on such day as His Majesty may by Order in Council appoint.

Power to  
repeal or  
alter certain  
subordinate  
legislation.

10.—(1) Any power of the Parliament of Northern Ireland by virtue of this or any other Act (including an Act passed after the passing of this Act) to repeal or alter a provision of an Act of the Parliament of the United Kingdom (whether passed before or after the appointed day) shall include power to repeal or alter any order, rule or regulation made in pursuance of that provision after that day.

(2) This section shall be deemed to have had effect as from the first day of July, nineteen hundred and twenty-one.

Validation of  
Fire Services  
(Emergency  
Provisions)  
Act (Northern  
Ireland),  
1942.  
4 & 5 Geo. 6.  
c. 22.

11. The limitations and restrictions imposed by the principal Act on the power of the Parliament of Northern Ireland to make laws shall be deemed never to have extended to prevent that Parliament from enacting the Fire Services (Emergency Provisions) Act (Northern Ireland), 1942 (which contains provisions similar to those of the Fire Services (Emergency Provisions) Act, 1941).

*Application of Part III of Requisitioned Land and  
War Works Act, 1945, to Northern Ireland.*

Application  
of Part III of  
Requisitioned  
Land and  
War Works  
Act, 1945,  
to Northern  
Ireland.  
8 & 9 Geo. 6.  
c. 43.

12.—(1) Part III of the Requisitioned Land and War Works Act, 1945 (which provides for the stopping up and diversion of highways stopped up or diverted in the exercise of emergency powers and for the retention of railways, tramways, etc., on highways where the highways are not stopped up or diverted, subject, however, to the publication of proposals in that behalf and the reference thereof to the War Works Commission in certain cases) shall apply to Northern Ireland subject to the modifications set out in the Second Schedule to this Act, and accordingly,—

- (a) so much of subsection (2) of section sixty-one of that Act (which contains provisions with respect to the application of that Act to Northern Ireland) as provides that the said Part III shall not apply to Northern Ireland shall cease to have effect; and
- (b) in subsection (8) of that section, after the words "For any reference to the Minister of Agriculture and Fisheries" there shall be inserted the words "(other than the reference in Part III of this Act)".

(2) Any increase, by virtue of this section, in the sums which under the Requisitioned Land and War Works Act, 1945, are defrayed out of moneys provided by the Parliament of the United Kingdom shall be defrayed out of moneys so provided.

*Amendment of s. 2 of Northern Ireland (Miscellaneous Provisions) Act, 1945.*

13. Subsection (1) of section two of the Northern Ireland (Miscellaneous Provisions) Act, 1945 (which empowers the Governor of Northern Ireland, upon the transfer, by or under an Act of the Parliament of Northern Ireland, of functions from one department of the Government of Northern Ireland or Minister of Northern Ireland to another such department or Minister, to effect, with the consent of the Secretary of State, a consequential transfer of functions conferred on the first-mentioned department or Minister by or under an Act of the Parliament of the United Kingdom) shall have effect—

- (a) with the substitution, for the words "from a department of the Government of Northern Ireland or a Minister of Northern Ireland to another such department or Minister", of the words "from one authority or person to another"; and
- (b) with the substitution, for the words "the first-mentioned department or Minister" and the words "the last-mentioned department or Minister", of the words "the one" and the words "the other", respectively.

*Supplementary.*

14.—(1) In this Act the expression "the principal Act" means the Government of Ireland Act, 1920, and the expressions "public inland transport facilities" and "port facilities" mean, in relation to a law made by the Parliament of Northern Ireland, such facilities as defined by that law; and expressions used in this Act to which meanings are assigned by the principal Act for the purposes thereof have those meanings for the purposes of this Act.

(2) References in this Act to the appointed day (except in the case of the reference thereto in section three of this Act) are references to the day appointed under the principal Act for the purposes of section six thereof (that is to say, the third day of May, nineteen hundred and twenty-one) and, in the said excepted case, the reference is one to the day so appointed for the purposes of the enactment mentioned in the said section three (that is to say, the twenty-second day of November, nineteen hundred and twenty-one).

(3) For the avoidance of doubt it is hereby declared that any reference to an authority in this Act (except in a provision

thereof where the context otherwise requires) or in section two of the Northern Ireland (Miscellaneous Provisions) Act, 1945, includes a reference to a department of the Government of Northern Ireland and to a Minister of Northern Ireland.

(4) References in this Act to any other enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended by or under any subsequent enactment, including this Act.

Short title. 15. This Act may be cited as the Northern Ireland Act, 1947.

---

## SCHEDULES.

---

### FIRST SCHEDULE.

---

Section 9.

#### AMENDMENTS OF THE NORTHERN IRELAND LAND PURCHASE (WINDING UP) ACT, 1935.

| <i>Provision amended and<br/>subject matter thereof.</i>                                                                                                                                                                                                                              | <i>Amendment.</i>                                                                                                                                                                       |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Subsection (2) of section six (Power of Treasury to arrange for discharge of functions of the Land Purchase Commission, Northern Ireland, by certain Departments and persons).                                                                                                        | After the words "or by the Land Purchase Trustee for Northern Ireland," there shall be inserted the words "or by the Registrar of Titles in Northern Ireland".                          |
| Subsection (1) of section nine (Office of Land Purchase Trustee for Northern Ireland to be held by such officer of the Supreme Court as may be designated by the Lord Chief Justice of Northern Ireland).                                                                             | After the words "Lord Chief Justice of Northern Ireland", there shall be inserted the words "or, if the Lord Chief Justice so directs, by the Registrar of Titles in Northern Ireland". |
| Subsection (2) of section nine (Salary of person designated to hold office of Land Purchase Trustee for Northern Ireland to be such as the Treasury may determine).                                                                                                                   | For the words "the person designated to hold the said office" there shall be substituted the words "any officer of the Supreme Court designated to hold the said office".               |
| Subsection (4) of section nine (Time devoted by the holder of the office of Land Purchase Trustee for Northern Ireland, or by any other officer of the Supreme Court, to the duties of that office to be deemed to be time devoted to the duties of his office in the Supreme Court). | For the words "by the holder of the said office, or by any other officer of the Supreme Court", there shall be substituted the words "by any officer of the Supreme Court".             |

---

## SECOND SCHEDULE.

MODIFICATIONS OF PART III OF THE REQUISITIONED LAND AND WAR Section 12.  
WORKS ACT, 1945, IN ITS APPLICATION TO NORTHERN IRELAND.

1. For references to the Minister of Transport there shall be substituted references to the Secretary of State.

2. In paragraph (b) of subsection (2) of section fifteen, for the words "repairable by the inhabitants at large" there shall be substituted the words "maintainable at the cost of a county or county district".

3. In paragraph (c) of the said subsection (2), for the words "the Trunk Roads Act, 1936," there shall be substituted the words "any <sup>1 Edw. 8 & 1 Geo. 6. c. 5.</sup> enactment of the Parliament of Northern Ireland (whether passed before or after the commencement of this Act) containing a provision corresponding to any provision of the Trunk Roads Acts, 1936 <sup>9 & 10 Geo. 6. c. 30.</sup> and 1946".

4. In sub-paragraph (ii) of paragraph (f) of the said subsection (2), for the words "section one or section two of the Restriction of Ribbon Development Act, 1935," there shall be substituted the words "section <sup>25 & 26 Geo. 5. c. 47.</sup> two or section four of the Roads Improvement Act (Northern Ireland), 1928".

5. In subsection (1) of section sixteen, the reference to the making of provision by or under any Act (whether public general or local) shall be construed as including a reference to the making of provision by or under any such Act of the Parliament of Northern Ireland.

6. In subsection (1) of section seventeen, for the definition of local authority there shall be substituted the following definition:—

" 'local authority' means the council of a county, county borough, borough, urban district or rural district ".

7. Subsection (2) of section nineteen shall have effect as if for references to the High Court there were substituted references to His Majesty's High Court of Justice in Northern Ireland and as if at the end thereof there were added the following provision:—

" Provision may be made by rules of the Supreme Court of Judicature in Northern Ireland under section sixty-one of the Supreme Court of Judicature Act (Ireland), 1877, as amended by <sup>40 & 41 Vict. c. 57.</sup> the Supreme Court of Judicature (Ireland) (No. 2) Act, 1897, for <sup>60 & 61 Vict. c. 66.</sup> regulating the procedure and costs of applications under this subsection ".

8. In subsection (2) of section twenty-two, for the words "by the Minister of Agriculture and Fisheries" there shall be substituted the words "by the Secretary of State or the Ministry of Agriculture for Northern Ireland".

**CHAPTER 38.***Probation Officers (Superannuation) Act, 1947.*

## ARRANGEMENT OF SECTIONS.

## Section.

1. Superannuation of probation officers and clerks to probation officers.
2. Consequential amendments and repeals.
3. Provisions as to orders.
4. Expenses.
5. Short title and extent.

SCHEDULE.—Consequential amendments and repeals of provisions of the Criminal Justice Act, 1925.

An Act to make fresh provision with respect to the payment of superannuation allowances and gratuities to or in respect of probation officers and certain former probation officers and to make provision with respect to the payment of such allowances and gratuities to or in respect of clerks appointed to assist probation officers in the performance of their duties.

[31st July 1947.]

**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 Secretary of State may by order apply to—

- (a) probation officers appointed under Part I of the Criminal Justice Act, 1925 (hereinafter referred to as "probation officers") other than probation officers in the City of London, or any class of probation officers other than as aforesaid; and
- (b) clerks appointed to assist probation officers in the performance of their duties either by probation committees or the Secretary of State or before the first day of July, nineteen hundred and forty-four, by probation officers, or any class of clerks so appointed;

Superannua-  
tion of pro-  
bation officers  
and clerks to  
probation  
officers.

15 & 16 Geo. 5.  
c. 86.

1 Edw. 8 &  
1 Geo. 6. c. 68. the provisions of the Local Government Superannuation Act, 1937, or of a local superannuation enactment, subject in any case to such adaptations, modifications and exceptions as he thinks fit, and transfer, to such superannuation funds maintained under the said Act of 1937 or a local superannuation enactment as may be specified in the order, the liabilities of the superannuation fund established under the arrangements made by the Secretary of State under subsection (3) of section one of the Criminal Justice Act, 1925 (hereinafter referred to as the "existing superannuation arrangements") in respect of the payment



superannuation allowances under those arrangements to persons who, immediately before the coming into operation of the order, are entitled to receive such allowances under those arrangements.

(2) The provisions applied by any such order as aforesaid shall, in relation to probation officers to whom the existing superannuation arrangements apply, have effect in lieu of those arrangements.

(3) An order under this section may, so far as relating to probation officers and clerks, make different provision with respect to different classes thereof, and may contain such incidental, consequential and supplemental provisions as appear to the Secretary of State to be requisite or expedient for the purposes of the order, and (without prejudice to the generality of this subsection) may provide—

- (a) for the winding up of the superannuation fund established under the existing superannuation arrangements and the distribution of the assets thereof remaining after the payment of the expenses of the winding up amongst superannuation funds maintained under the Local Government Superannuation Act, 1937, or a local superannuation enactment; and
- (b) for the payment by probation committees to superannuation funds so maintained of sums requisite to prevent the arising therein of deficiencies that would otherwise arise by reason of provisions of the order requiring the reckoning of service before the date of the coming into operation of the order.

(4) Section four of the Pensions (Increase) Act, 1944 (which, subject to the limitations imposed by the Pensions (Increase) Act, 1947, enables pensions payable in respect of service as a probation officer to be increased) shall have effect as if the reference to such service included a reference to service as such a clerk as is mentioned in paragraph (b) of subsection (1) of this section. 7 & 8 Geo. 6.  
c. 21.  
10 & 11 Geo. 6.  
c. 7.

(5) In this section the expression "local superannuation enactment" means a local Act as defined by the Local Government Superannuation Act, 1937, whereunder a superannuation fund is maintained by a local Act authority as so defined, any instrument having effect under such an Act and any other enactment (whether contained in a public general or local Act) relating to the payment by such an authority to or in respect of an employee of theirs of gratuities or compensation for death or injury.

(6) Nothing in this section shall affect the operation of the Local Government Staffs (War Service) Act, 1939. 2 & 3 Geo. 6.  
c. 94.

Consequential  
amendments  
and repeals.

2. As from the coming into operation of the order first made under this Act—

- (a) the provisions of the Criminal Justice Act, 1925, specified in the first column of Part I of the Schedule to this Act shall have effect subject to the amendments specified in relation to those provisions respectively in the second column of that Part of that Schedule ; and
- (b) the provisions of that Act specified in the first column of Part II of the Schedule to this Act shall be repealed to the extent specified in the second column of that Part of that Schedule.

Provisions as  
to orders.

3.—(1) Before making an order under this Act the Secretary of State shall cause notice thereof to be given in such manner as he thinks fit to any association of local authorities who may be affected thereby, and shall take into consideration any representations with respect thereto which may be submitted to him by any such association.

(2) An order under this Act may be varied or revoked by a subsequent order made by the Secretary of State subject to the like conditions as the original order.

(3) An order under this Act shall be laid before Parliament immediately after it is made, and if either House of Parliament within the period of forty days beginning with the day on which the order is laid before it resolves that it be annulled, it shall thereupon become void, but without prejudice to the validity of anything previously done thereunder or to the making of a new order.

In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.

56 & 57 Vict.  
c. 66.

(4) Section one of the Rules Publication Act, 1893, shall not apply to an order under this Act.

Expenses.

4. Any increase in the sums payable under subsection (3) of section five of the Criminal Justice Act, 1925, out of moneys provided by Parliament which is attributable to the passing of this Act shall be defrayed out of moneys so provided.

Short title  
and extent.

5.—(1) This Act may be cited as the Probation Officers (Superannuation) Act, 1947.

(2) This Act shall not extend to Scotland or Northern Ireland.

**SCHEDULE.**

Section 2.

**CONSEQUENTIAL AMENDMENTS AND REPEALS OF PROVISIONS OF  
THE CRIMINAL JUSTICE ACT, 1925.**

**PART I.**

**AMENDMENTS.**

| <i>Provision, and subject matter thereof.</i>                                                                                                                                                                                                                                                                                     | <i>Amendment.</i>                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Subsection (1) of section five (Expenses incurred by probation committee in respect of salaries of, and superannuation allowances or gratuities to, probation officers, etc., to be defrayed by local authority in whose area the probation area is situate).                                                                     | The reference to superannuation allowances or gratuities to probation officers shall be construed as including a reference to superannuation allowances, gratuities or compensation payable, by virtue of an order under this Act, to or in respect of probation officers and clerks appointed by probation committees or probation officers to assist probation officers in the performance of their duties.                      |
| Paragraph (c) of subsection (1) of section nine (Sums directed by the Secretary of State to be paid in respect of salaries and superannuation allowances or gratuities payable in the case of probation officers appointed by him for the metropolitan police court district to be defrayed out of the metropolitan police fund). | The reference to superannuation allowances or gratuities payable in the case of probation officers appointed by the Secretary of State shall be construed as including a reference to superannuation allowances, gratuities or compensation payable, by virtue of an order under this Act, to or in respect of probation officers so appointed and clerks so appointed to assist such officers in the performance of their duties. |

**PART II.**

**REPEALS.**

| <i>Provision.</i> | <i>Extent of Repeal.</i>                                                                                                                                                                                                                |
|-------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section one ...   | Subsection (3), except as respects persons who, immediately before the coming into operation of the order first made under this Act, are entitled to receive a superannuation allowance under the existing superannuation arrangements. |
| Section two ...   | In subsection (5), in paragraph (b), the words "and any superannuation allowances or gratuities payable under this Part of this Act".                                                                                                   |
| Section eight ... | In paragraph (b), the words "and for regulating superannuation allowances and gratuities payable in the case of probation officers".                                                                                                    |

**CHAPTER 39.***Statistics of Trade Act, 1947.*

## ARRANGEMENT OF SECTIONS.

## Section.

1. Power of competent authorities to obtain information.
  2. Census of production, distribution and services.
  3. Returns for the purposes of census.
  4. Offences relating to returns.
  5. Power to prescribe additional subjects of inquiry by Order in Council.
  6. Duty to notify undertakings to Board of Trade or other competent authority.
  7. Report to Parliament.
  8. Advisory committees.
  9. Disclosure of information.
  10. Information from persons entering or leaving the United Kingdom by air.
  11. Orders.
  12. Notices.
  13. Offences by bodies corporate.
  14. Power to require information about estimated cost of buildings.
  15. Expenses.
  16. Exercise of powers by Board of Trade.
  17. Interpretation.
  18. Application to Scotland.
  19. Short title, extent and repeal.
- Schedule.

An Act to enable certain government departments to obtain more readily the information necessary for the appreciation of economic trends and for the discharge of their functions; to consolidate and amend the law relating to the census of production; to provide for a census of distribution and other services; and for purposes connected with the matters aforesaid.

[31st July 1947.]

**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:—

Power of  
competent  
authorities  
to obtain  
information.

1.—(1) For the purpose of obtaining the information necessary for the appreciation of economic trends and the provision of a statistical service for industry and for the discharge by government departments of their functions, it shall be lawful for a competent authority by notice in writing served on any person carrying on an undertaking to require that person to furnish, in such form and manner and within such time as may be specified in the notice, such periodical or other estimates or returns, about such of the matters set out in the Schedule to this Act as may be so specified.

(2) The notice shall state that it is served under this section of this Act and generally the purpose for which the estimates or returns are required.

2.—(1) The Board of Trade shall, for the purpose of providing at intervals general surveys of the state of trade and business, take a census of production in the year nineteen hundred and forty-nine and in every subsequent year, and a census of distribution and other services in any year that may be prescribed by order of the Board, being a calendar year beginning not less than twelve months after the date of the order.

(2) Any person carrying on an undertaking may be required to furnish returns for the purposes of a census under this Act ; and the census may either be taken so as to cover all undertakings in the field of production, distribution or other services, as the case may be, or may be confined to such classes or descriptions of those undertakings respectively as may be prescribed ; and, without prejudice to the generality of the foregoing provisions of this subsection, the Board of Trade may by order provide for exempting from the obligation to furnish returns for the purposes of a census under this Act, either wholly or to the prescribed extent, and either unconditionally or subject to the prescribed conditions, any persons or any prescribed class or description of persons.

(3) The matters about which a person may be required to furnish returns for the purposes of a census under this Act shall be such of the matters set out in the Schedule to this Act as may be prescribed.

(4) A census under this Act shall require returns to be furnished with respect to the calendar year next preceding the date of the census :

Provided that the Board of Trade may make arrangements for allowing a person, for whom it would be inconvenient to furnish returns with respect to that calendar year, to furnish returns with respect to some other period of twelve months.

3.—(1) The Board of Trade shall, subject to the provisions of this Act, prepare and issue such forms and instructions as they deem necessary for the taking of a census under this Act.

(2) A person shall not be required to furnish returns for the purposes of a census under this Act except in pursuance of a notice in writing from the Board of Trade requiring him to do so ; and the Board shall issue, with the notice, the forms required to be filled up by that person.

(3) The Board of Trade may delegate any of their functions under the two last foregoing subsections to any other competent authority ; and references therein to the Board shall include references to any other authority to whom those functions have been so delegated.

A notice issued by a competent authority in pursuance of powers delegated to that authority shall state that it is so issued.

(4) A person required to furnish returns for the purposes of a census under this Act shall, on or before such day being not less than two months after the service of the said notice as may be specified therein, comply with that requirement in such manner as may be so specified :

Provided that in its application to a person who has been allowed to furnish returns with respect to a period ending not later than the thirty-first day of October in the calendar year preceding the date on which the said notice is served on him, the foregoing provisions of this subsection shall have effect as if for the reference therein to two months there were substituted a reference to one month.

Offences  
relating to  
returns.

4.—(1) If any person required to furnish estimates or returns under this Act fails to furnish those estimates or returns as required under this Act, he shall, unless he proves that he had reasonable excuse for the failure, be liable on summary conviction, to a fine not exceeding fifty pounds, or, in the case of a second or subsequent offence to a fine not exceeding two hundred pounds.

(2) If the failure in respect of which a person is convicted under the last foregoing subsection is continued after the conviction he shall be guilty of a further offence and may on summary conviction thereof be punished accordingly.

(3) If any person in purported compliance with a requirement to furnish such estimates or returns as aforesaid, knowingly or recklessly makes any statement in those estimates or returns which is false in a material particular, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds, or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred pounds, or, in either case, to both such imprisonment and such fine.

Power to  
prescribe  
additional  
subjects of  
inquiry by  
Order in  
Council.

5.—(1) His Majesty may by Order in Council amend the Schedule to this Act by adding to the matters specified therein any other matter.

(2) An Order under this section may amend the said Schedule as aforesaid generally, or so far as it applies, under section one of this Act, to inquiries by competent authorities or, under section two of this Act, to censuses ; or so far as it applies to any particular inquiry or census or to any class or description of inquiries or censuses.

(3) A draft of any Order in Council proposed to be made under this section shall be laid before each House of Parliament ; and the draft shall not be submitted to His Majesty in Council unless each House of Parliament presents an address to His Majesty praying that the Order be made.

6.—(1) If the Board of Trade publish, by advertisement in the Gazette, and in such newspapers as may appear to the Board to be sufficient for notifying the persons concerned, a list of any classes or descriptions of undertakings in relation to which returns will be required for the purposes of a particular census under this Act, it shall be the duty of every person carrying on an undertaking of any such class or description as aforesaid, who has not received a notice under subsection (2) of section three of this Act, to inform such person as may be specified in the advertisement, within such period, being not less than twenty-one days after the date of publication of the advertisement, as may be specified therein, that he is carrying on such an undertaking as aforesaid, and to give to that person such prescribed particulars of the undertaking as may be so specified.

Duty to notify undertakings to Board of Trade or other competent authority.

(2) The Board of Trade may delegate any of their functions under the last foregoing subsection to any other competent authority and references therein to the Board shall include references to any other competent authority to whom those functions have been so delegated.

(3) If any person fails to give any information or particulars as required by this section, he shall be liable on summary conviction to a fine not exceeding five pounds; but it shall be a defence for any person charged with an offence under this subsection to prove that he did not know and had reasonable cause for not knowing that he was required so to give that information or those particulars.

(4) If any person knowingly or recklessly makes a statement in any particulars given as aforesaid which is false in a material particular, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds, or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred pounds, or, in either case, to both such imprisonment and such a fine.

(5) In this section the expression "the Gazette" means,—

- (a) in relation to an advertisement concerning undertakings in England and Wales only, the London Gazette;
- (b) in relation to an advertisement concerning undertakings in Scotland only, the Edinburgh Gazette;
- (c) in relation to any other advertisement, the London Gazette and the Edinburgh Gazette.

7. As soon as practicable after any census under this Act is complete the Board of Trade shall present to Parliament a report of their proceedings in connection with the taking of the census, and a summary of the statistics obtained including, if the Board think fit, any statistics obtained by the Board or other

Report to Parliament.

competent authority otherwise than by means of a census under this Act, or statistics obtained by a department of the Government of Northern Ireland and communicated by that department to the Board for the purposes of this section ; and the summary shall contain separate statements relating to Scotland and Wales.

Advisory  
committees.

8.—(1) The Board of Trade shall arrange for the appointment of one or more committees, including persons engaged in, or otherwise conversant with the conditions of, various trades and businesses, for the purpose of advising the Board or any other competent authority to whom functions have been delegated under section three of this Act with regard to the preparation of the forms and instructions necessary for the taking of a census and the making of orders by the Board under this Act and of advising the Board or any other competent authority with regard to such other matters under this Act as may be referred to those committees.

(2) There may be paid to the members of any such committee as aforesaid such travelling and other allowances as the Board of Trade may with the consent of the Treasury determine.

(3) Committees may be appointed under this section to advise specially about any special forms, instructions or orders or generally about any class or description of forms, instructions or orders that may be assigned to them.

Disclosure of  
information.

9.—(1) No individual estimates or returns, and no information relating to an individual undertaking, obtained under the foregoing provisions of this Act, shall, without the previous consent in writing of the person carrying on the undertaking which is the subject of the estimates, returns or information, be disclosed except—

(a) in accordance with directions given by the Minister in charge of the government department in possession of the estimates, returns or information to a government department or to the Import Duties Advisory Committee for the purposes of the exercise by that department or Committee of any of their functions ; or

(b) for the purposes of any proceedings for an offence under this Act or any report of those proceedings.

(2) If any information to be obtained for the purposes of a census under this Act is also obtainable under any other enactment which restricts the disclosure of information obtained thereunder, and the Board of Trade are of opinion that similar restrictions should be applied to any information to be obtained for the purposes of the census, the Board shall by order provide for the application, without modifications or with such adaptations or modifications as the Board think fit, of those restrictions to the information to be so obtained, or any part thereof, in addition to the restrictions imposed by this section.



(3) Without prejudice to the provisions of the last foregoing subsection, if it appears to the Board of Trade that—

- (a) the nature of the information to be obtained for the purposes of a census under this Act, or
- (b) the nature of the undertakings to be covered by the census,

would make it desirable to impose restrictions on the disclosure of information obtained by means of the census additional to the restrictions imposed by this section, the Board of Trade may by order prohibit the disclosure of information relating to particular undertakings obtained by means of the census, or any part of that information, except to such persons or for such purposes as may be specified in the order.

(4) No order 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.

(5) The following provisions shall have effect with respect to any report, summary or other communication to the public of information obtained under the foregoing provisions of this Act—

- (a) no such report, summary or communication shall disclose the number of returns received with respect to the production of any article if that number is less than five ;
- (b) in compiling any such report, summary or communication the competent authority shall so arrange it as to prevent any particulars published therein from being identified as being particulars relating to any individual person or undertaking except with the previous consent in writing of that person or the person carrying on that undertaking, as the case may be ; but this provision shall not prevent the disclosure of the total quantity or value of any articles produced, sold or delivered ; so, however, that before disclosing any such total the competent authority shall have regard to any representations made to them by any person who alleges that the disclosure thereof would enable particulars relating to him or to an undertaking carried on by him to be deduced from the total disclosed.

(6) If any person discloses any individual estimates or returns or any information contrary to the provisions of this section, or of any order made under this section, he shall be liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds, or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds, or, in either case, to both such imprisonment and such a fine.

Information from persons entering or leaving the United Kingdom by air.

10.—(1) The Board of Trade may by order make provision whereby any person entering or leaving the United Kingdom by air may be required to give, to such person and in such form and manner as may be prescribed, particulars of his age, sex and marriage and of the nature of his occupation and particulars of the country in which he last permanently resided and the country in which he intends next permanently to reside.

(2) If it is not reasonably practicable to require any such person to give any such particulars as aforesaid any other person in whose company and under whose care he is travelling may be required to give those particulars on his behalf.

(3) If any person required to give information in pursuance of any such order as aforesaid fails to comply with that requirement, he shall unless he proves that he had reasonable excuse for the failure be liable on summary conviction to a fine not exceeding twenty pounds.

(4) If any person in purported compliance with that requirement knowingly or recklessly makes any statement which is false in a material particular, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds, or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred pounds, or, in either case, to both such imprisonment and such fine.

Orders.

11.—(1) The Board of Trade may by order make provision—

- (a) for prescribing, either generally or with respect to any class or description of persons or undertakings, anything which under this Act is to be prescribed ;
- (b) generally for carrying the purposes of this Act into effect.

(2) All orders made by the Board under this Act, other than orders made under section nine of this Act, shall be laid before Parliament immediately after they are made, and if either House of Parliament, within the period of forty days beginning with the day on which any such order is laid before it, resolves that the order be annulled, the order shall cease to have effect, but without prejudice to anything previously done thereunder or to the making of a new order.

In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(3) Any order under this Act may be revoked or varied by a subsequent order made in like manner and subject to the like conditions as the original order.

12.—(1) Any notice required or authorised by or under this Notices Act to be served on any person may be served either—

- (a) by delivering it to that person ; or
- (b) by leaving it at his proper address ; or
- (c) by post ;

so however that where a notice is served by post otherwise than in a registered letter, service shall not be deemed to have been effected if it is proved that the notice was not received by the person to whom it was addressed.

(2) Any such notice required or authorised to be served upon an incorporated company or body shall be duly served if it is served on the secretary or clerk of the company or body.

(3) For the purposes of this section and of section twenty-six of the Interpretation Act, 1889, the proper address of any person on whom such a notice as aforesaid is to be served shall in the case of the secretary or clerk of an incorporated company or body be that of the registered or principal office of the company or body, and in any other case be the last known address of the person to be served. <sup>52 & 53 Vict. c. 63.</sup>

(4) Where the name of a person carrying on an undertaking at any premises is not known, then, if any such notice as aforesaid is sent by post in a registered letter so addressed as to show the name in which and the premises at which the undertaking is carried on, the letter shall be deemed for the purposes of the said section twenty-six to be properly addressed.

13.—(1) Where a person convicted on indictment of an offence under the foregoing provisions of this Act is a body corporate, such of those provisions as limit the amount of the fine which may be imposed shall not apply ; and the body corporate shall be liable to a fine of such amount as the court thinks just. Offences by  
bodies  
corporate.

(2) Where any offence under the foregoing provisions of 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 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.

14.—(1) Subsection (2) of section sixty-one of the Public Health Act, 1936 (which enables byelaws under that section to include provisions as to the giving of notices and the deposit of plans, sections, specifications and written particulars), shall be amended by the insertion after the word "specifications" of the word "estimates". Power to  
require  
information  
about  
estimated cost  
of buildings.  
26 Geo. 5 & 1  
Edw. 8. c. 49.

(2) Any building byelaws in force at the commencement of this Act which require written particulars of any proposed work to be given to any authority shall have effect as if the said particulars included particulars of the estimated cost of the work ; and in this subsection the expression " building byelaws " has the meaning assigned to it by section three hundred and forty-three of the Public Health Act, 1936.

2 & 3 Geo. 6  
c. xcvi.

(3) Subsection (1) of section eighty-four of the London Building Acts (Amendment) Act, 1939 (which among other things provides that a building notice shall state the particulars of the proposed work) shall be amended by inserting after the word " work " the words " including the estimated cost thereof ".

(4) The builder shall, immediately after the completion of any work for which a building notice is required under the said Act, give to the district surveyor a notice in writing thereof ; and section one hundred and forty-eight of that Act (which relates to offences against that Act) shall have effect as if the omissions specified in paragraph (xxiii) of the table set out in subsection (2) of that section included a failure to comply with this subsection.

In this subsection the expressions " builder " and " district surveyor " have the meaning assigned to them by section four of that Act.

Expenses.

15. Any expenses incurred with the approval of the Treasury by the Board of Trade or other competent authority for the purposes of this Act shall be defrayed out of moneys provided by Parliament.

Exercise of  
powers by  
Board of  
Trade.

16. Anything required or authorised by or under this Act to be done by the Board of Trade may be done by 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.

Interpretation.

17.—(1) In this Act the expression " undertaking " means any undertaking by way of trade or business, whether or not the trade or business is carried on for profit ; and the exercise and performance by a local or other public authority of the powers and duties of that authority shall be treated as a trade or business of that authority.

(2) Where an undertaking is wholly or partly carried on by means of branches situated at several premises, the Board of Trade or other competent authority may agree with the persons carrying on the undertaking that for the purposes of all or any of the provisions of this Act a separate undertaking shall be deemed to be carried on at all or any of those branches by the branch manager or such other person as may be specified in the agreement.

Any such agreement may contain such supplemental provisions as may be expedient for giving effect thereto and shall continue in force for such term and shall be subject to such provisions as to variation and revocation as may be specified in the agreement.

(3) For the purposes of this Act each of the following Ministers and authorities shall be a competent authority, that is to say, the Treasury, a Secretary of State, the Admiralty, the Board of Trade, the Minister of Fuel and Power, the Minister of Agriculture and Fisheries, the Minister of Health, the Minister of Labour and National Service, the Minister of Transport, the Minister of Supply, the Minister of Food, the Minister of National Insurance, the Minister of Works, the Minister of Civil Aviation and the Minister of Pensions.

(4) References in this Act to articles shall be construed as including references to substances, plant, vehicles, vessels and animals, and as including references to water, gas and electricity; and the expression "plant" includes any machinery, equipment or appliance.

(5) References in this Act to any other Act shall be construed as references to that Act as amended by any subsequent enactment including this Act.

18. This Act in its application to Scotland shall have effect as if for section fourteen the following section were substituted— Application to  
Scotland.

" 14.—(1) Section one hundred and eighty-one of the Public Health (Scotland) Act, 1897 (which enables county councils to make byelaws as to the regulation of buildings), shall be amended by— 60 & 61 Vict.  
c. 38.

(i) the addition at the end of paragraph (f) of subsection (1) of the words 'and the production of an estimate of the cost of the proposed work'; and

(ii) the insertion in paragraph (g) of the said subsection after the words 'date of commencement' of the words 'the intimation of the date of completion'.

(2) Any byelaws as to the regulation of buildings made under section one hundred and eighty-one of the Public Health (Scotland) Act, 1897, which are in force at the commencement of this Act and which require the production to a local authority of building plans in respect of any proposed work shall have effect as if they also required the production of an estimate of the cost of the work; and any such byelaws which require intimation to a local authority of the date of the commencement of any proposed work shall have effect as if they also required intimation to the local authority of the date of completion of the work.

(3) Section one hundred and sixty-six of the Burgh Police (Scotland) Act, 1892 (which requires persons proposing 55 & 56 Vict.  
c. 55.

to erect houses or buildings in burghs to petition for a warrant and to supply certain particulars), and any similar provision in a local Act shall have effect as if an estimate of the cost of the proposed work and a notification of the proposed date of the commencement thereof were included among the particulars required to accompany a petition for a warrant."

Short title,  
extent and  
repeal.

19.—(1) This Act may be cited as the Statistics of Trade Act, 1947.

(2) The powers of a competent authority under section one of this Act shall be exercisable in Northern Ireland in relation to matters in respect of which the Parliament of Northern Ireland has not power to make laws; but, except so far as is necessary for that purpose and as provided in sections seven and ten of this Act, this Act shall not extend to Northern Ireland.

2 & 3 Geo. 6.  
c. 15.

(3) It is hereby declared that the Census of Production Act, 1939, does not extend, and has never extended, to Northern Ireland.

6 Edw. 7. c. 49.  
7 & 8 Geo. 5.  
c. 2.

(4) The Census of Production Act, 1906, the Census of Production Act, 1917, and the Census of Production Act, 1939, are hereby repealed.

Sections 1, 2,  
and 5.

---

## . SCHEDULE .

---

### MATTERS ABOUT WHICH PERSONS MAY BE REQUIRED TO FURNISH ESTIMATES OR RETURNS UNDER THIS ACT.

The nature of the undertaking (including its association with other undertakings) and the date of its acquisition; the persons employed or normally employed (including working proprietors), the nature of their employment, their remuneration and the hours worked; the output, sales, deliveries, and services provided; the articles acquired or used, orders, stocks and work in progress; the outgoing and costs (including work given out to contractors, depreciation, rent, rates and taxes, other than taxes on profits) and capital expenditure; the receipts of and debts owed to the undertaking; the power used or generated; the fixed capital assets, the plant, including the acquisition and disposal of those assets and that plant, and the premises occupied.

---

**CHAPTER 40***Industrial Organisation and Development Act, 1947.*

## ARRANGEMENT OF SECTIONS.

*Development councils.*

## Section.

1. Power to establish development councils, and purposes thereof.
2. Constitution, etc., of development councils.
3. Provisions for furnishing development councils with information as to their industries.
4. Levies by development councils.
5. Restriction on disclosure of information.
6. Enforcement of provisions for registration and furnishing of information, etc.
7. Reports, and accounts, of development councils.
8. Amendment or termination of provision for a development council.

*Miscellaneous.*

9. Levies for certain purposes for industries for which there is no development council.
10. Disposal of sums levied for industries under certain emergency provision.
11. Grants to the Council of Industrial Design, and to design centres.

*General.*

12. Administrative expenses
13. Exercise of powers of Board of Trade.
14. Ascertainment of activities to be treated as comprised in an industry.
15. Application to Northern Ireland.
16. Repeal of Cotton Industry (Reorganisation) Act.
17. Short title.

## SCHEDULES :

First Schedule—Functions which may be assigned to development councils.

Second Schedule.—Subsidiary matters relating to development councils.

An Act to provide for the establishment of development councils to exercise functions for improving or developing the service rendered to the community by industries and for other purposes in relation thereto, for making funds available for certain purposes in relation to industries for which there is no development council, for the disposal of any surplus of funds levied under emergency provision for encouragement of exports, for the making of grants to bodies established for the improvement of design, and for purposes connected therewith and consequential thereon. [31st July 1947.]

**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 :—

*Development Councils.*

Power to  
establish  
development  
councils, and  
purposes  
thereof.

1.—(1) There may be established for any industry, by an order in that behalf made by an authority specified in subsection (2) of this section, a body, in this Act referred to as a development council, to whom there may be assigned by the order any functions of a kind specified in the First Schedule to this Act for whose exercise by the council it appears to that authority to be expedient to provide in order to increase efficiency or productivity in the industry, to improve or develop the service that it renders or could render to the community, or to enable it to render such service more economically.

(2) Orders under this Act establishing development councils (in this Act referred to as a "development council order") may be made by the Board of Trade, the Minister of Agriculture and Fisheries, the Minister of Supply, the Minister of Food, the Minister of Works, the Admiralty, the Secretary of State, or the Minister of Fuel and Power (hereafter in this Act referred to, in relation to any such order made or proposed to be made by them or him, as "the Board or Minister concerned") :

9 & 10 Geo. 5.  
c. 91.

Provided that the power to make a development council order relating to agriculture within the meaning of the Ministry of Agriculture and Fisheries Act, 1919, or to fisheries, and extending (but not applying solely) to Scotland shall be vested in the Minister of Agriculture and Fisheries and the Secretary of State jointly, and references in this Act to the Board or Minister concerned shall be construed accordingly in relation to such an order.

(3) Before making a development council order the Board or Minister concerned shall consult any organisation appearing to them or him to be representative of substantial numbers of persons carrying on business in the industry and such organisations representative of persons employed in the industry as appear to the Board or Minister concerned to be appropriate.

(4) A development council order shall not be made unless the Board or Minister concerned is satisfied that the establishment of a development council for the industry is desired by a substantial number of the persons engaged in the industry.

(5) A development council order may provide for any incidental or supplementary matters for which it appears to the Board or Minister concerned to be necessary or expedient to provide.

(6) A development council order shall not be made until a draft of the order has been approved by a resolution of each House of Parliament.



2.—(1) A development council shall be by virtue of this Act a body corporate, by such name as may be specified in the development council order.

Constitution,  
etc., of  
development  
councils.

(2) The members of a development council shall be appointed by the Board or Minister concerned.

(3) A development council shall consist of members of the following categories, that is to say, in the case of every development council,—

- (a) persons capable of representing the interests of persons carrying on business in the industry,
- (b) persons capable of representing the interests of persons employed in the industry, and
- (c) other persons, being persons as to whom the Board or Minister concerned is satisfied that they have no such financial or industrial interest as is likely to affect them in the discharge of their functions as members of the council (in this Act referred to as "the independent members"),

and, in a case in which it appears to the Board or Minister concerned to be expedient that the members of the council should include persons having special knowledge of matters relating to the marketing or distribution of products of the industry, persons of that category.

(4) A development council order shall specify the number, or a maximum or minimum number, of persons of each of the said categories to be included and shall contain provision for securing that the persons who are included as being of the categories specified in paragraphs (a) and (b) of the last preceding subsection shall together be of a number constituting a majority of the members of the council.

(5) A development council order may specify requirements as to the appointment of, and the tenure and vacation of office by, the members of the council, and as to qualification or disqualification for membership.

(6) Before appointing persons to be members of a development council of the categories specified in paragraphs (a) and (b) respectively of subsection (3) of this section, the Board or Minister concerned shall consult such representative organisations as are mentioned, in relation to persons carrying on business in the industry and to persons employed therein respectively, in subsection (3) of section one of this Act.

(7) A development council shall have a chairman who shall be one of the independent members and shall be appointed by the Board or Minister concerned, who may also appoint one of the members of the council to act as deputy chairman.

(8) A development council order may provide for the payment to all or any of the members of the council of such remuneration and allowances as may be determined by the Board or Minister concerned, and for the payment, on the retirement or death of any of the members of the council as to whom it may be so determined to make such provision, of such pensions and gratuities to them or to others by reference to their service as may be so determined.

(9) The provisions of the Second Schedule to this Act shall apply as regards the subsidiary matters therein mentioned relating to development councils.

Provisions for  
furnishing  
development  
councils with  
information  
as to their  
industries.

3.—(1) A development council order may provide for securing that persons carrying on business in the industry shall be registered in a register of such persons to be kept by the development council, which shall be open to the inspection of the public at all convenient hours on payment to the council of such reasonable fee, if any, and subject to such conditions, if any, as may be specified in the order, and in which any person for the time being claiming to be a person carrying on business in the industry shall be entitled as of right to be and remain registered, subject to any provisions of the order as to notification to the council of such claims.

(2) A development council order may provide for enabling the council to require persons carrying on business in the industry to furnish such returns and other information, including information with respect to the productive capacity, capital assets, staff, output, orders, sales, deliveries, stocks and costs of any such business, as appear to the council to be required for the exercise of any of their functions :

Provided that powers conferred on the council under this subsection shall be qualified, in relation to exercise thereof generally as regards the industry or any section thereof, by provision requiring the previous consent of the Board or Minister concerned to their being so exercised and approval by the Board or Minister concerned of the form in which the returns or other information will be required to be furnished.

Levies by  
development  
councils.

4.—(1) A development council order may provide for the imposition by the development council with the approval of the Board or Minister concerned, and for the recovery by the council, in such manner and through such channels, if any, as may be specified in the order, of charges for enabling the council to meet their expenses in the exercise of their functions and their administrative expenses, to be made on persons carrying on business in the industry, or on persons carrying on any business consisting wholly or partly in the production of, or dealing in, any of the materials of the industry.

(2) An order providing for such charges shall contain provision for limiting the amount of the charges that may be imposed, either by providing for their being computed so as not to yield more than a specified maximum amount during a specified period or by providing for their not being levied at more than specified maximum rates.

(3) Before making such an order the Board or Minister concerned shall satisfy themselves or himself that the incidence of the charges as between different classes of undertakings in the industry will be in accordance with a fair principle.

(4) A development council order may provide, so far as may appear to the Board or Minister concerned to be reasonably requisite for the purposes of the imposition or recovery of such charges, for enabling the council to require persons carrying on such business as is mentioned in subsection (1) of this section—

- (a) to furnish returns and other information, and to produce for examination on behalf of the council books and other documents in the custody or under the control of such persons; and
- (b) to keep records and to produce them for examination as aforesaid.

5.—(1) A development council order shall make provision for ensuring that, where under powers conferred by virtue of either of the two last preceding sections a requirement is imposed to furnish returns or other information relating to an individual business or to produce for examination books or other documents or records, the returns or other information shall be furnished to, or the examination done by, independent members of the council (or, if the order so provides, independent members of the council designated thereby, or by the Board or Minister concerned, to the exclusion of the others) or to or by officers of the council specially authorised in that behalf.

Restriction on disclosure of information.

(2) Returns or other information furnished subject to provision made under the preceding subsection and information obtained on an examination so done shall not, without the consent of the person carrying on the business to which the returns or information or the books or other documents or records relate, be disclosed otherwise than—

- (a) in the form of a summary of similar returns or information furnished by or obtained from a number of persons, being a summary so framed as not to enable particulars relating to any individual business to be ascertained therefrom;
- (b) to independent members of the council (or, if independent members are designated under the preceding subsection, to those members) or to officers of the council authorised as aforesaid;

- (c) to, or to an officer of, the Board or Minister concerned ; or  
 (d) to, or to an officer of, the Board of Trade in connection with the execution or for the purposes of any enactment passed in the same session as this Act for enabling government departments to obtain more readily information necessary for the appreciation of economic trends and for the discharge of their functions :

Provided that the preceding provisions of this subsection shall not apply to any disclosure of information made for the purposes of any legal proceedings (whether civil or criminal, and including arbitrations) pursuant to this Act, or for the purposes of any report of any such proceedings as aforesaid.

(3) If any person discloses any information in contravention of the last preceding subsection, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds, or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred pounds, or, in either case, to both such imprisonment and such a fine.

(4) A development council order shall make provision for ensuring that, where under powers conferred by virtue of either of the two last preceding sections a requirement is imposed to furnish returns or other information relating to an individual business or to produce for examination books or other documents or records, and the person on whom the requirement is made uses in his business what he claims to be a secret process that ought not to be disclosed on the ground of risk of prejudice to his business, he shall not be subject to any liability for withholding disclosure of any particulars relating to the process unless the form of the requirement and the making of it in that form have been approved by the Board or Minister concerned after consideration of his claim.

Enforcement  
of provisions  
for registra-  
tion and  
furnishing  
of information  
etc.

6. A development council order may provide for the enforcement of provisions thereof as to the registration of persons carrying on business in the industry, the furnishing of returns or other information, the production or examination of books or other documents or records, or the keeping of records (and for that purpose, without prejudice to the generality of the power conferred by this section, for the imposition of limits of time within which obligations must be satisfied, with or without power to the development council or other specified authority to extend limits imposed) :

Provided that no punishment provided for shall exceed that imposed by subsection (3) of the last preceding section, or, in the case of a fine for a continuing offence, five pounds in respect of each day.

7.—(1) A development council shall prepare and transmit to the Board or Minister concerned annually a report setting out what has been done in the discharge of their functions during their financial year last completed. Reports, and accounts, of development councils.

(2) The report shall include a statement of the accounts of the council for that year, and shall be transmitted as soon as the accounts therefor have been audited, together with a copy of any report made by the auditors on the accounts.

(3) The statement of accounts shall be in such form as the Board or Minister concerned may direct, being a form which shall conform with the best commercial standards, and the statement shall show the total of remuneration and allowances paid during the year to members of the council.

(4) A copy of each such report of a council, or made by the auditors on their accounts, shall be laid before Parliament by the Board or Minister concerned.

8.—(1) An order may be made by the Board or Minister concerned, after consultation with the development council and subject to the like provisions as to consultation and approval by each House of Parliament as apply, by virtue of subsections (3) and (6) of section one of this Act, to the making of a development council order,— Amendment or termination of provision for a development council.

(a) for the amendment of such an order, whether as originally made or as amended by a previous order under this paragraph ; or

(b) for the dissolution of a development council.

(2) At the request of the development council provision may be made by an amending order under this section for assigning to the council functions for whose exercise by the council it appears to the Board or Minister concerned to be expedient to provide for any of the purposes mentioned in subsection (1) of section one of this Act, being functions of a kind similar to those specified in the First Schedule to this Act or such as appear to the Board or Minister concerned to be capable of being conveniently exercised in association with functions of a kind specified in that Schedule which have been assigned to the council or are to be assigned to them by the amending order :

Provided that the functions which may be assigned to a development council under this subsection shall not include any functions relating to remuneration or conditions of employment.

(3) At a date not later than the expiration of three years from the coming into effect of a development council order, and at five-yearly intervals during the period whilst the development council continues in being after that date, the Board or Minister concerned shall consult the council and such organisations as are mentioned in subsection (3) of section one of this Act

on the question whether the council should continue in being, and if it is to continue in being, on the question whether the development council order should be amended in any respect.

(4) An order for the dissolution of a development council shall make provision—

- (a) for the winding up of the council, for the imposition and recovery of charges as under section four of this Act for the purpose of raising any amount by which the assets of the council may be insufficient to meet their liabilities and the expenses of the winding up, and for the application of any amount by which those assets may exceed those liabilities and expenses for specified purposes connected with the industry; and
- (b) for the revocation of the development council order either with or without savings.

*Miscellaneous.*

Levies for certain purposes for industries for which there is no development council.

9.—(1) If it appears to any of the authorities named in subsection (2) of section one of this Act that it is expedient that funds should be made available for any of the following purposes in connection with an industry for which there is not a development council, that is to say—

- (a) scientific research,
- (b) promotion of export trade, or
- (c) the improvement of design,

and that there is, or is to be brought into being, a body capable of carrying out that purpose satisfactorily, the authority may, subject to the provisions of this section, make an order imposing on persons carrying on business in the industry, or on persons carrying on any business consisting wholly or partly in the production of, or dealing in, any of the materials of the industry, such charges as may be specified in the order, and providing for the recovery thereof by or on behalf of that authority in such manner and through such channels, if any, as may be specified in the order.

(2) Before making an order imposing charges under this section the authority making the order shall satisfy themselves or himself that the incidence of the charges as between different classes of undertakings in the industry will be in accordance with a fair principle.

(3) Sums recovered in respect of charges imposed by an order under this section shall be paid into such public fund or account as may be specified in the order, and shall be issued thereout to the body mentioned in subsection (1) of this section to meet expenses incurred by them for any of the purposes therein mentioned.

(4) The authority making an order under this section shall, as respects each financial year, prepare, in such form and manner as the Treasury may direct, an account of sums recovered under the order and of the disposal thereof by the authority, and any account prepared under this subsection shall, on or before the thirtieth day of November next following the expiration of the financial year in question, be transmitted to the Comptroller and Auditor General, who shall examine and certify the account and lay copies thereof, together with his report thereon, before Parliament.

(5) A body to whom sums are issued under this section shall prepare and transmit to the authority making the order annually a statement of their accounts for their financial year last completed, in such form as the authority may direct, as soon as their accounts for that year have been audited, together with a copy of any report made by the auditors on the accounts, and a copy of each such statement, and of any such report, shall be laid before Parliament by the authority.

(6) An order under this section may make provision for such matters as are dealt with by subsection (4) of section four of this Act, and by section six of this Act so far as it relates to the matters dealt with by the said subsection (4).

(7) An order under this section may be amended or revoked by an order made by the authority making the original order.

(8) Before making an order under this section the authority shall consult any organisations, consultation with which would be required by virtue of subsection (3) of section one of this Act, before the making of a development council order in relation to the industry.

(9) An order under this section shall not be made until a draft thereof has been approved by a resolution of each House of Parliament.

(10) Where sums have been recovered under an order under this section, and it is ascertained after any revocation of the order that there is an excess of the sums recovered over the amount which has been issued as mentioned in subsection (3) of this section, sums not exceeding in the aggregate the amount of the excess may be paid, out of the public fund or account into which the sums recovered were paid,—

(a) if there is then a development council for an industry consisting of, or comprising the whole or a substantial part of, the industry in relation to which the order was made, to the council; or

(b) if there is not, but the authority making the order is satisfied that there is, or is to be brought into being, a body capable of carrying out satisfactorily purposes for

which it appears to the authority to be expedient to make funds available in connection with the industry in relation to which the order was made, to that body subject to such provision for securing the disposal of the sums for those purposes as it appears to the authority to be practicable and expedient to make.

Disposal of sums levied for industries under certain emergency provision.

10. Where sums have been recovered under an order imposing charges made under the Defence (Encouragement of Exports) Regulations, 1940, or have been received by the Board of Trade under arrangements made pursuant to those Regulations, and it is ascertained after revocation or expiry of the order that there is an excess of such sums over the cost of the relevant services, sums not exceeding in the aggregate the amount of the excess may be paid, out of moneys provided by Parliament, as mentioned in paragraph (a) or (b) of subsection (10) of the last preceding section.

Grants to the Council of Industrial Design and to design centres.

11. The Board of Trade may, with the approval of the Treasury, make grants out of moneys provided by Parliament—

(a) to the Council of Industrial Design ;

(b) to any association or body, corporate or unincorporate, the objects of which include promoting the improvement of design in any industry or activities appearing to the Board to be conducive thereto, and as to which the Board is satisfied that it does not carry on any business for the purpose of making a profit.

#### *General.*

Administra-  
tive expenses.

12. Any administrative expenses incurred in the execution of this Act by any of the authorities named in subsection (2) of section one of this Act shall be defrayed out of moneys provided by Parliament.

Exercise of powers of Board of Trade.

13. 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, any secretary, under-secretary or assistant secretary of the Board, or any person authorised in that behalf by the President.

Ascertainment of activities to be treated as comprised in an industry.

14.—(1) A development council order shall designate, in such manner as appears to the Board or Minister concerned to be requisite for preventing uncertainty, the activities that are to be treated as constituting the industry for which the development council is established (whether being such as are regarded for any other purpose as those of a single industry or such as are regarded for any other purpose as those of a group of industries or of a section or sections of an industry or industries).



(2) An order amending a development council order may provide that further activities, designated as aforesaid, are to be treated as included in the industry for which the council is established, or that activities, designated as aforesaid, which are for the time being so treated are no longer to be so treated.

(3) The preceding subsections shall apply also to an order under section nine of this Act and an order amending such an order, with the substitution of references to the industry in connection with which funds are to be made available under that section for references to the industry for which a development council is established and other requisite modifications.

(4) In accordance with the preceding provisions of this section, the expression "the industry," where used in this Act in relation to a development council or to an order under section nine of this Act, shall be construed as references to the industry that is for the time being, in accordance with those provisions, that for which the council is established or in connection with which funds are to be made available, as the case may be.

15.—(1) This Act, or any enactment therein, may be extended to Northern Ireland by an order of His Majesty in Council made after the passing by each House of the Parliament of Northern Ireland of a resolution praying that this Act, or that enactment, as the case may be, may be so extended, but otherwise it shall not extend to Northern Ireland.

Application  
to Northern  
Ireland.

(2) Development council orders applying solely to Northern Ireland, or an order under section nine of this Act so applying, may be made by the Ministry of Commerce, the Ministry of Finance, or the Ministry of Agriculture, for Northern Ireland, and, notwithstanding anything in subsection (2) of section one of this Act, shall not be made otherwise, and references in this Act to the Board or Minister concerned, and in section nine of this Act to the authorities named in the said subsection (2), shall be construed accordingly in relation to such an order.

(3) A development council order, an order amending such an order or an order under section nine of this Act, being an order which extends to Northern Ireland or applies solely to Northern Ireland, shall not be made until a draft of the order has been approved by a resolution of each House of the Parliament of Northern Ireland, and subsection (6) of section one of this Act, and subsection (9) of section nine thereof, shall not apply to an order which applies solely to Northern Ireland.

(4) The prohibition imposed by subsection (2) of section five of this Act on the disclosure of returns and information furnished or obtained as therein mentioned shall, in so far as any such returns or information relate to business carried on in Northern Ireland, have effect subject to the following exception in addition to the exceptions specified in paragraphs (a) to (d) of the said

subsection (2), namely that such returns or information may, in so far as they relate to such business, be disclosed to, or to an officer of, the Ministry of Commerce for Northern Ireland in connection with the execution or for the purposes of any enactment of the Parliament of Northern Ireland corresponding to the enactment mentioned in paragraph (d) of the said subsection (2).

Repeal of Cotton  
Industry (Reorgan-  
isation) Act.  
2 & 3 Geo. 6. c. 54.  
2 & 3 Geo. 6. c. 116.

16. The Cotton Industry (Reorganisation) Act, 1939, and the Cotton Industry (Reorganisation) (Postponement) Act, 1939, are hereby repealed.

Short title.

17.—(1) This Act may be cited as the Industrial Organisation and Development Act, 1947.

(2) In this Act, except where the context otherwise requires, references to a development council order or to an order under section nine thereof shall, where such an order has been amended, be construed as references to the order as amended.

---

## SCHEDULES.

---

### FIRST SCHEDULE.

---

Section 1.

#### FUNCTIONS WHICH MAY BE ASSIGNED TO DEVELOPMENT COUNCILS.

1. Promoting or undertaking scientific research.
2. Promoting or undertaking inquiry as to materials and equipment and as to methods of production, management and labour utilisation, including the discovery and development of new materials, equipment and methods and of improvements in those already in use, the assessment of the advantages of different alternatives, and the conduct of experimental establishments and of tests on a commercial scale.
3. Promoting or undertaking research into matters affecting industrial psychology.
4. Promoting or undertaking measures for the improvement of design, including promoting or undertaking the establishment and operation of design centres.
5. Promoting the production and marketing of standard products.
6. Promoting the better definition of trade descriptions and consistency in the use thereof.
7. Undertaking the certification of products, the registration of certification trade marks, and the functions of proprietors of such marks.

8. Promoting the training of persons engaged or proposing engagement in the industry, and their education in technical or artistic subjects relevant thereto.

1ST SCH  
—cont.

9. Promoting the adoption of measures for securing safer and better working conditions, and the provision and improvement of amenities for persons employed, and promoting or undertaking inquiry as to such measures.

10. Promoting or undertaking research into the incidence, prevention and cure of industrial diseases.

11. Promoting or undertaking arrangements for encouraging the entry of persons into the industry.

12. Promoting or undertaking research for improving arrangements for marketing and distributing products.

13. Promoting or undertaking research into matters relating to the consumption or use of goods and services supplied by the industry.

14. Promoting arrangements for co-operative organisations for supplying materials and equipment, for co-ordinating production, and for marketing and distributing products.

15. Promoting the development of export trade, including promoting or undertaking arrangements for publicity overseas.

16. Promoting or undertaking arrangements for better acquainting the public in the United Kingdom with the goods and services supplied by the industry and methods of using them.

17. Promoting the improvement of accounting and costing practice and uniformity therein, including in particular the formulation of standard costings.

18. Promoting or undertaking the collection and formulation of statistics.

19. Advising on any matters relating to the industry (other than remuneration or conditions of employment) as to which the Board or Minister concerned may request the council to advise, and undertaking inquiry for the purpose of enabling the council so to advise.

20. Undertaking arrangements for making available information obtained, and for advising, on matters with which the council are concerned in the exercise of any of their functions.

---

## SECOND SCHEDULE.

---

Section 2.

### SUBSIDIARY MATTERS RELATING TO DEVELOPMENT COUNCILS.

1. A development council shall have a common seal, and power to hold land without licence in mortmain.

2. A development council order may make provision with respect to—

(a) the quorum, proceedings and meetings of the council, and determinations thereof;

2ND SCH.  
—cont.

- (b) the accounts to be kept by the council and the audit of their accounts ; and
- (c) the execution of instruments and the mode of entering into contracts by and on behalf of the council and the proof of documents purporting to be executed, issued or signed by the council or a member, officer or servant thereof.

3. Subject to any provision made under the last preceding paragraph, a development council shall have power to regulate their own procedure.

4. A development council may appoint such officers, agents and servants on such terms as to remuneration and other matters as the council may determine, and there may be paid, on the retirement or death of any of them as to whom the council may determine to make such provision, such pensions and gratuities to them or to others by reference to their service as the council may determine.

5. Remuneration and allowances under subsection (8) of section two of this Act or under the last preceding paragraph shall be paid out of moneys of the council.

6. Any pensions or gratuities under subsection (8) of section two of this Act or under paragraph 4 of this Schedule shall be paid or provided for in such manner as may be determined—

- (a) in the case of any to be paid under the said subsection (8), by the Board or Minister concerned, or
- (b) in the case of any to be paid under the said paragraph 4, by the council,

either wholly out of moneys of the council, or partly thereof and partly by means of contributions.

---

## CHAPTER 41.

### *Fire Services Act, 1947.*

#### ARRANGEMENT OF SECTIONS.

##### *Provision of fire services.*

Section.

1. Provision of fire services.
2. Arrangements for mutual assistance
3. Supplementary powers of fire authorities.

##### *Fire Authorities.*

4. County and county borough councils to be fire authorities.
5. Voluntary schemes for combination of fire authorities.
6. Power of Secretary of State to make combination schemes.

## Section.

7. Appointment of joint committees by fire authorities.
8. Constitution and powers of fire authorities constituted by combination schemes.
9. Amendment and revocation of combination schemes.
10. Power to make schemes in advance of alterations of local government areas.
11. Adaptation of local Acts relating to fire services
12. Discharge of functions of fire authorities through other fire authorities or persons.

*Supply of water for fire-fighting.*

13. Duty of fire authorities to ensure supply of water for fire-fighting.
14. Supply of water by statutory undertakers.
15. Provision of water supply otherwise than by statutory undertakers.
16. Notice to be given of proposed works affecting water supply and fire hydrants.

*Administrative provisions.*

17. Conditions of service.
18. Procedure and qualifications for appointments and promotions.
19. Fire brigade establishments to be determined in accordance with approved schemes.
20. Fire brigade committees in counties.
21. Standards of training and equipment.
22. Provision by Secretary of State of equipment.
23. Training centres.
24. Inspectors of Fire Brigades.
25. Grants to fire authorities.

*Pensions etc.*

26. Firemen's Pension Scheme.
27. Firemen's Pension Scheme to supersede other statutory schemes.
28. Supplementary provisions as to preservation of pensions etc.

*Miscellaneous and General.*

29. Central Fire Brigades Advisory Council.
30. Powers of firemen and police in extinguishing fires.
31. False alarms of fire.
32. Members of police force not to be employed in fire brigade.
33. Inquiries.
34. Expenses and receipts of Secretary of State.
35. Regulations and orders to be laid before Parliament.
36. Application to Scotland.
37. Application to Isles of Scilly.
38. Interpretation.
39. Short title, extent, transitional provisions, repeals and savings.

## SCHEDULES :

First Schedule.—Making, Approval and Variation of Establishment Schemes and Management Schemes for Counties.

Second Schedule.—Application to Combined Fire Authorities of Provisions as to Establishment Schemes and Management Schemes.

Third Schedule.—Provisions of 15 & 16 Geo. 5. c. 47 applicable for purposes of Firemen's Pension Scheme.

Fourth Schedule.—Combined Areas in Scotland.

Fifth Schedule.—Transitional provisions.

Sixth Schedule.—Enactments repealed.

An Act to make further provision for fire services in Great Britain; to transfer fire-fighting functions from the National Fire Service to fire brigades maintained by the councils of counties and county boroughs; to provide for the combination of areas for fire service purposes; to make further provision for pensions and other awards in respect of persons employed in connection with the provision of fire services; and for purposes connected with the matters aforesaid.

[31st July 1947.]

**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 of fire services.*

Provision of  
fire services.

1.—(1) It shall be the duty of every fire authority in Great Britain to make provision for fire-fighting purposes, and in particular every fire authority shall secure—

- (a) the services for their area of such a fire brigade and such equipment as may be necessary to meet efficiently all normal requirements;
- (b) the efficient training of the members of the fire brigade;
- (c) efficient arrangements for dealing with calls for the assistance of the fire brigade in case of fire and for summoning members of the fire brigade;
- (d) efficient arrangements for obtaining, by inspection or otherwise, information required for fire-fighting purposes with respect to the character of the buildings and other property in the area of the fire authority, the available water supplies and the means of access thereto, and other material local circumstances;
- (e) efficient arrangements for ensuring that reasonable steps are taken to prevent or mitigate damage to property resulting from measures taken in dealing with fires in the area of the fire authority;

- (f) efficient arrangements for the giving, when requested, of advice in respect of buildings and other property in the area of the fire authority as to fire prevention, restricting the spread of fires, and means of escape in case of fire.

(2) For the purposes of such arrangements as are mentioned in paragraph (d) of the last foregoing subsection, any member of a fire brigade maintained in pursuance of this Act shall, if authorised in writing by the authority maintaining the brigade, have the like powers of entering premises as are conferred upon authorised officers of councils by section two hundred and eighty-seven of the Public Health Act, 1936; and accordingly that Act shall have effect as if the references in that section to an authorised officer of a council included references to a member of a fire brigade authorised as aforesaid, and as if among the purposes specified in subsection (1) of that section there were included the purposes of carrying out such arrangements as aforesaid. <sup>26 Geo. 5. &</sup>  
<sup>1 Edw. 8. c. 49</sup>

(3) The Secretary of State may, after consultation with the Central Fire Brigades Advisory Council constituted under this Act, make regulations prescribing standards of efficiency with respect to any of the matters mentioned in subsection (1) of this section, and the standards may vary according to the requirements of, and the facilities available in, different kinds of locality; and any fire authority whose services are of a standard so prescribed shall, as respects the matter for which the standard is prescribed, be deemed to have complied with the provisions of subsection (1) of this section.

2.—(1) It shall be the duty of fire authorities, so far as practicable, to join in the making of schemes (hereafter in this section referred to as "reinforcement schemes") for securing the rendering of mutual assistance for the purpose of dealing with fires occurring in the areas of authorities participating in a reinforcement scheme where either— <sup>Arrangements for mutual assistance.</sup>

- (a) it is necessary to supplement the services provided under the last foregoing section by the authority in whose area the fire occurs, or
- (b) reinforcements at any fire can be more readily obtained from the resources of other authorities participating in the scheme than from those of the authority in whose area the fire occurs.

(2) Any reinforcement scheme made under the last foregoing subsection shall be notified to the Secretary of State, and the Secretary of State may direct that any such scheme notified to him shall have effect subject to such modifications as may be specified in the directions.

(3) Where in the case of any fire authorities no reinforcement scheme has been made, or it appears to the Secretary of State that any such scheme is no longer satisfactory, the Secretary of State may, after affording an opportunity to all fire authorities appearing to him to be concerned to make representations to him, make a reinforcement scheme for the authorities in question.

(4) A reinforcement scheme may make provision for apportioning between the fire authorities concerned, in such proportions as may be specified by or under the scheme, expenses incurred in taking measures to secure the efficient operation of the scheme.

(5) A reinforcement scheme may contain such provisions requiring uniformity of equipment as appear to the Secretary of State to be necessary for the purpose of ensuring that the fire brigades affected will be able to render efficient assistance in pursuance of the scheme.

(6) Where a reinforcement scheme has come into operation, it shall be the duty of the fire authorities to whom the scheme applies to carry it into effect.

(7) Any reinforcement scheme may be varied by a subsequent such scheme made in the like manner and subject to the like provisions.

(8) A fire authority may enter into arrangements with persons (not being other fire authorities) who maintain fire brigades to secure, on such terms as to payment or otherwise as may be provided by or under the arrangements, the provision by those persons of assistance for the purpose of dealing with fires occurring in the area of the authority where either—

- (a) it is necessary to supplement the services provided by the authority under the last foregoing section, or
- (b) reinforcements at any fire occurring in the area of the authority can be more readily obtained from the resources of the said persons than from the resources of the authority.

(9) The Secretary of State may, for the purposes of his functions under this section, hold such public local inquiries as he thinks fit.

Supplementary  
powers of fire  
authorities

3.—(1) The powers of a fire authority shall include power—

- (a) to provide accommodation for the fire brigade for their area and its equipment, including housing and other accommodation for members of the brigade



and furniture reasonably required for such accommodation;

- (b) to pay to persons, not being members of a fire brigade maintained in pursuance of this Act, who render services for fire-fighting purposes such rewards as the authority think fit;
- (c) to provide and maintain fire alarms in such positions in any street or public place as they think proper, and to affix any such fire alarm to any wall or fence adjoining a street or public place;
- (d) to employ the fire brigade maintained by them, or use any equipment so maintained, outside their area;
- (e) to employ the fire brigade maintained by them, or use any equipment so maintained, for purposes other than fire-fighting purposes for which it appears to the authority to be suitable and, if they think fit, to make such charge as they may determine for any services rendered in the course of such employment or use.

(2) Before exercising the powers conferred by paragraph (c) of the last foregoing subsection in relation to any trunk road a fire authority shall obtain the consent of the Minister of Transport, and before exercising those powers in relation to any road maintained by a highway authority, other than the Minister of Transport or the fire authority, they shall obtain the consent of the highway authority maintaining the road; and—

- (a) without prejudice to the foregoing provisions of this subsection, the said powers shall not be exercised in a county district except after consultation with the council of the county district,
- (b) the said powers shall not be exercised except after consultation with the chief officer of police for the area in which the fire alarms are to be placed,
- (c) nothing in the said paragraph (c) shall affect any privilege conferred on the Postmaster General by the Telegraph Act, 1869.

32 & 33 Vict.  
c. 73.

(3) Before making any standing arrangements for the exercise of the powers conferred by paragraph (e) of subsection (1) of this section, a fire authority shall obtain the approval of the Secretary of State to the proposed arrangements unless they have been approved by the Minister in charge of any other Government department.

(4) Save as expressly provided in this Act, a fire authority shall not make any charge for services rendered by the authority.

9 & 10 Geo 6.  
c. 49.

(5) A fire authority may be authorised by the Minister of Health to purchase compulsorily any land, whether situate within or without the area of the authority, which is required by them for the purposes of their functions under this Act, and the Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply as if this Act had been in force immediately before the commencement of that Act:

Provided that section two of that Act (which confers temporary powers for speedy acquisition of land in urgent cases) shall not apply to any compulsory purchase of land under this Act.

#### *Fire Authorities.*

County and  
county  
borough  
councils to be  
fire authorities.  
1 & 2 Geo. 6.  
c. 72.

4. As from the appointed day the Fire Brigades Act, 1938, and any other enactment passed before the passing of this Act in so far as it confers on the council of a county district functions for fire-fighting purposes, shall cease to have effect, and the council of every county and county borough shall, subject to the provisions of this Act, be the fire authority for the area of the council:

Provided that nothing in this section shall affect any functions relating to fire prevention, restricting the spread of fires, or means of escape in case of fire, being functions conferred on a council otherwise than as an authority maintaining a fire brigade.

Voluntary  
schemes for  
combination  
of fire  
authorities.

5.—(1) If it appears to any two or more fire authorities that it is expedient that their areas should be combined for fire-fighting purposes, they may submit to the Secretary of State a scheme in that behalf (hereafter in this Act referred to as a "combination scheme") and the Secretary of State may by order approve any combination scheme submitted to him.

(2) Subject to the provisions of this Act, a combination scheme shall make provision with respect to the following matters, that is to say—

- (a) the constitution of an authority as the fire authority for the combined area and the establishment of a fire brigade therefor, the transfer to that brigade of members of fire brigades maintained by the constituent authorities and the appointment as first chief officer of the brigade established by the scheme of such person as may be specified therein;
- (b) the payment of the expenses of the fire authority constituted by the scheme out of a combined fire service fund constituted in accordance with the provisions of the scheme;

- (c) the payment into the combined fire service fund, out of the local funds of the constituent areas, of contributions assessed in accordance with the provisions of the scheme for meeting liabilities imposed on that fund by or under the scheme;
- (d) the transfer to the fire authority constituted by the scheme of such property, rights and liabilities of the constituent authorities (being property, rights and liabilities held or incurred in connection with the provision of fire services, as may be determined by or under the scheme, or the use by the fire authority constituted by the scheme of any such property) the appointment of officers of that fire authority (including a clerk to that authority and a treasurer of the combined fire service fund) and the transfer to that authority of such officers of the constituent authorities as may be determined by or under the scheme;
- (e) the payment, by such authority and subject to such provisions as may be provided by the scheme, of compensation to persons employed by any of the constituent authorities who in consequence of the scheme or anything done thereunder suffer direct pecuniary loss by reason of the determination of their appointments or the diminution of their emoluments;
- (f) in the case of persons who, having immediately before the coming into operation of the scheme been chief officers of fire brigades maintained by any of the constituent authorities, do not on the coming into operation thereof become chief officer of the fire brigade established by the scheme, for the payment in lieu of compensation under the last foregoing paragraph of emoluments, and of pensions, gratuities or allowances, of such amounts, subject to such conditions, and by such authority as may be provided by the scheme,

and may provide for any other matters incidental to or consequential on the provisions of the scheme.

6.—(1) Subject to the provisions of this section, if it appears to the Secretary of State that it is expedient in the interests of efficiency that a combination scheme should be made for the areas of any two or more fire authorities, and no scheme satisfactory to him has been submitted to him by the fire authorities for those areas under the last foregoing section, the Secretary of State may for that purpose by order

Power of  
Secretary of  
State to make  
combination  
schemes.

make such scheme as he considers expedient, and the provisions of subsection (2) of the last foregoing section shall apply in relation to any such scheme as they apply in relation to a scheme made under that section :

Provided that where the population of a county or county borough, as estimated by the Registrar General, is one hundred thousand or upwards, then except with the consent of the council of the county or borough no scheme shall be made by the Secretary of State under this section for the combination of the county or borough with any area or areas of a fire authority or authorities of which the population or aggregate population, as so estimated, exceeds that of the county or borough.

(2) Where the Secretary of State proposes to make a scheme under this section, he shall give to the fire authorities concerned notice of the general nature of the proposed scheme; and unless those authorities give him notice that they assent thereto, he shall cause a public local inquiry to be held by a person appointed by him, not being an officer of a fire authority or of any Government department.

(3) The Secretary of State shall lay before each House of Parliament a draft of any scheme proposed to be made by him under this section, and, where a local inquiry has been held under this section with respect thereto, shall lay together with the draft a copy of the report of the person by whom the inquiry was held; and if either House within the period of forty days beginning with the day on which the draft scheme is laid before it resolves that the scheme be not made, no further proceedings shall be taken thereon, but without prejudice to the laying before Parliament of a new draft scheme.

In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

Appointment  
of joint  
committees  
by fire  
authorities.

23 & 24 Geo. 5.  
c. 51.

7.—(1) A joint committee under section ninety-one of the Local Government Act, 1933, shall not be appointed for the purposes of this Act without the prior approval of the Secretary of State.

(2) For the avoidance of doubt it is hereby declared that a combination scheme may be submitted and approved under section five of this Act or may be made under section six thereof notwithstanding that a joint committee under the said section ninety-one has been appointed for fire service purposes for all or some of the areas in respect of which the combination scheme is submitted or made.

8.—(1) A fire authority constituted by a combination scheme shall consist of such representatives of each of the constituent areas as may be prescribed by the scheme, and every such authority shall be a body corporate by such name as may be prescribed by the scheme with a common seal and with power to hold land without licence in mortmain. Constitution and powers of fire authorities constituted by combination schemes.

(2) Provision may be made by a combination scheme for applying in relation to the constitution and proceedings of the fire authority thereby constituted, and in relation to the officers of that authority, any of the provisions of Parts II to IV of the Local Government Act, 1933 (which contain general provisions as to members, committees and officers of local authorities), subject to such modifications as may be prescribed by the scheme.

(3) The Acquisition of Land (Authorisation Procedure) Act, 1946, and the provisions of the Local Government Act, 1933, with respect to the acquisition of land by agreement and the appropriation and disposal of land shall apply to fire authorities constituted by combination schemes as they apply to fire authorities being councils of counties or county boroughs, and accordingly references in the said Act of 1946 and the said provisions of the said Act of 1933 to local authorities shall include references to fire authorities constituted by combination schemes.

(4) For the purposes of the discharge of their functions under a combination scheme, the fire authority constituted by the scheme shall have the powers of the council of a county or county borough in relation to the borrowing of money for fire service purposes, and the provisions of Part IX of the Local Government Act, 1933, and of any other enactment relating to the borrowing of money by local authorities shall apply accordingly, subject to such adaptations and modifications as may be prescribed by the scheme.

(5) The accounts of every fire authority constituted by a combination scheme shall be subject to audit by a district auditor under Part X of the Local Government Act, 1933.

(6) A fire authority constituted by a combination scheme may, if so authorised by the scheme, make arrangements with any constituent authority for the use by the fire authority of the services of officers and servants of the constituent authority and for the making of contracts and payments on behalf of the fire authority by the constituent authority.

(7) The Local Government Superannuation Act, 1937, shall have effect as if a fire authority constituted by a combination scheme were included among the local authorities specified in Part I of the First Schedule to that Act, and in relation to 1 Edw. 8 & 1  
Geo. 6. c. 68.

contributory employees of such a fire authority the appropriate superannuation fund for the purposes of that Act shall be such fund as may be determined by or under the scheme.

25 & 26 Geo. 5.  
c. 23.

(8) For the purposes of section nine of the Superannuation Act, 1935 (which makes provision for civil servants entering the service of a local authority and officers of a local authority becoming civil servants) a fire authority constituted by a combination scheme shall be deemed to be a local authority.

Amendment  
and revocation  
of combination  
schemes.

9.—(1) A combination scheme approved or made under section five or section six of this Act may be amended or revoked by a subsequent scheme approved or made under those sections, and the foregoing provisions of this Act shall, so far as applicable, have effect in relation to any such amending or revoking scheme subject to any necessary modifications and to the following provisions of this section.

(2) Without prejudice to the generality of the provisions of subsection (1) of this section, provision may be made by any such subsequent scheme—

- (a) for the division of the combined area into any two or more areas for the purposes of this Act, being either counties or county boroughs or combined areas constituted by the subsequent scheme, or for the inclusion in the combined area of the area of any other fire authority;
- (b) for the dissolution of any fire authority constituted by the original scheme, and the winding-up of any combined fire service fund established thereunder, or for the reconstitution of any such authority or fund;
- (c) for the transfer or re-transfer to such fire brigades as may be determined by the subsequent scheme of members of the fire brigade established by the original scheme;
- (d) for the transfer or re-transfer to such authorities as may be determined by the subsequent scheme of any officers, property, rights or liabilities of the fire authority constituted by the original scheme;
- (e) for any other matters incidental to or consequential on the provisions of the subsequent scheme.

(3) The authority or authorities by whom a scheme for the amendment or the revocation of a combination scheme or schemes may be submitted to the Secretary of State under subsection (1) of section five of this Act shall be the fire authority or authorities constituted by the scheme or schemes to be amended or revoked, together, in the case of an amending scheme which provides for the inclusion in a combined area of the area of a fire authority other than one constituted

by a combination scheme, with that fire authority; and references to fire authorities in subsection (1) of section five of this Act shall be construed accordingly.

(4) The authorities to whom, under subsection (2) of section six of this Act, notice must be given by the Secretary of State of a scheme proposed to be made by him for the amendment or revocation of a combination scheme or schemes shall be the authority or authorities by whom a scheme for that purpose might have been submitted by virtue of the last foregoing subsection, and the council of any county and the council of any county borough comprised in the combined area constituted by the original scheme or schemes.

10. If an order is made under the Local Government (Boundary Commission) Act, 1945, constituting any area as a new county or county borough as from a date specified in the order, a combination scheme may be made under this Act with respect to that area before that date but so as to come into operation on or after that date; and in relation to such a scheme the provisions of this Act shall apply subject to any necessary modifications and as if for references to the fire authority there were substituted references to the fire authority for any county, county borough or combined area of which the whole or any part is to be comprised in the new county or county borough.

Power to make schemes in advance of alterations of local government areas.  
8 & 9 Geo. 6. c. 38.

11.—(1) Where, by any local Act in force with respect to an area of any local authority which ceases to be a separate authority for fire-fighting purposes by virtue of this Act or of a scheme thereunder, provision is made for conferring or imposing special powers or duties on persons employed for such purposes by that authority, the Secretary of State may by order adapt the local Act so far as appears to him to be necessary or expedient for the purpose of the exercise or performance of those powers or duties by persons so employed by the fire authority for the county comprising that area, or for the combined area, as the case may be:

Adaptation of local Acts relating to fire services.

Provided that nothing in this subsection or in any order made in accordance therewith shall be construed as extending the area within which or the matters in relation to which any such powers or duties as aforesaid are authorised or required by the local Act to be exercised or performed.

(2) As from the appointed day any reference in any enactment passed before the passing of this Act and for the time being in force to a fire brigade (by whatever name described) maintained by an authority which is an authority for fire-fighting purposes by virtue of this Act shall be construed as a reference to the brigade maintained by the authority in pursuance of this Act.

(3) Any order under subsection (1) of this section may be varied or revoked by a subsequent order thereunder made in the like manner and subject to the like provisions.

Discharge of  
functions of  
fire authorities  
through other  
fire authorities  
or persons.

12.—(1) A fire authority may make arrangements with any other fire authority or other persons who maintain a fire brigade so as to secure, by the provision of services by the other fire authority or persons, the discharge of all or any of the first-mentioned fire authority's functions under this Act in respect of all or any part of its area, and arrangements under this subsection may make provision with respect to the terms as to payments or otherwise on which the services in question are to be provided:

Provided that no arrangements shall take effect under this subsection unless submitted to and approved by the Secretary of State.

(2) Where any fire authority have requested another fire authority to enter into arrangements under the last foregoing subsection, and the other fire authority are unwilling to do so, or the authorities cannot agree as to the extent of the services to be provided under such arrangements or the terms on which they are to be provided, the first-mentioned authority may request the Secretary of State to determine what arrangements, if any, should be made for the provision of services by the other fire authority.

(3) Where in the case of any fire authority no arrangements approved by the Secretary of State under subsection (1) of this section are in force and it appears to the Secretary of State expedient with a view to securing greater efficiency or economy that it is for consideration whether such arrangements should be entered into with any other authority, he may give notice to the authorities accordingly.

(4) Where a request is made to the Secretary of State under subsection (2) of this section, or notice is given by the Secretary of State under the last foregoing subsection, he shall afford an opportunity to the fire authorities concerned to make representations and, if he thinks fit or if any of those authorities request him so to do, shall cause a public local inquiry to be held.

(5) If the Secretary of State is satisfied, after considering any representations made under the last foregoing subsection and, if an inquiry is held, the report of the person by whom the inquiry was held, that it is expedient with a view to securing greater efficiency or economy that arrangements should be made for the provision of services as mentioned in subsection (1) of this section, he may direct that the fire authorities shall enter into such arrangements as may be specified in the direction.



*Supply of water for fire-fighting.*

13. A fire authority shall take all reasonable measures for ensuring the provision of an adequate supply of water, and for securing that it will be available for use, in case of fire.

Duty of fire authorities to ensure supply of water for fire-fighting.

14.—(1) For the purposes of the last foregoing section, a fire authority may enter into an agreement with statutory water undertakers for the taking by the undertakers, on such terms as to payment or otherwise as may be specified in the agreement, of such measures as may be so specified for securing that an adequate supply of water will be available in case of fire; and no water undertakers shall unreasonably refuse to enter into any agreement proposed by a fire authority under this subsection.

Supply of water by statutory undertakers.

Any question whether statutory water undertakers have unreasonably refused to enter into an agreement under this subsection shall be determined by the Minister of Health.

(2) Without prejudice to the generality of the last foregoing subsection, a fire authority, if satisfied that the existing supply of water provided by any statutory water undertakers for domestic and industrial purposes would be likely to be inadequate in case of fire, may enter into an agreement with the undertakers under the last foregoing subsection for the provision of such additional supply of water as may be specified in the agreement.

(3) Sections thirty-two to thirty-four of the Third Schedule to the Water Act, 1945 (which require undertakers at the expense of the fire authority to provide hydrants) shall apply to all statutory water undertakers, and shall so apply in substitution for any other provision having effect for the purposes of those sections by virtue of any enactment; and—

8 & 9 Geo. 6.  
c. 42.

- (a) undertakers shall at the expense of the fire authority cause the situation of every fire hydrant provided by the undertakers to be plainly indicated by a notice or distinguishing mark, which may be placed on any wall or fence adjoining a street or public place;
- (b) where any such hydrant is damaged as the result of any use made of it, with the authority of the undertakers, not being a use for fire-fighting purposes or for any other purposes of a fire brigade maintained in pursuance of this Act, the fire authority shall not be liable for the cost of repairing or replacing the hydrant incurred as the result of the damage.

(4) Section thirty-eight of the Third Schedule to the Water Act, 1945 (which provides for penalties for breaches of obligations under Part VIII of that Schedule) shall apply to

any breach of an obligation of undertakers under subsection (1) or (3) of this section or under an agreement entered into in pursuance of the said subsection (1).

(5) Any person who uses a fire hydrant, otherwise than for fire-fighting purposes or for any other purposes of a fire brigade maintained in pursuance of this Act or for any purpose authorised by the undertakers or other persons to whom the hydrant belongs, or who damages or obstructs any fire hydrant, otherwise than in consequence of its use for any such purpose as aforesaid, shall be liable on summary conviction to a fine not exceeding ten pounds.

(6) The Secretary of State may, after consultation with the Central Fire Brigades Advisory Council constituted under this Act, make regulations providing for uniformity in fire hydrants provided by statutory water undertakers and in the notices or marks indicating their situation; and in any case to which regulations under this subsection apply such undertakers shall not be deemed to have complied with their obligations under subsection (3) of this section and the enactments therein referred to unless the hydrants, notices or marks provided by them conform with the regulations.

(7) In this and the next following section the expression "statutory water undertakers" has the same meaning as in the provisions of the Water Act, 1945, other than Part II thereof; and references in this section to any provision of the Third Schedule to that Act shall include references to any other provision of that Schedule (whether as to the giving of notices, the enforcement of obligations, or otherwise) ancillary thereto.

Provision of  
water supply  
otherwise than  
by statutory  
undertakers

15.—(1) A fire authority shall for the purposes of the last but one foregoing section have power by agreement—

- (a) to secure the use, in case of fire, of water under the control of any person other than statutory water undertakers;
- (b) to improve the access to any such water;
- (c) to lay and maintain pipes and to carry out other works in connection with the use of such water in case of fire.

(2) Subject to any agreement under the last foregoing subsection, a fire authority may use for fire-fighting purposes any convenient and suitable supply of water, but shall be liable to pay reasonable compensation therefor:

Provided that nothing in this subsection shall affect the duty of undertakers to whom section forty-two of the Waterworks Clauses Act, 1847 or section thirty-six of the Third Schedule to the Water Act, 1945, applies to supply water for the said purposes without compensation or payment.

16.—(1) Where a person proposes to carry out any works for the purpose of supplying water to any part of the area of a fire authority, he shall give notice in writing thereof to the fire authority, and the notice shall be given—

Notice to be given of proposed works affecting water supply and fire hydrants.

(a) not less than fourteen days before the works are begun, in any case where the works are proposed to be carried out to comply with a requirement imposed under any enactment other than the Water Act, 1945;

(b) not less than six weeks before the works are begun, in any other case.

(2) At least seven days before any works which affect any fire hydrant are begun, the authority or person by whom the works are to be executed shall give notice in writing to the fire authority:

Provided that where in a case of emergency it is not practicable for notice to be given at the time required by the foregoing provisions of this subsection, those provisions shall be deemed to have been complied with if the notice is given as early as may be.

#### *Administrative provisions.*

17.—(1) The Secretary of State may, subject to the provisions of this section, make regulations as to the conditions of service of persons employed as members of fire brigades maintained in pursuance of this Act, and in particular—

Conditions of service.

(a) as to ranks, pay and allowances;

(b) as to hours of duty and leave;

(c) as to the maintenance of discipline;

(d) as to appeals against dismissal or disciplinary action (including dismissal on disciplinary grounds).

References in this section to the conditions of service of persons employed as aforesaid include references to welfare arrangements for such persons.

(2) Where—

(a) the Secretary of State is satisfied that proper arrangements are in force for the consideration, by persons representing the interests of fire authorities and of persons employed as members of fire brigades maintained in pursuance of this Act, or any class of persons so employed, of questions arising as to the conditions of service of persons so employed or of the class of persons in question, as the case may be; and

- (b) a recommendation is made in accordance with the arrangements as to any matter falling within the last foregoing subsection,

then if the Secretary of State approves the recommendation he may by regulations under this section give effect thereto.

(3) Where the Secretary of State does not approve any recommendation made as mentioned in the last foregoing subsection he shall refer the recommendation for further consideration in accordance with the arrangements, and for the making in accordance with the arrangements of a report thereon within such period not less than twenty-one days as he may specify, and shall take into consideration any report so made before proceeding to make regulations under this section as to any matter to which the recommendation relates.

(4) Where, without any such recommendation as aforesaid in that behalf having been made, the Secretary of State proposes to make regulations under this section, then, if such arrangements as aforesaid are in force as respects the persons to whom the regulations are to relate, he shall before making the regulations refer his proposals—

- (a) for consideration in accordance with the arrangements; and  
 (b) for the making in accordance with the arrangements of a report on the proposals within such period not less than twenty-one days as the Secretary of State may specify,

and where a report is so made then if the Secretary of State approves the recommendations in the report he may by regulations under this section give effect thereto, but if he does not approve the recommendations the last foregoing subsection shall apply as it applies where he does not approve recommendations made as mentioned in subsection (2) of this section.

8 & 9 Geo. 6.  
c. 17.

(5) In the proviso to subsection (1) of section nineteen of the Wages Councils Act, 1945 (which excludes from the operation of Part III of that Act workers whose remuneration is fixed under other enactments), after the words "the Education Act, 1944," there shall be inserted the words "the Fire Services Act, 1947."

Procedure and  
qualifications  
for appoint-  
ments and  
promotions.

18.—(1) The Secretary of State may, after consultation with the Central Fire Brigades Advisory Council constituted under this Act, make regulations as to any of the following matters, that is to say—

- (a) the method of appointment of chief officers of fire brigades maintained in pursuance of this Act;

- (b) the procedure for the appointment by a fire authority of members, other than the chief officer, of any such brigade;
- (c) the qualifications for appointment to any such brigade or to any rank therein, and for promotion into any such rank; and
- (d) the procedure for such promotion.

(2) Nothing in the last foregoing section shall apply to the matters specified in subsection (1) of this section.

19.—(1) The establishment of members of a fire brigade of different descriptions and ranks, and of fire stations and equipment of different descriptions, to be maintained by a fire authority in pursuance of the foregoing provisions of this Act shall be determined in accordance with the provisions of a scheme made by the authority under this section (hereafter in this Act referred to as an "establishment scheme") and for the time being in force. Fire brigade establishments to be determined in accordance with approved schemes.

(2) An establishment scheme shall provide that the chief officer of the fire brigade to which the scheme relates shall be directly responsible to the fire authority maintaining the brigade or to a committee thereof.

(3) An establishment scheme shall be submitted to the Secretary of State, and shall come into force when approved by him, either as submitted or subject to such modifications as he may direct.

(4) An establishment scheme may be varied by a subsequent scheme made in like manner and subject to the like provisions as the scheme varied.

(5) If as respects the area of any fire authority—

(a) before the first day of January, nineteen hundred and forty-eight, or such later date as the Secretary of State may in special circumstances allow, no establishment scheme has been submitted to the Secretary of State, or

(b) at any time it appears to the Secretary of State that the establishment scheme in force is not satisfactory,

the Secretary of State may, after affording to the fire authority an opportunity of making representations to him, make a scheme.

(6) The provisions of subsections (1), (2), (4) and (5) of this section shall apply to a scheme made under the said subsection (5) as if it were an establishment scheme submitted to and approved by the Secretary of State.

(7) In the case of a fire authority, other than the London County Council, which is the council of a county, the foregoing provisions of this section shall have effect subject to the provisions of the First Schedule to this Act.

(8) The Secretary of State may, for the purposes of his functions under this section, hold such public local inquiries as he thinks fit; and if in connection with the making of a scheme under paragraph (b) of subsection (5) of this section the fire authority so requires, the Secretary of State shall cause a public local inquiry to be held before he makes the scheme.

(9) The provisions in that behalf of the Second Schedule to this Act shall have effect for the purposes of this section in the case of fire authorities constituted by combination schemes.

(10) In relation to any period before the appointed day the foregoing provisions of this section and the provisions ancillary thereto of the said First and Second Schedules shall apply with the substitution for references to a fire authority of references to an authority which on the appointed day will become a fire authority.

Fire brigade  
committees in  
counties.

20.—(1) Every fire authority (other than the London County Council) which is the council of a county shall constitute a fire brigade committee in accordance with the following provisions of this section, and—

- (a) shall refer to the fire brigade committee for report and recommendation all matters relating to the authority's functions under this Act, except such matters as the authority may with the approval of the Secretary of State determine, and shall unless in their opinion the case is urgent receive and consider the report of the committee with respect to any matters referred to the committee before taking action in relation to those matters;
- (b) may delegate to the fire brigade committee, either with or without conditions or restrictions, any of the authority's functions under this Act other than powers of raising a rate or borrowing money.

(2) Until the coming into force in accordance with the provisions of this Act of a scheme (hereafter in this Act referred to as a "management scheme") determining the constitution of a fire brigade committee under this section, the constitution thereof shall be such as may be determined by the fire authority, and thereafter such as may be determined by such a scheme.

(3) As soon as may be after the appointed day every such fire authority as aforesaid shall make a management scheme in accordance with the provisions in that behalf of the First Schedule to this Act.

(4) A management scheme shall provide for the appointment to a fire brigade committee by the fire authority of such number of members of that authority as may be specified in the scheme, and for the appointment to the committee by or on behalf of councils of county districts comprised in the area of the fire authority of such less number of persons representing those councils as may be so specified.

(5) A management scheme shall be submitted to the Secretary of State, and shall come into force when approved by him, either as submitted or subject to such modifications as he may direct.

(6) A management scheme may be varied by a subsequent scheme made in the like manner and subject to the like provisions as the scheme varied.

(7) If as respects the area of any fire authority such as is mentioned in subsection (1) of this section—

(a) before the expiration of three months from the appointed day, or such later date as the Secretary of State may in special circumstances allow, no management scheme has been submitted to the Secretary of State, or

(b) at any time it appears to the Secretary of State, whether on the representations of the council of any county district comprised in the area of the fire authority or otherwise, that the management scheme in force is not satisfactory,

the Secretary of State may, after affording to the fire authority and to every such council as aforesaid an opportunity of making representations to him, make a scheme.

(8) The provisions of subsections (4), (6) and (7) of this section shall apply to a scheme made under the said subsection (7) as if it were a management scheme submitted to and approved by the Secretary of State.

(9) The foregoing provisions of this section shall, subject to the provisions of the Second Schedule to this Act, apply to a fire authority—

(a) which is constituted by a combination scheme,

(b) the area of which includes one or more counties, other than the County of London,

as they apply to such authorities as are mentioned in subsection (1) of this section.

Standards of training and equipment.

21. The Secretary of State may, after consultation with the Central Fire Brigades Advisory Council constituted under this Act, by regulations provide for the observance by fire authorities of such requirements with respect to—

- (a) standards of training for members of fire brigades maintained in pursuance of this Act;
- (b) design or performance of equipment for such brigades,

as appear to him to be necessary to secure efficient fire services.

Provision by Secretary of State of equipment.

22. The Secretary of State may in accordance with arrangements approved by the Treasury provide, for purchase by any fire authority desiring to avail themselves of the arrangements, equipment for the discharge of the functions of fire authorities under this Act.

Training centres.

23.—(1) The Secretary of State may establish and maintain—

- (a) a central training institution; and
- (b) one or more local training centres,

for providing courses of instruction in matters relating to fire services.

(2) The arrangements to be made for the central training institution established under this section shall secure that the institution shall be under the general direction of a board—

- (a) consisting as to half of persons appointed by the Secretary of State and as to the remainder of persons appointed by such bodies as appear to the Secretary of State to represent the interests of fire authorities, and
- (b) having as chairman such member of the board as may be selected by the other members with the approval of the Secretary of State,

and that before appointing the person having control of the administration of the institution the Secretary of State shall consult the board.

(3) A fire authority may establish and maintain training centres for providing courses of instruction for members of their own or other fire brigades and for training persons for service in fire brigades.

Inspectors of Fire Brigades.

24.—(1) For the purpose of obtaining information as to the manner in which fire authorities are performing their functions under this Act and as to technical matters relating to those functions, inspectors may be appointed by His Majesty, and the Secretary of State may appoint assistant inspectors and other officers.



(2) The Secretary of State may pay to persons appointed under this section such remuneration as he may with the approval of the Treasury determine.

25.—(1) The Secretary of State may with the consent of the Treasury make regulations providing for the payment by him to the councils of counties and county boroughs, and to authorities constituted by combination schemes, of annual grants in respect of expenditure incurred by them in connection with the provision of fire services of amounts not exceeding twenty-five per cent of the expenditure. Grants to fire authorities.

(2) Regulations made under the last foregoing subsection may make provision whereby the payment of grants in pursuance thereof is dependent upon the fulfilment of such conditions as may be determined by or under the regulations.

(3) Regulations made as aforesaid may provide for the deduction from grants to any authority of amounts not exceeding the appropriate fraction of so much of the expenditure incurred by the Secretary of State under section twenty-three of this Act as is apportioned to the authority in accordance with the regulations.

In this subsection the expression "appropriate fraction" means the fraction of any expenditure of an authority incurred by them in the exercise of their functions under this Act which, after allowing for the grants provided under subsection (1) of this section but not for the deductions therefrom under this subsection, would fall ultimately to be borne by the authority.

#### *Pensions etc.*

26.—(1) The Secretary of State may by order bring into operation a scheme, to be known as the Firemen's Pension Scheme, whereby provision is made, subject to the provisions of this section and of the Scheme, for the payment by fire authorities and such other authorities as may be specified in the Scheme of pensions, allowances and gratuities to persons employed as members of fire brigades maintained in pursuance of this Act who retire from such employment on or after the appointed day or die on or after the appointed day while so employed, and to their widows, children and dependants. Firemen's Pension Scheme.

(2) The Firemen's Pension Scheme (hereafter in this and the next following section referred to as "the Scheme") may include provision—

- (a) for defining the classes of persons employed as aforesaid in respect of whose service awards, or awards of any class specified in the Scheme, may be made under the Scheme, and in particular for excluding

- in relation to any such awards or class of awards persons who are not wholly and permanently so employed or who are so employed on such ancillary duties as may be specified in the Scheme, and for treating, for all or any of the purposes of the Scheme, employment in Great Britain or elsewhere on duties connected with the provision of fire services, being employment (otherwise than as a member of a fire brigade maintained in pursuance of this Act) of such classes as may be specified in the Scheme, as if it were employment as a member of such a brigade;
- (b) for reckoning, for all or any of the purposes of the Scheme, such employment, whether before or after the appointed day (other than employment as a member of a fire brigade maintained in pursuance of this Act) as may be specified in the Scheme as if it were employment as a member of such a brigade, either unconditionally or subject to such conditions as may be so specified and either as respects the whole of service in employment so specified or as respects such fraction thereof as may be so specified;
  - (c) for the making by persons in respect of whose service awards may be made under the Scheme of such contributions as may be specified by the Scheme, and, in such circumstances as may be so specified, for the repayment of contributions so made or their application in such manner and for the benefit of such persons as may be so specified;
  - (d) for substituting, for all or any of the purposes of the Scheme, the Secretary of State for a fire authority in relation to any employment specified under paragraph (b) of this subsection;
  - (e) for the making to a fire authority by the Secretary of State or another fire authority, or by any other authority by which a person has been employed in employment specified under paragraph (b) of this subsection or which has incurred any liability in respect of the payment of a pension in the event of a person's retirement from employment so specified of payments in respect of previous service (whether before or after the appointed day) on a person's entry on employment with the fire brigade maintained by the first-mentioned fire authority, and for the making to the Secretary of State by a fire authority or any such other authority as aforesaid of payments in respect of previous service (whether before or after the appointed day) on a person's entry on employment specified under paragraph (b) of this subsection;

- (f) for the reimbursement of payments under the last foregoing paragraph out of any superannuation fund to which contributions have been made in respect of the previous service to which the payments related;
- (g) for the making, where a person enters on employment with a fire authority in a case where no payment falls to be made under paragraph (e) of this subsection, of payments in respect of previous service with that authority out of any superannuation fund to which contributions have been made in respect of the previous service;
- (h) for the conditions as to evidence or otherwise subject to which any award under the Scheme may be made, for the manner in which any question specified in the Scheme arising under the Scheme is to be determined, and for appeals from determinations of any such question;
- (i) for excluding or modifying, in the case of an injury in respect of which an award is made under the Scheme, being an injury sustained in the execution of duty in such circumstances as may be specified in the Scheme, any other right against the Crown or other authority in whose employment the injury occurred to compensation or damages in respect of the injury or the consequences thereof, so however that no provision made by virtue of this paragraph shall affect any right under the National Insurance (Industrial Injuries) Act, 1946, or the National Insurance Act, 1946; 9 & 10 Geo. 6. c. 62.  
9 & 10 Geo. 6. c. 67.
- (j) for such incidental and supplemental matters as appear to the Secretary of State expedient for the purposes of the Scheme, including provisions as to funds for defraying liabilities under the Scheme and provision for the like purposes as under the enactments in the Fire Brigade Pensions Act, 1925, specified in the first column of the Third Schedule to this Act (which relate to the matters specified in the second column of that Schedule) was made in relation to awards under the said Act of 1925. 15 & 16 Geo. 5. c. 47.

In this section the expression "employment" includes engagement in any service.

(3) The maximum pension under the Scheme shall not be provided for a person unless he has been engaged in service which is to be reckoned for the purpose of his pension under the Scheme for a period of not less than thirty years, and no

pension shall be provided under the Scheme for any person on retirement unless—

- (a) he has been engaged in such service as aforesaid for a period of not less than twenty-five years; or
- (b) his retirement is caused by such incapacity or infirmity of mind or body (occasioned otherwise than as mentioned in the next following paragraph) as may be specified in the Scheme, and he has been engaged in such service for a period of not less than ten years; or
- (c) his retirement is caused through incapacity of mind or body occasioned by an injury received in the execution of his duty without his own default or in such circumstances that the Scheme applies in like manner as if it had been occasioned by an injury so received; or
- (d) he is compelled to retire on the ground of age.

(4) If a person obtains or attempts to obtain for himself or any other person—

- (a) any award under the Scheme, or
- (b) any sum in respect of the repayment or application of contributions made under the Scheme,

by means of any false declaration, false certificate, false representation, false evidence or personation or by malingering or feigning disease or infirmity or by maiming or injuring himself, or causing himself to be maimed or injured, or otherwise producing disease or infirmity, or by any other fraudulent conduct, he shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding twenty-five pounds, and (without prejudice to the provisions of paragraph (j) of subsection (2) of this section) the Scheme may authorise, in the case of a person who has been convicted of an offence under this subsection, the forfeiture, in whole or in part, of any award or sum so obtained.

(5) The Scheme may be varied by a subsequent order of the Secretary of State under this section.

(6) Any order under this section shall be made with the approval of the Treasury, and after consultation with the Central Fire Brigades Advisory Council.

27.—(1) As respects any person retiring on or after the appointed day from employment as, or employment which for the purposes of the Scheme is to be treated as employment as, a member of a fire brigade maintained in pursuance of this Act, or dying on or after the appointed day while in such employment, the Scheme shall, subject to the provisions

Firemen's  
Pension  
Scheme to  
supersede  
other  
statutory  
schemes.

of this section, have effect to the exclusion of any other provision for pension, allowance or gratuity in respect of such employment contained in or in force under any enactment.

(2) Where—

- (a) immediately before the appointed day there are in operation by virtue of any enactment (other than an enactment contained in the Fire Brigade Pensions Act, 1925), any arrangements for the grant of pensions, allowances or gratuities in respect of members of a fire brigade maintained in pursuance of the Fire Brigades Act, 1938 (in this subsection referred to as 'the former brigade'); and
- (b) the Government Actuary certifies that the Scheme, if modified by reference to the arrangements so as to have effect subject to such modifications as are mentioned in the next following subsection, would be on the whole not less favourable than the Scheme not so modified,

then if any person—

- (i) who was a member of the former brigade immediately before the eighteenth day of August, nineteen hundred and forty-one; or
- (ii) who by virtue of having been a member of the former brigade was designated under paragraph (x) (b) of regulation 3 of the National Fire Service (Preservation of Pensions) (Police Firemen) Regulations, 1941, as a person in whose case those regulations should have effect; or
- (iii) who immediately before the said eighteenth day of August was engaged in service or work in such circumstances that under the Police and Firemen (War Service) Act, 1939, his service or work fell to be treated as a period of approved service in the former brigade; and
- (iv) who in any case becomes on the appointed day or on the termination thereafter of such service or work as aforesaid a member of the former brigade,

gives notice in that behalf to such authority and within such period as may be specified by the Scheme, the Scheme shall have effect in his case, so long as he remains a member of the former brigade, subject to the said modifications.

(3) The modifications referred to in the last foregoing subsection are such modifications as will secure that subject to the following provisions of this section—

- (a) as respects superannuation awards, the Scheme contains the like provisions in respect of the persons

- entitled to awards, the conditions entitling persons to awards, and the amounts of awards, as the arrangements mentioned in paragraph (a) of the last foregoing subsection;
- (b) as respects injury awards, an authority making an award under the Scheme may, in any case in which it appears to them that an award under the said arrangements would have exceeded the award under the Scheme, increase the award under the Scheme by an amount not greater than the excess, as estimated by the authority;
  - (c) as respects the rates of contributions to be made by persons in respect of whose service awards may be made, the rates shall be the same as under the said arrangements, subject to such abatement as may be provided by the Scheme for offsetting any provisions of the Scheme having effect by virtue of subsection (5) or (6) of this section in cases where those provisions apply.

In this subsection the expression "injury award" means a pension, allowance or gratuity in respect of death or incapacity of mind or body occasioned either by an injury received in the execution of duty without the default of the person injured or in such circumstances that the Scheme, apart from the foregoing modifications, applies in like manner as if it had been occasioned by an injury so received; and "superannuation award" means a pension, allowance or gratuity other than an injury award.

(4) For the purposes of subsection (2) of this section, a fire brigade maintained in pursuance of the Fire Brigades Act, 1938, for any area and a fire brigade maintained in pursuance of this Act for that area, or an area including that area, shall be treated as one.

(5) Nothing in subsection (1) of this section shall affect the operation of the National Insurance (Industrial Injuries) Act, 1946, or the National Insurance Act, 1946, but the Scheme may provide for the reduction or withholding of awards under the Scheme in cases where awards are provided for in respect of the same matters under either of the said Acts.

(6) The Secretary of State may by regulations provide, in the event of the appointed day for the purposes of the National Insurance (Industrial Injuries) Act, 1946, falling earlier than the appointed day for the purposes of this Act, for the reduction or withholding of awards under the Fire Brigade Pensions Act, 1925, or any such arrangements as are mentioned in paragraph (a) of subsection (2) of this section in cases where awards are provided for in respect of the same matters under the said Act of 1946.

28.—(1) The Secretary of State may by regulations, applying to such classes of persons as may be specified in the regulations,—

Supplementary provisions as to preservation of pensions etc.

- (a) being pensionable members of fire brigades who whether before or after the passing of this Act entered or enter on employment in the civil service of the Crown or other pensionable employment under a local authority or any police authority not being a local authority, or
- (b) being persons (other than pensionable members of fire brigades) employed in the National Fire Service who on the appointed day enter on employment in the civil service of the Crown or, otherwise than as members of fire brigades, on pensionable employment under a local authority or any such police authority as aforesaid,

make provision for securing that their former employment shall, to such extent and subject to such conditions as may be specified in the regulations, be treated for pension purposes as if it were the employment on which they entered or enter as mentioned in either of the two foregoing paragraphs.

(2) In the case of persons transferring from one employment to another in such circumstances that under the last foregoing subsection service in the former employment is treated for pension purposes as if it were service in the latter employment, regulations under this section may provide for the making of payments in respect of previous service—

- (a) by the authority by whom any such person was employed in the former employment, to the authority to whose employment he was transferred or to a pension fund out of which awards may be made to him in respect of his service in the employment to which he was transferred; or
- (b) out of a pension fund from which, apart from the transfer, awards might have been made to him in respect of his service in the former employment, to the authority to whose employment he was transferred or to such a fund as is mentioned in paragraph (a) of this subsection.

(3) In this section—

the expression “ pensionable members of fire brigades ” means persons in whose case provision for pension purposes is made by or under any enactment in respect of their employment as members of fire brigades, including employment which for pension purposes is treated as employment as members of fire brigades;

the expression " pensionable employment " means employment in service in respect of which provision for pension purposes is made by or under any enactment;

the expression " pension purposes ", in relation to any employment, means the purposes of authorising pensions, gratuities or other awards in respect of that employment.

*Miscellaneous and General.*

Central Fire  
Brigades  
Advisory  
Council.

29.—(1) The Secretary of State shall constitute a Council to be called the Central Fire Brigades Advisory Council, for the purpose of advising him on any matters as to which he is required by this Act to consult the Council or any other matter arising, otherwise than under section seventeen of this Act, in connection with the operation of this Act which the Council have taken into consideration, whether on a reference from the Secretary of State or otherwise.

(2) Subject to the provisions of the next following subsection, the Council shall consist of a chairman appointed by the Secretary of State and of such number of other persons so appointed as the Secretary of State may determine, being persons appointed as representing the interests of fire authorities and of persons employed as members of fire brigades maintained in pursuance of this Act.

(3) In addition to the persons mentioned in the last foregoing subsection the Secretary of State may, if he thinks fit, appoint as members of the Council, either generally or for the consideration of any particular matter, such other persons appearing to him to have special qualifications as he may determine.

(4) The procedure (including the quorum) of the Council shall, subject to any directions of the Secretary of State, be such as the Council may determine.

(5) The Secretary of State may defray any expenses authorised by him with the consent of the Treasury to be incurred by the Council.

Powers of  
firemen and  
police in  
extinguishing  
fires.

30.—(1) Any member of a fire brigade maintained in pursuance of this Act who is on duty, any member of any other fire brigade who is acting in pursuance of any arrangements made under this Act, or any constable, may enter and if necessary break into any premises or place in which a fire has or is reasonably believed to have broken out, or any premises or place which it is necessary to enter for the purposes of extinguishing a fire or of protecting the premises or place from acts done for fire-fighting purposes, without the consent of the owner or occupier thereof, and may do all such things as he



may deem necessary for extinguishing the fire or for protecting from fire, or from acts done as aforesaid, any such premises or place or for rescuing any person or property therein.

(2) Any person who wilfully obstructs or interferes with any member of a fire brigade maintained in pursuance of this Act who is engaged in operations for fire-fighting purposes shall be liable on summary conviction to a fine not exceeding twenty-five pounds.

(3) At any fire the senior fire brigade officer present shall have the sole charge and control of all operations for the extinction of the fire, including the fixing of the positions of fire engines and apparatus, the attaching of hose to any water pipes or the use of any water supply, and the selection of the parts of the premises, object or place where the fire is, or of adjoining premises, objects or places, against which the water is to be directed.

(4) Any water undertakers shall, on being required by any such senior officer as is mentioned in the last preceding subsection to provide a greater supply and pressure of water for extinguishing a fire, take all necessary steps to enable them to comply with such requirement and may for that purpose shut off the water from the mains and pipes in any area; and no authority or person shall be liable to any penalty or claim by reason of the interruption of the supply of water occasioned only by compliance of the water undertakers with such a requirement.

(5) The senior officer of police present at any fire, or in the absence of any officer of police the senior fire brigade officer present, may close to traffic any street or may stop or regulate the traffic in any street whenever in the opinion of that officer it is necessary or desirable to do so for fire-fighting purposes.

(6) In this section the expression "senior fire brigade officer present," in relation to any fire, means the senior officer present of the fire brigade maintained in pursuance of this Act in the area in which the fire originates, or, if any arrangements or reinforcement scheme made under this Act provide that any other person shall have charge of the operations for the extinction of the fire, that other person.

(7) This section shall come into operation on the appointed day.

31.—(1) Any person who knowingly gives or causes to be given a false alarm of fire to any fire brigade maintained in pursuance of this Act or to any member of such a brigade shall be liable on summary conviction to a fine not exceeding twenty-five pounds or to imprisonment for a term not exceeding three months or both such fine and such imprisonment. False alarms  
of fire.

(2) In relation to anything done before the appointed day references in the last foregoing subsection to a fire brigade maintained in pursuance of this Act shall be construed as references to the National Fire Service.

58 & 59 Vict.  
c. 28.  
9 Edw. 7.  
c. cxxx.

(3) The False Alarms of Fire Act, 1895, and section sixty-one of the London County Council (General Powers) Act, 1909, shall cease to have effect as from the appointed day, and Regulation one of the Defence (General) Regulations, 1939 (which, so far as still in force, relates to false alarms of fire) is hereby revoked.

Members of police  
force not to be  
employed in fire  
brigade.

32. No member of a police force shall be employed as a member of a fire brigade maintained in pursuance of this Act.

Inquiries.

33.—(1) The Secretary of State may hold a public local inquiry into the manner in which any fire authority are performing their functions under this Act, or into the circumstances of, or the steps taken to deal with, any particular outbreak of fire.

(2) Subsections (2), (3) and (5) of section two hundred and ninety of the Local Government Act, 1933 (which relate to evidence at local enquiries and to the making of orders as to payment of the costs incurred thereat by local authorities) shall apply to any inquiry held in pursuance of this Act.

Expenses and  
receipts of  
Secretary of  
State.

34.—(1) All expenses incurred by the Secretary of State by virtue of this Act shall be defrayed out of moneys provided by Parliament.

(2) Any receipts of the Secretary of State under this Act shall be paid into the Exchequer.

Regulations  
and orders to  
be laid before  
Parliament.

35.—(1) Any regulations of the Secretary of State under this Act, and any order of the Secretary of State under section eleven or twenty-six thereof, shall be laid before Parliament forthwith after being made.

(2) If either House of Parliament, within a period of forty days beginning with the day on which any such regulations or order as aforesaid are laid before it, resolves that an Address be presented to His Majesty praying that the regulations or order be annulled, no further proceedings shall be taken thereunder after the date of the resolution, and His Majesty may by Order in Council revoke the regulations or order, so, however, that any such resolution and revocation shall be without prejudice to the validity of anything previously done under the regulations or order or to the making of new regulations or a new order.

(3) In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.

36.—(1) The provisions of this section shall have effect for the purpose of the application of this Act to Scotland. Application to  
Scotland.

(2) For any reference to the Minister of Health there shall be substituted a reference to the Secretary of State; for any reference to a county borough there shall be substituted a reference to a large burgh within the meaning of the Local Government (Scotland) Act, 1947, and any other burgh shall be deemed to be included within the county in which it is situate; the expressions " county " and " council " mean, in relation to counties combined for the purposes mentioned in subsection (1) of section one hundred and eighteen of the last mentioned Act, the combined county and the joint county council; for any reference to a county district there shall be substituted a reference to a small burgh within the meaning of the last mentioned Act; for any reference to a combination scheme there shall be substituted a reference to an administration scheme; for any reference to statutory water undertakers there shall be substituted a reference to a local water authority within the meaning of the Water (Scotland) Act, 1946; for references to the Water Act, 1945, and to sections thirty-two to thirty-four and thirty-six of the Third Schedule thereto there shall be respectively substituted references to the Water (Scotland) Act, 1946, and to sections nineteen to twenty-one and twenty-three of the Fourth Schedule thereto; 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; for any reference, in relation to a fire brigade, to the chief officer, there shall be substituted a reference to the firemaster; and any reference to a fire authority shall, unless the context otherwise requires, be construed as including a reference to a joint committee constituted in pursuance of the provisions hereinafter contained.

(3) It shall be the duty of the councils of the counties and large burghs comprised in any one of the areas set forth in the Fourth Schedule to this Act to prepare and submit to the Secretary of State, before the first day of January nineteen hundred and forty-eight or such later date as the Secretary of State may in special circumstances allow, a scheme (hereinafter referred to as an " administration scheme ") for the provision in that area of the services required by section one of this Act, and the Secretary of State may by order approve any scheme so submitted to him.

(4) An administration scheme shall make provision with regard to the following matters:—

- (a) the establishment of a combined fire brigade for the area, and the appointment, subject to the provisions of this Act and of any regulations thereunder, of a firemaster of that brigade;

- (b) the constitution for the administration of the combined fire brigade of a joint committee consisting of such number of members, being members of the fire authorities in the area, as may be specified in the scheme;
  - (c) the transfer to the joint committee of the functions of the fire authorities (except the power to levy a rate and such other functions as may be specified in the administration scheme);
  - (d) the payment out of a fund constituted in accordance with the scheme of the expenses incurred by the joint committee in the administration of the combined fire brigade;
  - (e) the payment into the aforesaid fund of contributions by the fire authorities in such proportions as may be determined by or under the scheme.
- (5) An administration scheme may contain provision regarding—
- (a) the furnishing, on such terms and conditions as may be specified in the scheme, by one of the fire authorities of any service connected with the administration of the combined fire brigade;
  - (b) the transfer to the joint committee of property, rights or liabilities;
  - (c) the appointment of officers by the joint committee and the transfer to the joint committee of officers of any of the fire authorities;
  - (d) the settlement of differences between the fire authorities; and
  - (e) any other matters incidental to or consequential on any provision contained in the scheme.
- (6) If the councils of the counties and large burghs comprised in any one of the areas set forth in the Fourth Schedule to this Act fail to submit within the time limited by subsection (3) of this section an administration scheme for that area satisfactory to the Secretary of State, he may by order make a scheme therefor and the foregoing provisions of this section shall apply to any such scheme as they apply to schemes made under those provisions:

Provided that before making any such scheme the Secretary of State shall give to the councils concerned notice of the general nature of the proposed scheme, and unless those councils intimate their assent thereto, the Secretary of State shall publish in one or more newspapers circulating in the areas of the councils a notice of the general nature of the

scheme, and shall cause a public local inquiry to be held by a person appointed by him, not being an officer of a fire authority or of any Government department.

(7) An administration scheme made under subsection (3) or subsection (6) of this section may be amended or revoked by a subsequent scheme made under either of those subsections and the provisions of those subsections shall apply to any such amending or revoking scheme subject to any necessary modifications.

(8) The Secretary of State may by order vary the areas specified in the Fourth Schedule to this Act and any such order may make provision with respect to any of the following matters,—

- (a) the making of a new administration or establishment scheme or such modification of an existing administration or establishment scheme relating to any area affected by the order as seems to the Secretary of State to be necessary;
- (b) the transfer or retransfer to such fire brigade as may be determined by the order of the members of any fire brigade affected thereby;
- (c) the transfer or retransfer to such fire authorities as may be determined by the order of any officers, property, rights or liabilities of any fire authority affected thereby;
- (d) the payment, by such fire authority and subject to such provisions as may be determined by the order, of compensation to officers employed by any fire authority affected by the order who in consequence thereof or of anything done thereunder suffer direct pecuniary loss by reason of the determination of their appointments or the diminution of their emoluments;
- (e) in the case of any person who having immediately before the coming into operation of the order been the firemaster of any fire brigade affected by the order does not on the coming into operation of the order become the firemaster of any fire brigade established in consequence of the order, for the payment, in lieu of compensation under the last foregoing paragraph, of a pension, gratuity or allowance of such amount subject to such conditions and by such fire authority as may be provided by the order; and
- (f) any other matters incidental to or consequential on any provision contained in the order:

Provided that—

- (i) unless the councils of the counties and burghs affected by any proposed order under this subsection assent to the making thereof, the Secretary of State shall publish in one or more newspapers circulating in the counties and burghs so affected a notice of the purport of the proposed order, and shall cause a public local inquiry to be held; and
- (ii) the Secretary of State shall lay before each House of Parliament a draft of any proposed order under this subsection and where an inquiry has been held with respect thereto shall lay together with the draft a copy of the report of the person by whom the inquiry was held; and if either House within the period of forty days beginning with the day on which the draft order is laid before it resolves that the order be not made, no further proceedings shall be taken thereon, but without prejudice to the laying before Parliament of a new draft order.

In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(9) The Secretary of State may after consultation with the fire authorities concerned by order provide for the incorporation of a joint committee with a common seal and for conferring on such a committee power to hold land or to borrow money.

(10) A fire authority and a joint committee which has power to borrow money by virtue of an order made under subsection (9) of this section may, subject to the provisions of Part XII of the Local Government (Scotland) Act, 1947, borrow such sums as may be required for the purposes of their functions under this Act to meet expenditure of a capital nature or the cost of executing any work, or providing any plant or equipment or doing any other thing where, having regard to the nature of the work, plant, equipment or thing, the cost ought to be spread over a period of years:

Provided that nothing in this subsection shall authorise the exercise of the power of borrowing money thereby conferred otherwise than in compliance with the provisions of the Local Authorities Loans Act, 1945, of any Defence Regulation within the meaning of the Supplies and Services (Transitional Powers) Act, 1945, for the time being having effect by virtue of that Act, and of any orders for the time being in force made by the Treasury under section one of the Borrowing (Control and Guarantees) Act, 1946.

8 & 9 Geo. 6.  
c. 18.

9 & 10 Geo. 6.  
c. 10.

9 & 10 Geo. 6.  
c. 58.

(11) A joint committee which has power to borrow money by virtue of an order under subsection (9) of this section shall, for the purposes of the Local Authorities Loans Act, 1945, be deemed to be a local authority.

(12) For the purposes of section nine of the Superannuation Act, 1935 (which makes provision for civil servants entering the service of a local authority and officers of a local authority becoming civil servants) a joint committee shall be deemed to be a local authority.

(13) For the purposes of the Local Government Superannuation (Scotland) Act, 1937, the appropriate superannuation fund in relation to the contributory employees of a joint committee shall be the superannuation fund of such one of the councils of the counties and burghs comprised in the area of the joint committee as may be determined by or under the administration scheme.

<sup>1</sup> Edw. 8 &  
<sup>1</sup> Geo. 6. c. 69.

(14) Section one of this Act shall have effect as if for subsection (2) thereof the following subsection were substituted:—

“(2) (a) Any member of a fire brigade maintained in pursuance of this Act authorised in writing by the authority maintaining the fire brigade shall, on producing, if so required, some duly authenticated document showing his authority, have a right to enter any premises at all reasonable hours for the purpose of obtaining such information as is mentioned in paragraph (d) of the last foregoing subsection:

Provided that admission to any premises in which persons are employed otherwise than in domestic service, shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier.

(b) If it is shown to the satisfaction of a sheriff or a justice of the peace—

(i) that admission to any premises has been refused, or that refusal is apprehended, or that the premises are unoccupied or the occupier is temporarily absent, or that the case is one of urgency, or that an application for admission would defeat the object of entry; and

(ii) that there is reasonable ground for entry into the premises for any such purpose as aforesaid,

the sheriff or justice may by warrant under his hand authorise the authority maintaining the fire brigade by any member thereof authorised as aforesaid to enter the premises, if need be by force:

Provided that such a warrant shall not be issued unless the sheriff or justice is satisfied either that notice of the intention to apply for a warrant has been given to the occupier, or that the premises are unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of such notice would defeat the object of the entry.

(c) A member of a fire brigade authorised as aforesaid entering any premises by virtue of this subsection, or of a warrant issued thereunder, may take with him such other persons as may be necessary, and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectually secured against trespassers as he found them.

(d) Every warrant granted under this subsection shall continue in force until the purpose for which the entry is necessary has been satisfied.

(e) If any person who in compliance with the provisions of this subsection or of a warrant issued thereunder is admitted into any premises discloses to any person any information obtained by him therein with regard to any manufacturing process or trade secret, he shall, unless such disclosure was made in the performance of his duty, be liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months.

(f) A person who wilfully obstructs any person acting in the execution of this subsection or of any warrant issued thereunder shall be liable on summary conviction to a fine not exceeding five pounds and to a further fine not exceeding five pounds for each day on which the offence continues after conviction thereof."

(15) For section four of this Act there shall be substituted the following section—

" 4. As from the appointed day the county council of every county and the town council of every large burgh within the meaning of the Local Government (Scotland) Act, 1947, shall be the fire authority for such county or burgh, and the Fire Brigades Act, 1938, and any other enactment passed before the commencement of this Act in so far as it confers functions for fire fighting purposes on any council other than as aforesaid shall cease to have effect:

Provided that nothing in this section shall affect any functions relating to fire prevention, restricting the spread of fires, or means of escape in case of fire, being functions conferred on a council otherwise than as an authority maintaining a fire brigade."



(16) Section eleven of this Act shall have effect as if for references to such a local authority and such a fire authority as are therein mentioned there were respectively substituted references to the council of a county or burgh comprised in any area for which a joint committee is appointed and to that joint committee.

(17) Section twenty-five of this Act shall have effect as if for subsection (1) there were substituted the following subsection:—

“(1) The Secretary of State may with the consent of the Treasury make regulations providing for the payment by him to the councils of counties and large burghs, or to joint committees constituted by administration schemes, of annual grants in respect of expenditure incurred by them in connection with the provision of fire services of amounts not exceeding twenty-five per cent. of such expenditure.”

(18) There shall be appointed a separate Central Fire Brigades Advisory Council for Scotland to be called the Scottish Central Fire Brigades Advisory Council, and the provisions of this Act with regard to the Central Fire Brigades Advisory Council shall apply to the said Scottish Council.

(19) The provisions of the Second Schedule to the Police <sup>9 & 10 Geo. 6.</sup> (Scotland) Act, 1946, shall, with the substitution of a refer- <sup>c. 71.</sup> ence to a fire authority for any reference to a police authority and with any other necessary modifications, apply to any inquiry which the Secretary of State is under this Act required or authorised to hold.

(20) A fire authority and a joint committee which has power to hold land by virtue of an order under subsection (9) of this section, may, with the consent of the Secretary of State, sell or otherwise dispose of any land vested in them and no longer required by them.

(22) The following provisions of this Act—

- (a) sections five to ten,
- (b) subsection (4) and, (so far as it defines the expression “statutory water undertakers”), subsection (7) of section fourteen,
- (c) section twenty,
- (d) subsection (2) of section thirty-three, and
- (e) paragraph 2 of the Second Schedule,

shall not apply to Scotland.

37. This Act shall apply to the Isles of Scilly as if they were an administrative county and as if the Council of those Isles were the council of the county. <sup>Application to Isles of Scilly.</sup>

Interpretation. 38.—(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:—

“appointed day” means such day as the Secretary of State may by order appoint;

“chief officer of police”, “police area”, “police authority” and “police force” have the same meanings respectively as in the Police Pensions Act, 1921;

“equipment” includes fire engines and other vehicles and appliances and other apparatus, and also uniforms and badges of rank;

“fire authority” means an authority which for the time being is constituted a fire authority by this Act or any combination scheme made thereunder;

“fire-fighting purposes” means the purposes of the extinction of fires and the protection of life and property in case of fire;

“street” includes any highway, including a highway over any bridge and any road, lane, footway, square, court, alley or passage whether a thoroughfare or not.

(2) References in this Act to any enactment shall be construed as references to that enactment as amended by or under any other enactment.

(3) References in this Act to a fire authority under the Fire Brigades Act, 1938, and to a fire brigade maintained in pursuance of that Act respectively include references to the London County Council and the London Fire Brigade.

Short title,  
extent,  
transitional  
provisions,  
repeals  
and savings.

39.—(1) This Act may be cited as the Fire Services Act, 1947.

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

(3) The transitional provisions specified in the Fifth Schedule to this Act shall have effect in relation to the matters specified in that Schedule.

(4) As from the appointed day the enactments specified in the Sixth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(5) Without prejudice to the provisions of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals), save as provided in the Fifth Schedule to this Act, nothing in this Act shall affect—

(a) the operation of any pension scheme in relation to persons retiring before the appointed day from

52 & 53 Vict.  
c. 63.

employment as members of fire brigades or the National Fire Service, or dying before that date while in such employment; or

- (b) the operation of any pension scheme, the Police and Firemen (War Service) Act, 1939, or any scheme under section seven of that Act in relation to a person to whom section one of that Act or any scheme under the said section seven applies, unless and until the said person becomes a member of a fire brigade maintained in pursuance of this Act or becomes engaged in such other employment in connection with the provision of fire services as may for the purposes of this paragraph be specified in the Firemen's Pension Scheme.

In this subsection the expression "pension scheme" means the Fire Brigade Pensions Act, 1925, or any other scheme for the grant of pensions, allowances or gratuities on the retirement or death of persons employed as members of fire brigades.

---

## SCHEDULES.

### FIRST SCHEDULE.

Section 8.

#### MAKING, APPROVAL AND VARIATION OF ESTABLISHMENT SCHEMES AND MANAGEMENT SCHEMES FOR COUNTIES.

1.—(1) A fire authority proposing to make an establishment scheme to which this Schedule applies or a management scheme shall, before making the scheme send to the council of every county district comprised in the area of the authority a copy of a draft of the proposed scheme and shall take into consideration any representations made by the council of any such county district before the expiration of one month from the sending of the copy to that council.

(2) A scheme made in accordance with the last foregoing subparagraph may be made either in terms of the draft therein referred to or with such modifications as appear to the fire authority expedient having regard to any representations duly made, and on the submission of any such scheme to the Secretary of State for his approval the fire authority shall forward with the scheme any such representations as aforesaid.

2. Before approving any scheme submitted in accordance with the last foregoing paragraph the Secretary of State shall consider any representations of the council of a county district which have been forwarded to him with the scheme, and any observations he has received from that council or from the fire authority relating thereto.

1ST SCH.  
—cont.

3. In relation to a fire authority (other than the London County Council) which is the council of a county, subsection (5) of section nineteen of this Act shall have effect—

- (a) as if in paragraph (b) thereof after the words “ the Secretary of State ” there were inserted the words “ whether on the representations of the council of any county district comprised in the area of the fire authority or otherwise ; ”
- (b) as if after the words “ after affording to the fire authority ” there were inserted the words “ and to the council of any such county district as aforesaid.”

Section 19.

## SECOND SCHEDULE.

### APPLICATION TO COMBINED FIRE AUTHORITIES OF PROVISIONS AS TO ESTABLISHMENT SCHEMES AND MANAGEMENT SCHEMES.

1.—(1) In the case of a fire authority constituted by a combination scheme, provision for the matters to which establishment schemes relate (hereafter in this Schedule referred to as “ establishment matters ”) or to which management schemes relate (hereafter in this Schedule referred to as “ management matters ”) shall be made by the combination scheme and not by an establishment scheme or management scheme, as the case may be, and may be varied or revoked accordingly :

Provided that in the case of an authority constituted by a combination scheme so as to become a fire authority on the appointed day, provision for management matters may be made either in the scheme constituting the authority or by the variation of that scheme as soon as may be after the appointed day.

(2) In this Schedule references to a fire authority constituted by a combination scheme shall be construed, in relation to management matters, as references to such an authority the area of which consists of or includes one or more counties other than the County of London,

(3) Without prejudice to any power to vary a combination scheme, subsection (5) of section nineteen and subsections (3) and (7) of section twenty of this Act shall not apply in relation to a fire authority constituted by a combination scheme.

2. Where by reason of the variation or revocation of a combination scheme the council of a county or county borough becomes a fire authority, the establishment scheme for the authority, and in the case of an authority being the council of a county the management scheme for the authority, shall be contained in the varying or revoking scheme instead of being made in accordance with the provisions of this Act in that behalf, but may be varied or revoked as if so made.

3.—(1) Where a combination scheme, or a scheme varying or revoking a combination scheme, makes provision for establishment or management matters relating to one or more counties, the following provisions shall have effect.

(2) Before the scheme is made a copy of a draft of so much thereof as makes provision for establishment or management matters shall be sent by the authority making the scheme to the council of every county district comprised in the said county or counties, and the said authority shall take into consideration any representations made by the council of any such county district before the expiration of one month from the sending of the copy to that council.

2ND SCH.  
—cont.

(3) So much of the scheme as aforesaid may be made either in terms of the draft referred to in the last foregoing sub-paragraph or with such modifications as appear expedient to the authority making the scheme, having regard to any representations duly made.

(4) Where the scheme is required to be submitted to the Secretary of State for his approval, there shall be forwarded with the scheme any such representations as aforesaid.

(5) Before approving or making a scheme the Secretary of State shall consider any representations of the council of a county district made or forwarded to him in accordance with the foregoing provisions of this Schedule and, in the case of a scheme not made by him, any observations relating thereto which he has received from the authority making the scheme or the council making the representations.

4. The Secretary of State may, for the purpose of his function under this Schedule as to establishment matters, hold such public local inquiries as he thinks fit.

---

### THIRD SCHEDULE.

Section 26.

---

#### PROVISIONS OF 15 & 16 GEO. 5. C. 47 APPLICABLE FOR PURPOSES OF FIREMEN'S PENSION SCHEME.

| <i>Provision applicable.</i>    | <i>Subject of provision.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|---------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| In section ten, sub-section (6) | Granting of certain pensions for periods, and renewal or re-assessment according to degree of disablement.                                                                                                                                                                                                                                                                                                                                                      |
| Section eleven ...              | Reduction of pension in respect of incapacity attributable to default of beneficiary.                                                                                                                                                                                                                                                                                                                                                                           |
| Section twelve ...              | Avoidance of assignments and charges; application of awards where beneficiary or his dependant is in receipt of relief, or for benefit of his dependant; set-off against awards of sums due to authority; application of awards where beneficiary under incapacity; payment of small awards without necessity for probate; payment of awards in advance; payment or application of awards to minors; receipt of person to whom award paid to be good discharge. |
| Section thirteen ...            | Forfeiture and withdrawal of awards.                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Section sixteen ...             | Suspension of award where beneficiary takes service under local authority.                                                                                                                                                                                                                                                                                                                                                                                      |

## Section 36.

## FOURTH SCHEDULE.

## COMBINED AREAS IN SCOTLAND.

| <i>Area</i>       |     |     | <i>Counties and Burghs comprised.</i>                                                                                                    |
|-------------------|-----|-----|------------------------------------------------------------------------------------------------------------------------------------------|
| Lanark            | ... | ... | The county of Lanark and the burghs of Airdrie, Coatbridge, Hamilton, Motherwell and Wishaw, and Rutherglen.                             |
| Central           | ... | ... | The counties of Clackmannan, Dunbarton and Stirling, and the burghs of Clydebank, Dumbarton, Falkirk and Stirling.                       |
| Western           | ... | ... | The counties of Argyll, Bute and Renfrew, and the burghs of Greenock, Paisley and Port Glasgow.                                          |
| South Western     | ... | ... | The counties of Ayr, Dumfries, Kirkcubright and Wigtown, and the burghs of Ayr, Dumfries and Kilmarnock.                                 |
| South Eastern     | ... | ... | The counties of Berwick, East Lothian, Midlothian, Peebles, Roxburgh, Selkirk and West Lothian, and the county of the city of Edinburgh. |
| Fife              | ... | ... | The county of Fife and the burghs of Dunfermline and Kirkcaldy.                                                                          |
| Perth and Kinross | ... | ... | The joint county of Perth and Kinross, and the burgh of Perth.                                                                           |
| Angus...          | ... | ... | The county of Angus, the burgh of Arbroath and the county of the city of Dundee.                                                         |
| North Eastern     | ... | ... | The counties of Aberdeen, Banff and Kincardine, and the joint county of Moray and Nairn, and the county of the city of Aberdeen.         |
| Northern          | ... | ... | The counties of Caithness, Inverness, Orkney, Ross and Cromarty, Sutherland and Zetland, and the burgh of Inverness.                     |

## Section 39.

## FIFTH SCHEDULE.

## TRANSITIONAL PROVISIONS.

*Provisions relating to period between passing of Act  
and appointed day.*4 & 5 Geo. 6.  
c. 22.

1. For the purposes of the Fire Services (Emergency Provisions) Act, 1941, the expression "the period of the present emergency" (being the expression which designates the period for which under that Act the National Fire Service is established) shall mean the period beginning as provided in that Act and ending immediately before the appointed day.

2. Subsection (2) of section four of the Emergency Laws (Transitional Provisions) Act, 1946 (which continues the Personal Injuries (Emergency Provisions) Act, 1939, in operation as respects war service injuries, as defined in that Act, sustained by members of the National Fire Service during the period during which the said section four is in force) shall have effect as if the said section four continued in force until the beginning of the appointed day.

5TH SCH.  
—cont.  
9 & 10 Geo. 6.  
c. 26.  
2 & 3 Geo. 6.  
c. 82.

*General provisions arising out of transfer of functions  
to fire authorities.*

3.—(1) The Secretary of State may by regulations make such transitional provisions as appear to him expedient in consequence of the transfer to fire authorities of functions relating to fire services of the Secretary of State and of authorities which were fire authorities for the purposes of the Fire Brigades Act, 1938.

(2) Nothing in the following provisions of this Schedule shall be construed as limiting the generality of the provisions of the last foregoing sub-paragraph.

(3) In the following provisions of this Schedule the expression “regulations” means regulations made by the Secretary of State.

*Transfer of persons employed in connection with  
National Fire Service.*

4. Regulations may provide for the transfer on the prescribed terms, to the prescribed fire brigade maintained in pursuance of this Act or to such other service under such fire authority as may be prescribed, of persons who immediately before the appointed day were serving in the National Fire Service.

5.—(1) Regulations may provide for the retention in the service of the Crown, on the prescribed terms, of persons to whom this paragraph applies who immediately before the appointed day were employed (whether as members of the National Fire Service or otherwise) for the purposes of the Fire Services (Emergency Provisions) Act, 1941.

(2) The persons to whom this paragraph applies are persons in whose case the Secretary of State with the approval of the Treasury determines that it is expedient that they should be retained as aforesaid for the purpose of enabling him to perform his functions under this Act or for administrative purposes pending the bringing into operation by fire authorities of arrangements for the performance of their functions under this Act.

6. Regulations may provide for the employment in the service of the Crown, on such terms and for such period as may be prescribed, of persons transferred to a fire brigade under paragraph 4 of this Schedule where the Secretary of State determines with the approval of the Treasury that it is expedient so to do for the purpose of enabling him to perform his functions under this Act and the fire authority and person concerned consent to that person's being employed as aforesaid.

5TH SCH.  
—cont.

*Transfer of property, rights and liabilities.*

7. Regulations may provide for the transfer to fire authorities of property, rights and liabilities vested, enjoyed or incurred on behalf of His Majesty for the purposes of the National Fire Service, and for the carrying on by fire authorities of arrangements (including arrangements for the making of payments) entered into on behalf of the Crown for those purposes.

8.—(1) Regulations may provide for the vesting in fire authorities of property used on behalf of His Majesty for the purposes of the National Fire Service but vested in an authority being a fire authority for the purposes of the Fire Brigades Act, 1938, or for the use of such property by a fire authority on such terms (including terms as to payments) as may be agreed between the authorities or in default of agreement as may be determined by the Secretary of State.

(2) Where property is to be vested under the last foregoing sub-paragraph and it is agreed or determined as aforesaid that the property cannot conveniently be severed from other property, whether or not forming part of the same building, the other property shall also be vested in the fire authority, subject to such rights of the authority for the purposes of the said Act of 1938 to use the other property, on such terms (including terms as to payments), as may be agreed or determined as aforesaid.

9.—(1) Subject to the provisions of the next following sub-paragraph, regulations may provide that where an authority for the purposes of the said Act of 1938 which does not on the appointed day become a fire authority is on or after the appointed day liable to make payments in respect of interest and redemption charges on moneys borrowed for fire-fighting purposes, the fire authority for the area including the area of the first-mentioned authority shall reimburse to that authority the amount of the payments.

(2) Regulations having effect by virtue of the last foregoing sub-paragraph shall not apply in relation to moneys borrowed by the authority for the purposes of the said Act of 1938 in connection with property retained by that authority, but may be made to apply in relation to moneys borrowed in connection with property vested under sub-paragraph (2) of the last foregoing paragraph notwithstanding that the money was not borrowed for fire-fighting purposes.

(3) Any question arising under this paragraph or regulations made thereunder shall be determined by the Minister of Health.

*Provisions as to pensions.*

10.—(1) The liabilities of any authority for pensions, allowances and gratuities in respect of members of a transferred fire brigade retiring or dying at any time before the appointed day, and the functions of that authority in relation thereto, shall on the appointed day be transferred to the fire authority.

(2) In the last foregoing sub-paragraph the expression "transferred fire brigade" means a fire brigade maintained in pursuance of the Fire Brigades Act, 1938, by an authority which does not on the appointed day become a fire authority, and the expression "the fire authority" in relation to any such brigade means the fire authority for the area including the area for which the brigade was maintained.



11.—(1) Regulations may provide for payments by a former pension authority, in respect of pension liabilities of a fire authority accrued at the appointed day, of such amounts at such times as may be prescribed, and if the regulations so provide out of such funds as may be prescribed.

5TH SCH.  
—cont.

(2) Regulations made under this paragraph may provide for the determination by the Secretary of State of questions arising under the regulations.

(3) In this paragraph the following expressions have the meaning hereby assigned to them respectively, that is to say :—

“ Pension liabilities of a fire authority accrued at the appointed day ” means, in relation to any fire authority,—

(a) any liabilities for pensions, allowances and gratuities in respect of members of a fire brigade retiring or dying at any time before the appointed day, being liabilities which either were liabilities of the authority immediately before the appointed day or were transferred under the last foregoing paragraph, and

(b) any liabilities of the authority under the Firemen's Pension Scheme in respect of employment or service before the appointed day which under that scheme is treated as employment in the fire brigade maintained by the authority ;

“ former pension authority ” means—

(a) in relation to liabilities specified in paragraph (a) of the last foregoing definition, the authority which immediately before the appointed day was liable to meet them ;

(b) in relation to liabilities specified in paragraph (b) of the last foregoing definition, the authority liable immediately before the appointed day for meeting liabilities, whether vested or contingent, for pensions, allowances or gratuities in respect of such employment or service as is specified in the said paragraph (b).

12.—(1) The liabilities of fire authorities for such pensions, allowances and gratuities as are specified in sub-paragraph (1) of paragraph 10 of this Schedule shall, if regulations so provide, be defrayed out of funds established for defraying liabilities under the Firemen's Pension Scheme.

(2) Payments under sub-paragraph (1) of the last foregoing paragraph shall, if regulations so provide, be carried into funds established as aforesaid.

13. Where by virtue of this Act or a combination scheme an authority which maintained a fire brigade in pursuance of the Fire Brigades Act, 1938, ceases to maintain a fire brigade, the Police and Firemen (War Service) Acts, 1939 and 1944, shall, in the case of former members of the brigade to whom section one of the Police 2 & 3 Geo. 6. and Firemen (War Service) Act, 1939, applies, have effect with such c. 103. modification of references to the fire brigades to which they belonged, and to the authority maintaining that brigade, as may be prescribed.

5TH SCH.  
—cont.

*Compensation for loss of emoluments or employment.*

14.—(1) Regulations made with the approval of the Treasury may provide for authorising or requiring the appropriate authority to pay compensation in respect of loss of emoluments or pension—

(a) to members of police forces and persons employed by local authorities, not being in either case persons who were transferred to the National Fire Service, as to whom the Secretary of State is satisfied that by reason of the National Fire Service (General) Regulation, 1941, they suffered a loss of emoluments ;

(b) to persons who, having been members of the National Fire Service immediately before the appointed day, become on that day members of a fire brigade maintained in pursuance of this Act and suffer a reduction of emoluments in comparison with the emoluments determined by the regulations to be appropriate to their former employment in connection with the provision of fire services ;

(c) to persons who immediately before the eighteenth day of August, nineteen hundred and forty-one, were employed by a local authority, or were engaged in war service within the meaning of the Local Government Staffs (War Service) Act, 1939, having left employment with the local authority to undertake such service, and immediately before the appointed day were employed for the purposes of the Fire Services (Emergency Provisions) Act, 1941, otherwise than as members of the National Fire Service, and who either—

(a) become employed on the appointed day by a local authority and suffer a reduction in emoluments in comparison with the emoluments determined by the regulations to be appropriate as aforesaid, or

(b) do not on the appointed day become employed by a local authority.

(2) Regulations may authorise or require the payment by the appropriate authority of emoluments, and of pensions, gratuities or allowances, of such amounts and subject to such conditions as may be prescribed in the case of persons who, having at any time before the appointed day been chief officers of fire brigades maintained in pursuance of the Fire Brigades Act, 1938, do not on or after the appointed day become chief officers of fire brigades maintained in pursuance of this Act.

(3) In this paragraph the expression “appropriate authority”, in relation to the whole or any part of any payment, means a fire authority or the Secretary of State, as may be prescribed.

(4) Regulations under this paragraph may make provision as to the determination of questions arising under the regulations.

*Special provisions as to police-firemen.*

15.—(1) The provisions of the Police Act, 1946, as to the transfer of property, rights and liabilities from the council of an area ceasing to be a separate police area to the council of a county or to a combined

2 & 3 Geo. 6.  
c. 94.

police authority shall apply, and be deemed always to have applied, to property, rights and liabilities of the first-mentioned council held or incurred in connection with pensions, allowances or gratuities—

- (a) in respect of whole-time service for fire-fighting purposes in the police force of the said area, and
- (b) in respect of service for such purposes (whether before or after the said area ceased to be a separate police area) falling by virtue of regulations made under the Fire Services (Emergency Provisions) Act, 1941, to be treated for the purposes of the Police Pensions Act, 1921, as service in the said police force.

(2) The said provisions of the Police Act, 1946, shall not apply, and shall be deemed never to have applied, to any other property, rights or liabilities held or incurred in connection with the provision of fire services.

(3) Without prejudice to the generality of sub-paragraph (1) of this paragraph, the provisions of sub-paragraph (1) of paragraph 3 of the Third Schedule to the said Act of 1946 as to the treatment of pensions, allowances and gratuities granted before the date of transfer in respect of members of a transferred force shall apply, and be deemed always to have applied, to pensions, allowances and gratuities granted before that date to members of the National Fire Service whose service therein fell by virtue of regulations made under the said Act of 1941 to be treated as service in the transferred force.

16.—(1) Where section one of the Police and Firemen (War Service) Act, 1939, applied to a constable by reason of his having ceased to serve as a member of a fire brigade maintained in pursuance of the Fire Brigades Act, 1938—

- (a) engagement in service on the National Fire Service, whether before or after the passing of this Act, shall be treated for the purposes of the Police and Firemen (War Service) Acts, 1939 and 1944, as resumption of service as a constable ;
- (b) if he is, or was before the passing of this Act, prevented as mentioned in those Acts from engaging in service in the National Fire Service or a fire brigade maintained in pursuance of this Act, he shall be treated for the purposes of those Acts as having been so prevented from resuming service as a constable.

(2) Nothing in the last foregoing sub-paragraph shall be construed as prejudicing the power of the Secretary of State under subsection (3) of section six of the Police and Firemen (War Service) Act, 1944, to declare what during the existence of the National Fire Service is to be treated for the purposes of the said Acts of 1939 and 1944 as resuming service as a fireman. 7 & 8 Geo. 6.  
c. 22.

#### *Miscellaneous provisions.*

17.—(1) Regulations may provide for authorising the taking before the appointed day by councils of counties and county boroughs and other authorities which on the appointed day will become fire

5TH SCH.  
—cont.

authorities of such steps as appear to the Secretary of State to be requisite for the purpose of enabling fire authorities to perform their functions under this Act on or after that day.

(2) Without prejudice to the provisions of the last foregoing paragraph, a combination scheme may be made before the appointed day, but so as to come into operation on or after that day, or, if the scheme is made by virtue of section ten of this Act, on or after the appointed day or the date mentioned in that section, whichever is the later.

(3) In relation to a combination scheme made by virtue of the last foregoing sub-paragraph, references in sections five, six, nine and ten of this Act to fire authorities (other than references to the fire authority constituted by the scheme) shall be construed as references to authorities which apart from the scheme would on the appointed day become fire authorities.

(4) Notwithstanding anything in the provisions of the last foregoing sub-paragraph or in section ten of this Act, a combination scheme made by virtue thereof may come into operation earlier than would be permissible under those provisions, in so far as is requisite for the purposes of sub-paragraph (1) of this paragraph.

8 & 9 Geo. 6.  
c. 43

18.—The provisions of Part VIII of the Requisitioned Land and War Works Act, 1945 (which provides for adjustments of compensation on the acquisition of land in certain cases for the purpose of eliminating changes in value due to the exercise of emergency powers) shall have effect in relation to any purchase of land by a fire authority under subsection (5) of section three of this Act as if the expression "war period" in the said Act of 1945 included any period during which the Supplies and Services (Transitional Powers) Act, 1945, is in force.

*Provisions as to regulations.*

19.—(1) Regulations shall be made after consultation with such associations representing local authorities as appear to the Secretary of State to be concerned.

(2) In this Schedule the expression "prescribed" means prescribed by or under regulations.

(3) Regulations may be made either generally or so as to apply in such circumstances as may be prescribed, and may make different provisions for different cases.

## SIXTH SCHEDULE.

Section 39.

## ENACTMENTS REPEALED.

| Session and Chapter.          | Short title.                                                                           | Extent of repeal.                                                                                                                                    |
|-------------------------------|----------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| 25 & 26 Vict.<br>c. ccv.      | The Salford Improvement Act, 1862.                                                     | Section fifty.                                                                                                                                       |
| 28 & 29 Vict.<br>c. 90.       | The Metropolitan Fire Brigade Act, 1865.                                               | The whole Act, except sections thirteen to seventeen, section twenty-four, section twenty-nine and section thirty-one.                               |
| 29 & 30 Vict.<br>c. cclxxiii. | The Glasgow Police Act, 1866.                                                          | Section six (so far as relating to firemen), section sixty-six (so far as relating to the Inspector of Fires) and section one hundred and sixty-two. |
| 34 & 35 Vict.<br>c. 113.      | The Metropolis Water Act, 1871.                                                        | Section thirty-four.                                                                                                                                 |
| 58 & 59 Vict.<br>c. 28.       | The False Alarms of Fire Act, 1895.                                                    | The whole Act.                                                                                                                                       |
| 9 Edw. 7. c.<br>cxcix.        | The Greenock Corporation Act, 1909.                                                    | Section three hundred and eighty.                                                                                                                    |
| 9 Edw. 7. c.<br>cxxx.         | The London County Council (General Powers) Act, 1909.                                  | Section sixty-one.                                                                                                                                   |
| 11 & 12 Geo. 5.<br>c. lxxiv.  | The Liverpool Corporation Act, 1921.                                                   | Section five hundred and nine, so far as it relates to owners of property.                                                                           |
| 15 & 16 Geo. 5.<br>c. 47.     | The Fire Brigade Pensions Act, 1925.                                                   | The whole Act.                                                                                                                                       |
| 16 & 17 Geo. 5.<br>c. lxxv.   | The Edinburgh Corporation (Streets Buildings and Sewers) Order Confirmation Act, 1926. | Sections ninety-nine and one hundred and thirty-six of the Order contained in the Schedule.                                                          |
| 19 & 20 Geo. 5.<br>c. 35.     | The Fire Brigade Pensions Act, 1929.                                                   | The whole Act.                                                                                                                                       |
| 22 & 23 Geo. 5.<br>c. vii.    | The Edinburgh Corporation Order Confirmation Act, 1932.                                | In the Fourth Schedule to the Order contained in the Schedule to the Act, paragraph (4).                                                             |
| 24 & 25 Geo. 5.<br>c. v.      | The Edinburgh Corporation Order Confirmation Act, 1933.                                | Section one hundred and forty-one of the Order contained in the Schedule.                                                                            |
| 24 & 25 Geo. 5.<br>c. xlii.   | The Dundee Corporation Order Confirmation Act, 1934.                                   | In the First Schedule to the Order contained in the Schedule to the Act, paragraph (4).                                                              |

6TH SCH.  
—cont.

| Session and Chapter.          | Short title.                                                                         | Extent of repeal.                                                                                                                                     |
|-------------------------------|--------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| 26 Geo. 5. & 1 Edw. 8. c. lx. | The London County Council (General Powers) Act, 1936.                                | Section forty-nine.                                                                                                                                   |
| 1 Edw. 8 & 1 Geo. 6. c. 68.   | The Local Government Superannuation Act, 1937.                                       | In the First Schedule, in Part II, paragraph 2.                                                                                                       |
| 1 Edw. 8 & 1 Geo. 6. c. 69.   | The Local Government Superannuation (Scotland) Act, 1937.                            | In the First Schedule, in Part II, paragraph 2.                                                                                                       |
| 1 & 2 Geo. 6. c. 72.          | The Fire Brigades Act, 1938.                                                         | The whole Act.                                                                                                                                        |
| 2 & 3 Geo. 6. c. iii.         | The Aberdeen Corporation (General Powers) Order Confirmation Act, 1938.              | Paragraphs (b) and (c) of section one hundred and ninety-four of the Order contained in the Schedule to the Act.                                      |
| 3 & 4 Geo. 6. c. iii.         | The Aberdeen Corporation (Administration Finance, &c.) Order Confirmation Act, 1940. | Sections seventy-four, seventy-five and seventy-seven of, and paragraph (4) of the Third Schedule to, the Order contained in the Schedule to the Act. |

## CHAPTER 42.

### *Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947.*

#### ARRANGEMENT OF SECTIONS.

##### Section.

1. Procedure for compulsory purchase of land by local authorities, and by the Minister of Transport, the Minister of Civil Aviation and the Secretary of State for certain purposes.
2. Temporary powers for speedy acquisition of land in urgent cases.
3. Power to extinguish certain public rights of way over land acquired.
4. Notification of purchase of war-damaged land to War Damage Commission.
5. Provisions as to inquiries and as to service of certain notices.
6. Application of s. 1 to local Acts.
7. Interpretation.
8. Repeals and consequential and transitional provisions.
9. Short title and extent.

##### SCHEDULES.

- First Schedule—Procedure for authorising compulsory purchases.  
 Part I.—Purchases by local authorities.  
 Part II.—Purchases by Ministers.  
 Part III.—Special provisions as to certain descriptions of land.

Part IV.—Validity and date of operation of compulsory purchase orders.

Part V.—General.

Second Schedule.—Incorporation of enactments.

Part I.—The Lands Clauses Acts and the Railways Clauses Consolidation (Scotland) Act, 1845.

Part II.—The Acquisition of Land (Assessment of Compensation) Act, 1919.

Part III.—Purchases under Section 2.

Third Schedule.—Provisions as to authorisations under Section 2.

Fourth Schedule.—Public local inquiries.

Fifth Schedule.—Enactments repealed.

An Act to re-enact in the form in which they apply to Scotland the provisions of the Acquisition of Land (Authorisation Procedure) Act, 1946.

[31st July 1947.]

**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 authorisation of any compulsory purchase of land—
- (a) by a local authority where, apart from this Act, power to authorise the authority to purchase land compulsorily is conferred by or under any enactment contained in a public general Act and in force immediately before the commencement of this Act, other than any enactment specified in subsection (4) of this section ;
- (b) by the Minister of Transport under section eleven of the Development and Road Improvement Funds Act, 1909, or that section as applied by section three of the Roads Improvement Act, 1925, or under section thirteen of the Restriction of Ribbon Development Act, 1935, as applied by section four of the Trunk Roads Act, 1936, or by section five of the Trunk Roads Act, 1946, or under section twenty-eight of the Civil Aviation Act, 1946 ;
- (c) by the Minister of Civil Aviation under section twenty-six of the Civil Aviation Act, 1946 ;
- (d) by the Secretary of State under section fifty-seven of the National Health Service (Scotland) Act, 1947 ;
- Procedure for compulsory purchase of land by local authorities, and by the Minister of Transport, the Minister of Civil Aviation and the Secretary of State for certain purposes.  
9 Edw. 7. c. 47.  
15 & 16 Geo. 5. c. 68.  
25 & 26 Geo. 5. c. 47.  
1 Edw. 8. & 1 Geo. 6. c. 5.  
9 & 10 Geo. 6. c. 30.  
9 & 10 Geo. 6. c. 70.  
10 & 11 Geo. 6. c. 27.

shall, subject to the provisions of this and the next following section, be conferred by an order (in this Act referred to as a "compulsory purchase order") in accordance with the provisions of the First Schedule to this Act.

(2) The purchase, in a case falling within the last foregoing subsection, of land—

- (a) which is the property of a local authority or which has been acquired by statutory undertakers for the purposes of their undertaking,
- (b) forming part of a common or open space or held inalienably by the National Trust for Scotland, or
- (c) being, or being the site of, an ancient monument or other object of archaeological interest,

shall be subject to the special provisions of Part III of the said First Schedule.

(3) In relation to any compulsory purchase to which the provisions of the First Schedule to this Act apply, the Lands Clauses Acts and other enactments mentioned in Part I of the Second Schedule to this Act shall be incorporated in accordance with the provisions of the said Part I; and the Acquisition of Land (Assessment of Compensation) Act, 1919, shall have effect in relation to any such compulsory purchase subject to the provisions of Part II of that Schedule.

9 & 10 Geo. 5.  
c. 57.

(4) The enactments excepted from the operation of subsection (1) of this section are any enactment contained in—

18 & 19 Vict.  
c. 68.

- (a) the Burial Grounds (Scotland) Act, 1855;
- (b) the Allotments (Scotland) Acts, 1892 to 1922;
- (c) the Light Railways Acts, 1896 and 1912;
- (d) Part I of the Housing (Scotland) Act, 1930;
- (e) Part I of the Housing (Scotland) Act, 1935;
- (f) the Town and Country Planning (Scotland) Act, 1945.

20 & 21 Geo. 5.  
c. 40.

25 & 26 Geo. 5.  
c. 41.

8 & 9 Geo. 6.  
c. 33.

(5) Nothing in this Act shall prevent the authorisation by special order or Provisional Order of the compulsory purchase of land under the Electricity (Supply) Acts, 1882 to 1936.

Temporary powers for speedy acquisition of land in urgent cases.

2.—(1) Where during the period of five years beginning with the eighteenth day of April, nineteen hundred and forty-six, any authority (hereinafter referred to as a "confirming authority") having power to authorise the compulsory purchase of land by a local authority for any purpose is satisfied—

- (a) that it is expedient that the local authority (hereinafter referred to as the "acquiring authority") should purchase any land for the said purpose, and



- (b) that it is urgently necessary in the public interest that the acquiring authority should be enabled to obtain possession of the land without delay,

then, if apart from this section the acquiring authority could be authorised by the confirming authority under any enactment to purchase the land compulsorily for the said purpose in accordance with the provisions of the foregoing section or of the Town and Country Planning (Scotland) Act, 1945, the acquiring authority may, in lieu of being so authorised in accordance with the said provisions, be so authorised, subject to the provisions of the Third Schedule to this Act, by an authorisation in writing given by the confirming authority under this subsection.

(2) Where during the period aforesaid the Minister of Transport is satisfied that it is expedient that he should purchase any land under any enactment mentioned in paragraph (b) of subsection (1) of the foregoing section except section twenty-eight of the Civil Aviation Act, 1946, or the Board of Trade are satisfied that it is expedient that they should purchase any land under the Distribution of Industry Act, 1945, and the Minister or the Board are satisfied that it is urgently necessary in the public interest that the Minister or the Board should be enabled to obtain possession of the land without delay, the Minister or the Board may, in lieu of being authorised to purchase the land in accordance with the provisions of the foregoing section or of the Distribution of Industry Act, 1945, be so authorised, subject to the provisions of the Third Schedule to this Act, by an authorisation in writing given by the Minister or the Board under this subsection. 8 & 9 Geo. 6.  
c. 36.

In the following provisions of this section and in the Third Schedule to this Act, the expressions "acquiring authority" and "confirming authority" include the Minister of Transport or the Board of Trade acting under this subsection.

(3) At any time not earlier than seven days nor later than three months after the giving of an authorisation under this section, the acquiring authority may enter on, and take possession of, the land to which the authorisation relates, notwithstanding that the purchase of the land has not been completed.

(4) Where the acquiring authority has taken possession of land pursuant to an authorisation under this section, the authority shall have power to purchase the land compulsorily as if authorised so to do under the enactment referred to in subsection (1) or (2) of this section and in accordance with the provisions of the foregoing section, the Town and Country Planning (Scotland) Act, 1945, or the Distribution of Industry Act, 1945, as the case may be, and the provisions of Part III of the Second Schedule to this Act; and the authority shall as soon as may be after taking possession of the land, serve notice under section seventeen

8 & 9 Vict.  
c. 19.

of the Lands Clauses Consolidation (Scotland) Act, 1845, of its intention to take the land and shall in all respects be liable as if such notice had been given on the date of the authority's entering on the land, except that the power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919, to withdraw such a notice shall not be exercisable.

(5) A power to enter on and take possession of land conferred by an authorisation given under this section may, save as provided in the Third Schedule to this Act, be exercised without notice to, or the consent of, any person and without compliance with sections eighty-three to eighty-eight of the Lands Clauses Consolidation (Scotland) Act, 1845, but subject to payment of the like compensation, and interest on the compensation agreed or awarded, as the acquiring authority would have been required to pay if the provisions of those sections had been complied with.

(6) Notwithstanding anything in the two last foregoing subsections, where apart from this subsection the compensation for the compulsory purchase of land in respect of which an authorisation has been given under this section would be reduced by virtue of paragraph 8 of the Fifth Schedule to the Town and Country Planning (Scotland) Act, 1945 (which relates to purchases under that Act of houses unfit for human habitation) the reduction shall not be made unless an order under the said paragraph 8 has come into operation before the date on which the acquiring authority took possession of the land.

(7) While the acquiring authority is in possession of land pursuant to an authorisation given under this section, the authority shall be treated, as regards the use of the land and the rights of other persons affected by the use thereof, as if the authority had completed the purchase of the land; and in particular any provision for the extinction of rights over the land on completion of the purchase thereof shall apply as if the authority had completed the purchase thereof at the time when possession was taken.

(8) In this section references to the use of land include references to the erection of buildings or structures on the land and the carrying out of work thereon.

(9) If at any time before the expiration of the period during which authorisations may be given under this section an address is presented to His Majesty by each House of Parliament praying that the said period shall be extended for a further year from the time at which it would otherwise expire, His Majesty may by Order in Council direct that the said period shall be so extended.

(10) This section shall not apply to any compulsory purchase of land under section eleven of the Police (Scotland) Act, 1946 or under section two of the Civic Restaurants Act, 1947, or under section fifty-seven of the National Health Service (Scotland) Act, 1947.

9 & 10 Geo. 6.  
c. 71.  
10 & 11  
Geo. 6. c. 22.

- 3.—(1) Subject to the provisions of this section, where land is acquired, or proposed to be acquired,—
- Power to  
extinguish  
certain public  
rights of way  
over land  
acquired.
- (a) in pursuance of a compulsory purchase order made under section one of this Act or an authorisation given under section two thereof, or
- (b) by agreement for a purpose, and by an authority, such that the compulsory acquisition of the land could be authorised by such an order or authorisation as aforesaid,

and there subsists over any part of the land a public right of way, not being a right enjoyable by vehicular traffic, then if the Secretary of State is satisfied that a suitable alternative right of way has been or will be provided, or that the provision thereof is not required, he may by order extinguish the right of way as from such date as may be specified in the order, not being earlier than—

- (i) the making of the order ;
- (ii) if in the exercise of any power conferred by this Act or by agreement the acquiring authority takes possession of the land before the acquisition thereof is completed, the date on which the authority takes possession of the land ;
- (iii) if the acquiring authority does not take possession of the land in the exercise of any such powers aforesaid, the date on which the acquisition of land is completed :

Provided that where a right of way is extinguished under this subsection at a date before the acquisition of the land in question is completed, then if at any time thereafter it appears to the Secretary of State that the proposal to acquire the land has been abandoned, he shall by order direct that the right shall revive, without prejudice, however, to the making of a new order extinguishing the right.

(2) The Secretary of State shall cause a notice stating the effect of any order that he proposes to make under this section extinguishing a right of way, and specifying the time (not being less than twenty-one days from the publication of the notice) within which, and the manner in which, objections to the proposal may be made, to be published in such manner as appears to him to be requisite, and, in any case where the acquiring authority is not the local planning authority within the meaning of the Town and Country Planning (Scotland) Act, 1945, for the area in which the land is situated, shall serve a like notice on the said local planning authority.

(3) If any objection to the proposal is duly made and is not withdrawn, the Secretary of State shall, before making the order, cause a public local inquiry to be held.

(4) No order shall be made under subsection (1) of this section extinguishing a right of way over land, on, over or under which there is any apparatus belonging to statutory undertakers unless the undertakers consent to the making of the order, and any such consent may be given subject to the condition that there are included in the order such provisions for the protection of the undertakers as they may reasonably require.

The consent of statutory undertakers to any such order shall not be unreasonably refused, and any question arising under this subsection whether any requirement or refusal is reasonable shall be determined by the appropriate Minister.

(5) The foregoing provisions of this section shall not apply in any case where section twenty-two of the Town and Country Planning (Scotland) Act, 1945 (which relates to the extinction of public rights of way over land acquired or appropriated for the purposes of Part I of that Act) applies.

(6) Except as provided by the foregoing provisions of this section or by the said section twenty-two, nothing in this Act shall be taken to authorise the extinction of any public right of way.

(7) This section shall not have effect in relation to land acquired or proposed to be acquired by the Minister of Civil Aviation under section twenty-six of the Civil Aviation Act, 1946.

Notification  
of purchase of  
war-damaged  
land to War  
Damage  
Commission.

4.—(1) On the date on which any such action as the following is taken, that is to say—

- (a) notice to treat is served for the compulsory purchase under any enactment of an interest in any land that has sustained war damage any of which has not been made good at that date,
- (b) any other action is taken by virtue of which compulsory purchase under any enactment of an interest in such land becomes obligatory, or
- (c) there is withdrawn a notice to treat for the compulsory purchase under any enactment of an interest in any land that has sustained war damage any of which had not been made good at the time when the notice to treat was served,

or as soon as may be after that date, the person or body of persons by whom the action is taken shall notify the War Damage Commission that the action has been taken :

Provided that this subsection shall not apply to a notice to treat deemed to have been served by virtue of the Sixth Schedule to the Town and Country Planning (Scotland) Act, 1945.

(2) If any person or body of persons, being authorised under any enactment to purchase compulsorily land which has sustained war damage, enter into an agreement for the purchase of an interest in the land and at the date when the agreement is made any of the damage has not been made good, the person or body of persons shall, on or as soon as may be after that date, notify the War Damage Commission that they have entered into the agreement.

(3) Any notification under this section may be given to the War Damage Commission by delivering it to an officer of the Commission at any office of the Commission, or by sending it in a registered letter addressed to the Commission at any office of the Commission.

(4) In this section the expression "war damage" has the same meaning as in the War Damage Act, 1943, and the expression "enactment" includes an enactment passed after the commencement of this Act. 6 & 7 Geo. 6. c. 21.

5.—(1) For the purposes of the execution of his powers and duties under this Act, a Minister may cause to be held such public local inquiries as are directed by this Act and such other public local inquiries as he may think fit, and, subject to the provisions of the next following subsection, the provisions of the Fourth Schedule to this Act shall have effect with regard to any such inquiry. Provisions as to inquiries and as to service of certain notices.

(2) Any inquiry in relation to a compulsory purchase order which, by virtue of Part III of the First Schedule to this Act, becomes in certain events subject to special parliamentary procedure shall, if the confirming authority so directs, be held by Commissioners under the Private Legislation Procedure (Scotland) Act, 1936, and where any direction has been so given— 26 Geo. 5 & 1 Edw. 8. c. 52.

- (a) it shall be deemed to have been given under section two, as read with section ten, of the Statutory Orders (Special Procedure) Act, 1945; 9 & 10 Geo. 6. c. 18.
- (b) if publication of notice in accordance with the provisions of head (a) of sub-paragraph (1) of paragraph 3 of the First Schedule to this Act has been made, the provisions of subsection (1) of the aforesaid section two with regard to advertisement of notice shall be deemed to have been complied with; and
- (c) the provisions of the Fourth Schedule to this Act shall not apply to such inquiry.

(3) Any provision contained in the Schedules to this Act requiring notice to be served on owners, lessees or occupiers of any land shall be deemed to be complied with if notice is served on all the persons appearing from the valuation roll or otherwise

known to the acquiring authority to have an interest in the land, and any reference in the said Schedules to owners, lessees and occupiers shall be construed accordingly.

Service of a notice on a person so appearing to have an interest may be effected by sending the notice in a registered letter addressed to him at his address as entered in the valuation roll.

Application  
of s. 1 to  
local Acts.

6.—(1) Where, apart from this Act, power to authorise a local authority to purchase land compulsorily is conferred by any enactment contained in a local Act and in force immediately before the eighteenth day of April, nineteen hundred and forty-six, the Secretary of State may by order made on the application of the local authority direct that section one of this Act shall apply in relation to the enactment as if the enactment were contained in a public general Act :

Provided that nothing in an order under this section shall empower the authorisation of a compulsory purchase in accordance with the provisions of section two of this Act.

9 & 10 Geo. 6.  
c. 49.

(2) Where an order has come into operation under this section or under section seven of the *Acquisition of Land (Authorisation Procedure) Act, 1946*, the local Act shall have effect subject to the amendments thereof provided for in the order, being amendments appearing to the Secretary of State to be consequential on the making of the order, and as if the said amendments had been in force immediately before the eighteenth day of April, nineteen hundred and forty-six.

(3) Any order under this section made after the seventeenth day of April, nineteen hundred and forty-eight, shall be subject to special parliamentary procedure.

Interpretation.

7.—(1) 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 Minister ” means—

(a) in relation to any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, the Minister of Transport,

(b) in relation to any undertaking for the supply of electricity, gas or hydraulic power (other than that of the North of Scotland Hydro-Electric Board), the Minister of Fuel and Power.

(c) in relation to any undertaking for the supply of water or to the undertaking of the North of Scotland Hydro-Electric Board, the Secretary of State ;

“ ancient monument ” has the same meaning as in the *Ancient Monuments Acts, 1931 and 1931* :

“ common ” includes any town or village green ;

“ held inalienably ”, in relation to land belonging to the National Trust for Scotland, means that the land is inalienable under section twenty-two of the Order confirmed by the National Trust for Scotland Order Confirmation Act, 1935 ; 26 Geo. 5 &  
1 Edw. 8. c. ii.

“ land ”, in relation to compulsory purchase under any enactment, includes anything falling within any definition of that expression in that enactment, and in relation to compulsory purchase under the Harbours, Piers and Ferries (Scotland) Act, 1937, includes also a marine work within the meaning of that Act ; 1 Edw. 8 &  
1 Geo. 6. c. 28.

“ local authority ” means any county council, town council or district council, or any other authority within the meaning of the Local Authorities Loans (Scotland) Act, 1891, and includes any joint board or joint committee of which all the constituent authorities are such local authorities as aforesaid ; 54 & 55 Vict.  
c. 34.

“ National Trust for Scotland ” means the National Trust for Scotland for Places of Historic Interest or Natural Beauty incorporated by the Order confirmed by the National Trust for Scotland Order Confirmation Act, 1935 ;

“ open space ” means any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground ;

“ owner ”, in relation to any land, includes any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking, and includes also a lessee under a lease the unexpired period of which exceeds three years ;

“ statutory undertakers ” means any persons authorised by any Act (whether public general or local), or by any order or scheme made under or confirmed by an Act, to construct, work or carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of electricity, gas, hydraulic power or water.

(2) If any question arises under this Act which Minister is the appropriate Minister, the question shall be determined by the Treasury.

(3) For the removal of doubt, it is hereby declared that any power conferred by or under this Act or any enactment passed before the commencement thereof to purchase land compulsorily

is, except in so far as any express provision of any such enactment restricts the exercise of the power, exercisable notwithstanding any other enactment providing that the land shall be inalienable.

(4) References in this Act to any enactment shall be construed as references to that enactment as amended by or under any other enactment, including this Act.

Repeals and consequential and transitional provisions.

8.—(1) The enactments specified in the Fifth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(2) References to the Acquisition of Land (Authorisation Procedure) Act, 1946, or to particular provisions thereof, contained in the Fourth Schedule to that Act (which sets forth minor and consequential amendments of various enactments) shall be construed as references to this Act or to the provisions of this Act corresponding to the particular provisions of the said Act of 1946, as the case may require.

(3) Where before the commencement of this Act proceedings for obtaining authorisation of a compulsory purchase in accordance with the provisions of any enactment in force at the time have been begun but not completed, the proceedings may be completed as if this Act had not been passed.

Short title and extent.

9.—(1) This Act may be cited as the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947.

(2) This Act shall extend to Scotland only.

---

## SCHEDULES.

---

### FIRST SCHEDULE.

---

Section 1.

#### PROCEDURE FOR AUTHORISING COMPULSORY PURCHASES.

##### PART I.

##### *Purchases by local authorities.*

1. A compulsory purchase order authorising a compulsory purchase by a local authority (hereafter in this Schedule referred to as the "acquiring authority") in a case falling within subsection (1) of section one of this Act shall be made by the acquiring authority and submitted to and confirmed by the authority having power under the enactment in question to authorise the purchase (hereafter in this Schedule referred to as the "confirming authority") in accordance with the following provisions of this Schedule.



2. The compulsory purchase order shall be in the prescribed form and shall describe by reference to a map the land to which it applies.

3. Before submitting the order to the confirming authority, the acquiring authority shall—

(a) in two successive weeks publish in one or more local newspapers circulating in the locality in which the land comprised in the order is situated a notice in the prescribed form stating that the order has been made and is about to be submitted for confirmation and the purpose for which the land is required, describing the land, naming a place within the locality where a copy of the order and the map referred to therein may be inspected, and specifying the time (not being less than twenty-one days from the first publication of the notice) within which and the manner in which objections to the order can be made ;

(b) serve on every owner, lessee and occupier (except tenants for a month or any period less than a month) of any land comprised in the order a notice in the prescribed form stating the effect of the order and that it is about to be submitted for confirmation, and specifying the time (not being less than twenty-one days from the service of the notice) within which and the manner in which objections thereto can be made.

4.—(1) If no objection is duly made by any such person as aforesaid or if all objections so made are withdrawn, the confirming authority, on being satisfied that the proper notices have been published and served, may, if the authority think fit, confirm the order with or without modifications.

(2) If any objection duly made as aforesaid is not withdrawn, the confirming authority shall, before confirming the order, either cause a public local inquiry to be held or afford to any person by whom any objection has been duly made as aforesaid and not withdrawn an opportunity of appearing before and being heard by a person appointed by the confirming authority for the purpose, and after considering the objection and the report of the person who held the inquiry or the person appointed as aforesaid, may confirm the order either with or without modifications.

(3) If any person by whom an objection has been made avails himself of the opportunity of being heard, the confirming authority shall afford to the acquiring authority, and to any other persons to whom it appears to the confirming authority expedient to afford it, an opportunity of being heard on the same occasion.

(4) Notwithstanding anything in the two last preceding subparagraphs, the confirming authority may require any person who has made an objection to state in writing the grounds thereof, and may disregard the objection for the purposes of this paragraph if the confirming authority is satisfied that the objection relates exclusively to matters which can be dealt with by the tribunal by whom the compensation is to be assessed.

5. The order as confirmed by the confirming authority shall not, unless all persons interested consent, authorise the acquiring authority

1ST SCH.  
 —cont.

to purchase compulsorily any land which the order would not have authorised that authority so to purchase if it had been confirmed without modification.

6. As soon as may be after the order has been confirmed, the acquiring authority shall publish in one or more local newspapers circulating in the locality in which the land comprised in the order is situated a notice in the prescribed form describing the land, stating that the order has been confirmed and naming a place where a copy of the order as confirmed and of the map referred to therein may be inspected at all reasonable hours, and shall serve a like notice and a copy of the order as confirmed on any persons on whom notices with respect to the land comprised in the order were required to be served under paragraph 3 of this Schedule.

## PART II.

### *Purchases by Ministers.*

7.—(1) A compulsory purchase order authorising a compulsory purchase by a Minister in a case falling within subsection (1) of section one of this Act shall be prepared in draft and made by the Minister in accordance with the following provisions of this Schedule.

(2) The order shall describe by reference to a map the land to which it applies.

(3) Subject as aforesaid, the form of the order shall be such as the Minister may determine.

(4) Paragraphs 3 to 6 of this Schedule shall have effect in relation to the order with the substitution, for references to the confirming authority and to the acquiring authority, of references to the Minister, and, for references to an order submitted and to the confirmation of an order, of references to an order as prepared in draft and to the making of an order, and with the omission in sub-paragraph (3) of paragraph 4 of the reference to the acquiring authority, so however that the publication and service or affixing of notices required by paragraph 3 shall be effected as soon as may be after the draft of the order has been prepared, and the provisions of that paragraph as to the notice thereby required shall apply subject to such modifications of the form of the notice as appear to the Minister to be requisite.

## PART III.

### *Special provisions as to certain descriptions of land.*

8. The following provisions of this Part of this Schedule shall have effect in the case of land of the descriptions specified in subsection (2) of section one of this Act.

9. A compulsory purchase order shall, in so far as it authorises the compulsory purchase of land which is the property of a local authority, or has been acquired by statutory undertakers, not being a local authority, for the purposes of their undertaking, or of land belonging to the National Trust for Scotland which is held by the Trust inalienably, be subject to special parliamentary procedure in any case where an objection has been duly made by the local authority or the statutory undertakers or the National Trust for Scotland, as the case may be, and has not been withdrawn.

10. Where a compulsory purchase order has been submitted or prepared and the land comprised in the order includes land which has been acquired by statutory undertakers for the purposes of their undertaking, then if on a representation made to the appropriate Minister before the expiration of the time within which objections to the order can be made, the appropriate Minister is satisfied—

- (a) that any of the said land is used for the purposes of the carrying on of their undertaking, or
- (b) that an interest in any of the said land is held for those purposes,

the compulsory purchase order shall not be confirmed or made so as to authorise the compulsory purchase of any land as to which the appropriate Minister is satisfied as aforesaid except land as to which he is satisfied that its nature and situation are such—

- (i) that it can be purchased and not replaced without serious detriment to the carrying on of the undertaking, or
- (ii) that if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on thereof,

and certifies accordingly.

11.—(1) In so far as a compulsory purchase order authorises the purchase of any land forming part of a common or open space, the order shall be subject to special parliamentary procedure unless the Secretary of State is satisfied—

- (a) that there has been or will be given in exchange for such land other land, not being less in area (unless the persons in whom the land was vested otherwise agree) and being equally advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the persons in whom the land purchased was vested, and subject to the like rights, trusts and incidents as attach to the land purchased, or
- (b) that the land is required for the widening of an existing highway and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,

and certifies accordingly.

(2) Where it is proposed to give a certificate under this paragraph, the Secretary of State shall give public notice of his intention so to do, and—

- (a) after affording opportunity to all persons interested to make representations and objections in relation thereto, and
- (b) after causing a public local inquiry to be held in any case where it appears to him to be expedient so to do, having regard to any representations or objections made,

1ST SCH.  
 —cont.

he may, after considering representations and objections made and, if an inquiry has been held, the report of the person who held the inquiry, give the certificate.

12. A compulsory purchase order, in so far as it authorises the purchase of land being, or being the site of, an ancient monument or other object of archaeological interest, shall be subject to special parliamentary procedure unless the Minister of Works certifies that the acquiring authority has entered into an undertaking with the Minister to observe such conditions as to the use of the land as in his opinion are requisite having regard to the nature thereof.

13. As soon as may be after the giving of a certificate under this Part of this Schedule, the local authority or Minister by whom the compulsory purchase order was submitted or prepared shall publish in one or more local newspapers circulating in the locality in which the land comprised in the order is situated a notice in the prescribed form stating that the certificate has been given.

14. In the case of land falling within two or more of the preceding paragraphs of this Part of this Schedule, a compulsory purchase order shall be subject to special parliamentary procedure if required to be subject thereto by any of the said paragraphs.

#### PART IV.

##### *Validity and date of operation of compulsory purchase orders.*

15.—(1) If any person aggrieved by a compulsory purchase order desires to question the validity thereof, or of any provision contained therein, on the ground that the authorisation of a compulsory purchase thereby granted is not empowered to be granted under this Act or any such enactment as is mentioned in subsection (1) of section one of this Act, or if any person aggrieved by a compulsory purchase order or a certificate under Part III of this Schedule desires to question the validity thereof on the ground that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the order or certificate, he may, within six weeks from the date on which notice of the confirmation or making of the order or of the giving of the certificate is first published in accordance with the provisions of this Schedule in that behalf, make an application to the Court of Session, and on any such application the Court—

- (a) may by interim order suspend the operation of the compulsory purchase order or any provision contained therein, or of the certificate, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings ;
- (b) if satisfied that the authorisation granted by the compulsory purchase order is not empowered to be granted as aforesaid, or that the interests of the applicant have been substantially prejudiced by any requirement of this Schedule or of any regulation made thereunder not having been complied with, may quash the compulsory purchase order or any provision contained therein, or the certificate, either generally or in so far as it affects any property of the applicant.

(2) Except by leave of the Court of Session, no appeal shall lie to the House of Lords from a decision of the Court of Session under the last foregoing sub-paragraph.

1ST SCH.  
—cont.

16. Subject to the provisions of the last foregoing paragraph a compulsory purchase order or a certificate under Part III of this Schedule shall not, either before or after it has been confirmed, made or given, be questioned in any legal proceedings whatsoever, and shall become operative on the date on which notice is first published as mentioned in the last foregoing paragraph.

17. This Part of this Schedule shall not apply to an order which is confirmed by Act of Parliament under subsection (4) of section two, as read with section ten, of the Statutory Orders (Special Procedure) Act, 1945, or under section six of that Act, but, except as aforesaid, shall have effect in relation to a compulsory purchase order to which that Act applies as if in sub-paragraph (1) of paragraph 15 for the reference to the date on which notice of the confirmation or making of the order is first published in accordance with the provisions of this Schedule in that behalf there were substituted a reference to the date on which the order becomes operative under the Statutory Orders (Special Procedure) Act, 1945, and as if in paragraph 16 the words from "and shall become operative" to the end were omitted.

#### PART V.

##### *General.*

18. Anything required or authorised by this Schedule to be prescribed shall be prescribed by regulations made by the Secretary of State.

19.—(1) Any notice or other document required or authorised to be served under this Schedule may be served on any person either by delivering it to him, or by leaving it at his proper address, or by post, so however that the document shall not be duly served by post unless it is sent by registered letter.

(2) Any such document required or authorised to be served upon an incorporated company or body shall be duly served if it is served upon the secretary or clerk of the company or body.

(3) For the purposes of this paragraph and of section twenty-six of the Interpretation Act, 1889, the proper address of any person upon whom any such document as aforesaid is to be served shall, in the case of the secretary or clerk of any incorporated company or body, be that of the registered or principal office of the company or body and in any other case be the last known address of the person to be served: <sup>52 & 53 Vict. c. 63.</sup>

Provided that where the person to be served has furnished an address for service, his proper address for the purposes aforesaid shall be the address furnished.

(4) If the Minister having jurisdiction to confirm or make the order in connection with which the document is to be served is satisfied that reasonable inquiry has been made and that it is not practicable to ascertain the name or address of an owner, lessee or occupier of land on whom any such document as aforesaid is to be served, the document may be served by addressing it to him by the description of "owner", "lessee" or "occupier" of the land (describing it) to which it relates, and by delivering it to some person on the premises, or, if there is no person on the premises to whom it may be delivered, by affixing it or a copy of it to some conspicuous part of the premises.

SECOND SCHEDULE.

INCORPORATION OF ENACTMENTS.

PART I.

*The Lands Clauses Acts and the Railways Clauses Consolidation  
 (Scotland) Act, 1845.*

8 & 9 Vict.  
c. 33.

1. In relation to any compulsory purchase to which the provisions of the foregoing Schedule apply, the Lands Clauses Acts and section six of the Railways Clauses Consolidation (Scotland) Act, 1845, are hereby incorporated with the enactment under which the purchase is authorised; and in construing those Acts as so incorporated—

(a) the enactment under which the purchase is authorised and the compulsory purchase order shall be deemed to be the special Act;

(b) references to the promoters of the undertaking shall be construed as references to the authority authorised by the compulsory purchase order to purchase the land.

8 & 9 Vict.  
c. 19.

2. The following sections of the Lands Clauses Consolidation (Scotland) Act, 1845, shall be excepted from incorporation as aforesaid, that is to say—

(a) sections one hundred and twenty to one hundred and twenty-five (which relate to the sale of superfluous land);

(b) in the case of a purchase under the Housing (Scotland) Acts, 1925 to 1935, and in any other case in which the compulsory purchase order so provides, section one hundred and twenty-seven (which relates to promoters making good deficiencies in land tax and rates); and

(c) sections one hundred and forty-two and one hundred and forty-three (which relate to access to the special Act).

3.—(1) Where a local authority or Minister have been authorised in accordance with the provisions of section one of this Act to purchase any land compulsorily, then, at any time after serving notice to treat and after serving on the owner, lessee and occupier of the land not less than fourteen days' notice, the authority or Minister may enter on and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance with sections eighty-three to eighty-eight of the Lands Clauses Consolidation (Scotland) Act, 1845, but subject to the payment of the like compensation for the land of which possession is taken, and interest on the compensation awarded, as would have been payable if those provisions had been complied with.

(2) Paragraph 19 of the foregoing Schedule shall apply to the service of notices under this paragraph.

4. The following provisions shall have effect in substitution for the provisions of section ninety of the Lands Clauses Consolidation (Scotland) Act, 1845, that is to say, no person shall be required to sell a part only of any house, building or manufactory, or of a park or garden belonging to a house, if he is willing and able to sell the whole of the house, building, manufactory, park or garden, unless the tribunal

by whom the compensation is to be assessed determines that, in the case of a house, building or manufactory, such part as is proposed to be taken can be taken without material detriment to the house, building or manufactory, or, in the case of a park or garden, that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house, and, if the tribunal so determines, the tribunal shall award compensation in respect of any loss due to the severance of the part so proposed to be taken, in addition to the value of that part, and thereupon the party interested shall be required to sell to the acquiring authority that part of the house, building, manufactory, park or garden.

5. Notices required to be served by the acquiring authority may, notwithstanding anything in section eighteen of the Lands Clauses Consolidation (Scotland) Act, 1845, be served and addressed in the manner specified in paragraph 19 of the foregoing Schedule.

6.—(1) A compulsory purchase order may make provision for the incorporation with the enactment under which the purchase is authorised of section seventy of the Railways Clauses Consolidation (Scotland) Act, 1845 (which relates to the exception of minerals from purchases) and sections seventy-one to seventy-eight of that Act (which relate to restrictions on the working of minerals) as originally enacted and not as amended for certain purposes by section fifteen of the Mines (Working Facilities and Support) Act, 1923, or the said section seventy only. <sup>13 & 14 Geo. 5. c. 20.</sup>

(2) Such provision may be made as to all or any of the land to which the compulsory purchase order relates, and may include such modification of references in the said sections to the railway or works, or to the company, as may be specified in the order, and sub-paragraph (a) of paragraph 1 of this Schedule shall apply for the construction of the said sections as incorporated by the order.

## PART II.

### *The Acquisition of Land (Assessment of Compensation) Act, 1919.*

7. The arbiter shall not take into account any interest in land, or any enhancement of the value of any interest in land by reason of any building erected, work done, or improvement or alteration made, whether on the land purchased or on any other land with which the claimant is, or was at the time of the erection, doing or making of the building, works, improvement or alteration directly or indirectly concerned, if the arbiter is satisfied that the creation of the interest, the erection of the building, the doing of the work, the making of the improvement or the alteration, as the case may be, was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

## PART III.

### *Purchases under Section 2.*

8. In relation to a compulsory purchase authorised in accordance with section two of this Act references in sub-paragraph (b) of paragraph 2 and in paragraph 6 of this Schedule, or in subsection (4) of section seventeen of the Town and Country Planning (Scotland) Act, 1945, to an order authorising a compulsory purchase of land shall be construed as references to the authorisation under section two of this Act.

## Section 2.

THIRD SCHEDULE.

---

PROVISIONS AS TO AUTHORISATIONS UNDER SECTION 2.

1.—(1) No authorisation under section two of this Act shall be given with respect to land of any description specified in subsection (2) of section one thereof or with respect to any dwelling house.

(2) In this paragraph the expression "dwelling house" means any building or part of a building in which persons are residing, and includes any other building or part of a building in which persons normally reside but from which they are temporarily absent.

2.—(1) Before an authorisation is given under section two of this Act the acquiring authority must—

- (a) have published in one or more local newspapers circulating in the locality in which any of the land to which the authorisation relates is situated a notice stating that the confirming authority is about to take into consideration the giving of an authorisation under section two of this Act with respect to land described in the notice, being land consisting of or comprised in the land to which the authorisation relates, and that representations which any person desires to make must be made to the confirming authority in writing within fourteen days from the date of the publication of the notice; and
- (b) have served on every owner and occupier of any of the land to which the authorisation relates a notice in writing stating that the confirming authority is about to take into consideration the giving of an authorisation as aforesaid, and that representations which any of the persons required to be served desires to make must be made to the confirming authority in writing within fourteen days from the date of the service of the notice on him.

(2) A notice under the last foregoing subsection may be served on a person being an owner or occupier by addressing the notice to him by name and by delivering it to him or leaving it at, or sending it in a registered letter by post to, his usual or last known place of abode.

3. Before giving an authorisation under section two of this Act the confirming authority shall consider any representations duly made to the authority; and as soon as may be after the authorisation has been given or the decision has been taken to refuse it the confirming authority shall send to any person who has made representations with respect thereto, specifying an address for the purposes of this paragraph, notification thereof in a registered letter by post to the address specified.

4. Anything authorised or required by this Schedule or by section two of 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.

---



FOURTH SCHEDULE.

Section 5.

PUBLIC LOCAL INQUIRIES.

1. The Minister shall appoint a person to hold the inquiry and to report thereon to him.

2. The person appointed to hold the inquiry shall notify any person who has lodged, and has not withdrawn, objections in relation to any matter in question at the inquiry, and shall publish in such newspaper or newspapers as the Minister may direct a notice of the time when and the place where the inquiry is to be held.

3. The person appointed to hold the inquiry may, on the motion of any party thereto or of his own motion, serve a notice in writing on any person requiring him to attend at the time and place set forth in the notice to give evidence or to produce any books or documents in his custody or under his control which relate to any matter in question at the inquiry :

Provided that—

- (a) no person shall be required in obedience to such a notice to attend at any place which is more than ten miles from the place where he resides unless the necessary expenses are paid or tendered to him ; and
- (b) nothing in this subsection shall empower the person appointed to hold the inquiry to require any person to produce any book or document or to answer any question which he would be entitled, on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.

4. The person appointed to hold the inquiry may administer oaths and examine witnesses on oath and may accept, in lieu of evidence on oath by any person, a statement in writing by that person.

5. Any person who refuses or wilfully neglects to attend in obedience to a notice under paragraph 3 of this Schedule or to give evidence or who wilfully alters, suppresses, conceals, destroys, or refuses to produce, any book or document which he may be required to produce by any such notice shall be liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a period not exceeding three months.

6. Where the inquiry arises out of a proposed acquisition of land by a local authority or the proposed extinction of a right of way over land acquired or proposed to be acquired by a local authority—

- (a) the expenses incurred by the Minister in relation to the inquiry (including such reasonable sum as the Minister may determine

4TH SCH.  
 —cont.

for the services of the person appointed to hold the inquiry) shall be paid by such of the parties to the inquiry in such proportions as the Minister may order ; and

- (b) the Minister may make orders as to the expenses incurred by the parties to the inquiry and as to the parties by whom such expenses shall be paid.

7. Any order by the Minister under paragraph 6 of this Schedule may be enforced in like manner as a recorded decree arbitral.

Section 8.

## FIFTH SCHEDULE.

### ENACTMENTS REPEALED.

| Session and Chapter.      | Short Title.                                                 | Extent of repeal.                                                                                                                                          |
|---------------------------|--------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 9 & 10 Geo. 6.<br>c. 49.  | The Acquisition of Land (Authorisation Procedure) Act, 1946. | The whole Act except subsection (1) of section six and the Fourth Schedule.                                                                                |
| 9 & 10 Geo. 6.<br>c. 68.  | The New Towns Act, 1946.                                     | Subsection (4) of section four.                                                                                                                            |
| 9 & 10 Geo. 6.<br>c. 70.  | The Civil Aviation Act, 1946.                                | Subsection (2) of section twenty-six, and in subsection (6) of section twenty-eight, the words from "and the provisions" to the end of the subsection.     |
| 9 & 10 Geo. 6.<br>c. 71.  | The Police (Scotland) Act, 1946.                             | Subsection (3) of section eleven.                                                                                                                          |
| 9 & 10 Geo. 6.<br>c. 72.  | The Education (Scotland) Act, 1946.                          | Subsection (4) of section twenty-one.                                                                                                                      |
| 10 & 11 Geo. 6.<br>c. 22. | The Civic Restaurants Act, 1947.                             | In subsection (1) of section two the words from "and the Acquisition" to "the passing of that Act", and the words from "section two" to "of this Act and". |
| 10 & 11 Geo. 6.<br>c. 27. | The National Health Service (Scotland) Act, 1947.            | Subsection (4) of section fifty-seven.                                                                                                                     |

## CHAPTER 43.

*Local Government (Scotland) Act, 1947.*

## ARRANGEMENT OF SECTIONS.

## PART I.

## CONSTITUTION AND ELECTIONS.

## LOCAL GOVERNMENT AREAS.

## Section.

1. Division into administrative areas.

## COUNTY COUNCILS.

*Constitution.*

2. Establishment of county councils.
3. Constitution of county councils.

*County Councillors.*

4. Term of office of county councillors.

*Election of County Councillors representing Landward Area.*

5. Day of election of county councillors for landward area.
6. Division of landward area of county into electoral divisions.
7. Electors.
8. Polling districts.
9. Appointment of returning officer, etc.
10. Conduct of election of county councillors for landward area.
11. Expenses of election of county councillors for landward area.

*Election of County Councillors representing Burghs.*

12. Election of county councillors representing burghs.

*Alteration of Number of County Councillors and of Electoral Divisions.*

13. Alteration of number of county councillors and of electoral divisions

*Convener and Vice-Convener of County.*

14. Convener and vice-convener of county.

## TOWN COUNCILS.

*Constitution.*

15. Establishment of town councils.
16. Constitution of town councils.

*Town Councillors*

17. Term of office of town councillors.

*Election of Town Councillors.*

## Section.

18. Day of annual election of town councillors.
19. Burgh and ward elections.
20. Division of burgh into wards.
21. Alteration of wards in burgh.
22. Electors.
23. Polling districts.
24. Returning officer.
25. Conduct of election of town councillors.
26. Expenses of election of town councillors.
27. Provisions as to date of election in fishing burghs.

*Provost, Magistrates, Honorary Treasurer and Judges of Police.*

28. Election and term of office of provost.
29. Election and term of office of other magistrates.
30. Honorary treasurer.
31. Meeting for election of provost, bailies and honorary treasurer.
32. Acting chief magistrate in absence of provost.
33. Resignation of magistrate or honorary treasurer.
34. Filling of casual vacancies in case of provost, bailie, or honorary treasurer.
35. Magistrates exempted from serving on juries.
36. Appointment of town councillor to act as judge of police.
37. Provost, &c. to go out of office on ceasing to be town councillor.

## DISTRICT COUNCILS.

*District Council Schemes and Constitution of District Councils.*

38. District council schemes.
39. Establishment and constitution of district councils.

*District Councillors.*

40. Term of office of district councillors.

*Election of Elected District Councillors.*

41. Day of election of elected district councillors.
42. District council elections.
43. Division of electoral division into wards.
44. Electors.
45. Conduct of election of elected district councillors.
46. Expenses of election of elected district councillors.

*Chairman and Vice-Chairman of District Council.*

47. Chairman and Vice-Chairman of district council.

*General.*

48. Determination by lot in case of equality of votes in certain matters.
49. Publication of orders by Secretary of State under Part I.

## PART II.

GENERAL PROVISIONS AS TO MEMBERS OF LOCAL  
AUTHORITIES AND ELECTIONS.*Qualifications for Office.*

50. Qualifications for nomination, election and holding office as member of local authority.
51. Re-election.

*Disqualifications for Office.*

## Section.

- 52. Disqualifications for nomination, election and holding office as member of local authority.
- 53. Procedure in case of disqualification.
- 54. Validity of acts done by unqualified persons.

*Declaration by member elected by Local Authority.*

- 55. Declaration by member elected by local authority.

*Resignation and Vacation of Office.*

- 56. Resignation.
- 57. Vacation of office by failure to attend meetings.

*Casual Vacancies.*

- 58. Casual vacancies.
- 59. Filling of casual vacancies.

*Miscellaneous Provisions as to Elections.*

- 60. Right of candidate to use of schoolroom, &c. at election.
- 61. Election not invalidated by non-compliance in certain cases.
- 62. Election valid unless questioned by election petition.
- 63. Election where poll countermanded on account of death of candidate.
- 64. Provision in case of non-election of local authority, &c.
- 65. Provisions as to ballot boxes
- 66. Saving for Elections (Scotland) (Corrupt and Illegal Practices) Act, 1890.

*Offences.*

- 67. Failure of returning officer, &c. to conduct elections.
- 68. Offences in relation to nomination papers, ballot papers and ballot boxes.
- 69. Offence of personation.
- 70. Penalty for voting in more than one electoral division or ward.

## PART III.

MEETINGS, PROCEEDINGS AND OFFICES OF LOCAL  
AUTHORITIES.*Meetings and Proceedings.*

- 71. Meetings and proceedings of local authorities, &c.
- 72. Voting by county councillors.
- 73. Disability of member of local authority for voting on account of interest in contract, &c.

*Halls, Offices and Buildings.*

- 74. Provision of halls, offices and buildings.
- 75. Use of schoolroom for district council meetings.

## PART IV.

## OFFICERS.

*Officers of County Council.*

- 76. County clerk.
- 77. County treasurer.
- 78. County collector.
- 79. County medical officer of health and county sanitary inspector.
- 80. County surveyor.

## Section.

- 81. County valuation assessor.
- 82. Appointment of other staff.
- 83. Appointment of depute or interim officers.

*Officers of Town Council.*

- 84. Town clerk.
- 85. Town chamberlain.
- 86. Burgh collector.
- 87. Burgh medical officer of health and burgh sanitary inspector.
- 88. Burgh surveyor, inspector of cleansing and inspector of lighting.
- 89. Clerk of burgh police court.
- 90. Burgh prosecutor.
- 91. Burgh valuation assessor.
- 92. Appointment of other staff.
- 93. Appointment of depute or interim officers.

*Officers of District Council.*

- 94. District council officers.

*Officers of Joint Committee or Joint Board.*

- 95. Officers of joint committee or joint board.

*General.*

- 96. Regard to be had to enactments relating to superannuation.
- 97. Local authority may regulate duties of officers, &c.
- 98. Security to be given by officers.
- 99. Apportionment of loss due to defalcation of officer of local authority.
- 100. Notice of termination of appointments held during pleasure.
- 101. Member of local authority not to be appointed officer of authority or of committee or joint committee or joint board.
- 102. Disclosure by officers of interest in contracts.
- 103. Protection for officer of local authority acting in execution of duty.
- 104. Savings for existing officers, &c.

## PART V.

ADMINISTRATIVE SCHEMES, COMMITTEES AND  
JOINT COMMITTEES.*Administrative Schemes.*

- 105. Schemes for administration of functions in county and large burgh.
- 106. Contents of administrative scheme for education.
- 107. Contents of other administrative schemes.

*Certain Statutory Committees of Local Authorities.*

- 108. Education committee for county and county of city.
- 109. Sub-committees for management of educational establishments.
- 110. Roads committee in county.
- 111. Health committee and committee for poor law purposes.
- 112. Police committee in county and large burgh with police force.
- 113. Finance committee in case of every local authority.
- 114. Constitution of sub-committees of committees for administrative scheme functions.

*General Power to Appoint Committees and  
Provisions as to Committees.*

## Section.

- 115. Appointment of committees and sub-committees.
- 116. Constitution of committees and sub-committees and term of office of members thereof.
- 117. Proceedings of committees and sub-committees.

*Combination of Local Authorities.*

- 118. Combination of counties of Perth and Kinross and of Moray and Nairn for certain purposes.
- 119. Voluntary combination of local authorities.
- 120. Compulsory combination of local authorities.
- 121. Provisions as to members and proceedings of joint committees and joint boards.
- 122. Provisions as to basis of valuation in cases of combinations of local authorities, &c.

*Appointment by County Council of Town Councils of  
Small Burghs and District Councils to be Agents.*

- 123. County council may appoint town councils of small burghs and district councils to be agents.

*Provisions common to Committees, Joint Committees and  
Joint Boards.*

- 124. Prohibition of delegation to committee, &c. of power to rate or borrow.
- 125. Disqualification for membership of committees, joint committees and joint boards.
- 126. Disability of member for voting on account of interest in contract, &c.

## PART VI.

CHANGE OF NAME OF AREAS, BOUNDARIES OF AREAS  
AND ALTERATION OF AREAS.*Change of Name.*

- 127. Change of name of county or burgh.

*Boundaries of Areas.*

- 128. Boundaries of counties.
- 129. Boundaries of burghs.

*Alteration of Areas.*

- 130. Alteration of boundaries of counties.
- 131. Power of sheriff to alter burgh boundary.
- 132. Appeal to Court of Session against alteration of burgh boundary.
- 133. Formation of new small burgh.
- 134. Dissolution of small burgh.
- 135. Power of Secretary of State to alter parish boundary or name of parish.
- 136. Rectification of boundary.
- 137. Alteration of districts and district boundaries.

*Supplemental Provisions.*

## Section.

- 138. General provisions as to change of name and alteration of areas.
- 139. Presumption of compliance with statutory provisions.
- 140. Transfer of functions.
- 141. Adjustment of property and liabilities.
- 142. Adjustment in respect of increase of burden on ratepayers.
- 143. Funds held in trust for whole area to apply to area after alteration.
- 144. Power of Secretary of State to make orders to carry alteration of area into effect.
- 145. Savings.

## PART VII.

## SPECIAL DISTRICTS.

- 146. Special districts.
- 147. Procedure for formation, alteration, combination or dissolution of special districts.
- 148. Management of special districts.
- 149. Power to apply burgh statutory provisions.
- 150. Inclusion of whole or part of special district within a burgh.
- 151. Combination of special water and drainage districts when required by Secretary of State.
- 152. Schemes for dissolution of special water and drainage districts.
- 153. Expenses of special districts.
- 154. Contributions by county council to expenses of special districts.
- 155. Savings.

## PART VIII.

## ACQUISITION OF AND DEALINGS IN LAND BY LOCAL AUTHORITIES.

*Acquisition of Land by Agreement.*

- 156. Acquisition of land by agreement.
- 157. Acquisition of land in advance of requirements.
- 158. Application of Lands Clauses Acts and other enactments to acquisition of land by agreement.

*Compulsory Acquisition of Land.*

- 159. Application of Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947.
- 160. Compulsory purchase of land for particular purposes.
- 161. Expenses relating to compulsory purchase order.

*Title to Land.*

- 162. Title to land.

*Appropriation of Land.*

- 163. Power to appropriate land.

*Erection of Buildings, &c.*

- 164. Power to erect buildings, &c.

*Disposal of Land.*

- 165. Power to let land.
- 166. Power to sell land.
- 167. Power to excamb land.
- 168. Land to be sold for best price and application of capital moneys.
- 169. Payment of purchase or compensation money by one local authority to another.



*General.*

## Section.

- 170. Special provisions as to land acquired for public recreation from heir of entail.
- 171. Provisions as to sale, &c. of land to apply to land forming part of common good.
- 172. Interpretation.
- 173. Savings.

## PART IX.

## ACCOUNTS, FUNDS AND EXPENSES OF LOCAL AUTHORITIES.

*Financial Year.*

- 174. Financial year of local authorities.

*Accounts.*

- 175. Accounts.

*County Fund and Expenses of County Council.*

- 176. County fund.
- 177. Annual budget of county council.
- 178. Payments to and out of county fund.
- 179. Payments by county council in respect of salaries of procurators fiscal, &c.

*Burgh Fund and Expenses of Town Council.*

- 180. Burgh fund.
- 181. Annual budget of town council.
- 182. Payments to and by town council.
- 183. Town council may contribute out of common good towards expenditure on statutory functions.

*District Council Fund and Expenses of District Council.*

- 184. District council fund.
- 185. Annual budget of district council.
- 186. Payments to and out of district council fund.

*Expenses of Justices of the Peace.*

- 187. Expenses of justices of the peace.

*Fee Fund of Local Authority.*

- 188. Fee fund of local authorities.

*Accounts to be made up Yearly and laid before Local Authority for approval.*

- 189. Accounts to be made up yearly.
- 190. Audited accounts to be laid before local authority for approval.

*Limitation of Annual Expenditure in certain cases.*

- 191. Limitation of certain annual expenditure defrayed out of county rate or burgh rate.
- 192. Limitation of expenditure in other case.

*General.*

- 193. Apportionment of general expenses.
- 194. Regulations under Part IX of Act.
- 195. Savings.

## PART X.

## AUDIT OF ACCOUNTS OF LOCAL AUTHORITIES.

*Accounts subject to Audit, Appointment of Auditors and  
Production of Books and Documents.*

Section. -

- 196. Accounts of local authorities to be audited.
- 197. Appointment of auditors.
- 198. Production of books and documents.

*Intimation of Audit and Right of Inspection of Abstract  
of Accounts by Ratepayers.*

- 199. Intimation of audit.
- 200. Deposit of abstract of accounts for inspection by ratepayers.

*Reports by Auditor and Surcharge, &c.*

- 201. Power of Secretary of State to disallow illegal payments and surcharge on interim report of auditor.
- 202. Power of Secretary of State to require rectification of accounts.
- 203. Auditor's report on accounts.
- 204. Abstract of audited accounts and auditor's report to be open to public inspection.
- 205. Notice of surcharge, of rectification of accounts or of auditor's report on accounts.

*General.*

- 206. Audit of accounts of joint committees and joint boards.
- 207. Regulations as to audit.
- 208. Saving and interpretation.

## PART XI.

LEVY AND COLLECTION OF RATES BY RATING AUTHORITIES AND  
REQUISITIONS FOR PAYMENT BY OTHER LOCAL AUTHORITIES.*Rating Authorities and Requisitioning Authorities and  
General Duties.*

- 209. Rating authorities.
- 210. Requisitioning authorities.
- 211. Expenses of local authority under public general Acts to be defrayed out of rates or sums requisitioned.
- 212. Duty of local authority to levy sufficient rates or issue sufficient requisition.
- 213. Sums to be raised by rates to be ascertained by reference to expenditure on functions within area to which functions relate.

*Requisitions.*

- 214. Requisitions by county council to town councils of burghs.
- 215. Requisition by district council to county council.
- 216. Requisitions by joint committees and joint boards.
- 217. Certification of valuation for apportionment of expenditure for rating purposes.
- 218. Apportionment of expenditure for rating purposes to be on basis of valuation roll for previous year.
- 219. Provisions for securing payment of sums in requisition.

*General Provisions as to Rates.*

## Section.

220. Rates to be levied for financial year of rating authority.  
 221. Rates to be levied on lands and heritages according to rateable value in valuation roll.  
 222. Incidence of rates between owners and occupiers.  
 223. Uniform rates.

*Levy of Rates.*

224. County rate and burgh rate.  
 225. Special district rates.  
 226. District council rate.  
 227. Other rates required to be levied.  
 228. Rates to be levied notwithstanding appeal under Valuation Acts.  
 229. Rates on lands and heritages in supplementary valuation roll.  
 230. Amount per pound of rates to be determined by 31st October.

*Payment of Rates.*

231. Date and place of payment of rates.  
 232. Payment of rates by instalments.

*Assessment Roll.*

233. Assessment roll.  
 234. Valuation roll to be made available for preparation of assessment roll.  
 235. Rating authority may require owner to furnish statement of lets.  
 236. Fractions of a penny of rates.

*Demand Note.*

237. Demand note for rates.

*Appeals against Rates.*

238. Appeals against rates.

*Levy of Occupiers' Rates on Owner in Certain Cases.*

239. Owner of subjects of or under £4 annual value in burghs to pay occupiers' rates.  
 240. Owner may be charged with occupiers' rates where subjects let for less than a year.  
 241. Rates on subjects not occupied by same occupier for whole year.

*Relief of Rates as between Occupiers.*

242. Outgoing occupier to have right of relief for rates against incoming occupier.

*Exemptions from Payment of Rates.*

243. Occupiers' rates not to be levied in respect of unlet and unoccupied subjects.  
 244. Remission of rates on account of poverty.  
 245. Town council of burgh may exempt from rates for definite period lands newly included within burgh boundary.

*Expenses.*

246. Expenses of levying and collecting rates.

*Recovery and Priority of Rates.*

## Section.

- 247. Recovery of rates.
- 248. Priority of claim for rates over other claims.
- 249. Appeal against proceedings under warrant.
- 250. Recovery of rates from persons removing.
- 251. Rates recoverable beyond area of rating authority.
- 252. Application of recovery provisions of Act to private improvement expenses.
- 253. Misnomers, &c., not to affect proceedings for recovery of rates.

*Miscellaneous.*

- 254. Application of Part XI of Act to all rates levied by rating authority.
- 255. Application of certain provisions to other authorities having power to levy rates.
- 256. Collection by rating authority of rates levied by other authority.
- 257. Savings for local Acts.

## PART XII.

## BORROWING BY LOCAL AUTHORITIES.

*Purposes for which, Restrictions subject to which, and Modes in which, Money may be Borrowed by Local Authorities and Security for Money so Borrowed.*

- 258. Purposes for which money may be borrowed.
- 259. Restrictions on power to borrow.
- 260. Modes of borrowing.
- 261. Security for money borrowed and ranking thereof.

*Repayment of Money Borrowed by Local Authorities.*

- 262. Period for repayment of borrowed money.
- 263. Repayment of borrowed money.
- 264. Returns to Secretary of State as to outstanding loans.
- 265. Sinking fund for repayment of borrowed money.
- 266. Adjustment of sinking fund.

*Provisions as to Mortgages.*

- 267. Forms of mortgage, transfer, renewal and discharge thereof.
- 268. Register of mortgages.

*Provisions as to Stock.*

- 269. Creation of redeemable stock by county council or town council.
- 270. Creation of redeemable stock by authority other than local authority having power to raise money by rate or requisition.
- 271. Stock regulations.
- 272. Borrowing power to be exercisable for actual sum raisable by stock.
- 273. Conversion of securities of county council or town council into stock.
- 274. Revocation of resolution to create stock.

*Loans Fund.*

- 275. Establishment of loans fund by county council or town council.

*General Provisions as to Borrowing.*

## Section.

- 276. Loans to joint boards.
- 277. Power to re-borrow.
- 278. Protection to lenders.
- 279. Balance of unexpended borrowed money.

*General Provisions as to Securities.*

- 280. Security to be moveable estate and notice of trusts.
- 281. Transmission of security on death.
- 282. Evidence on transfer of security.
- 283. Transmission of security otherwise than by transfer or on death.
- 284. Title to security and rectification of register.
- 285. Security deed to be delivered to local authority on discharge.
- 286. Unclaimed security.
- 287. Appointment of judicial factor in case of non-payment.
- 288. Interest and dividends on security in case of death, &c.
- 289. Interest and dividends on security held jointly.
- 290. Warrants for interest and dividends by post.
- 291. Unclaimed interest and dividends.

*General.*

- 292. Period of repayment in case of money borrowed by county council or town council for housing employees.
- 293. Application of Part XII of Act to local housing bonds.
- 294. Application of Part XII of Act to securities created under local Acts.
- 295. Saving for common good.
- 296. Saving for Local Authorities Loans Act, 1945, &c.

## PART XIII.

## LOCAL FINANCIAL RETURNS.

- 297. Returns of local finance to be made to Secretary of State.
- 298. Returns to be summarised.
- 299. Penalties.

## PART XIV.

## BYELAWS.

*Power of County Council and Town Council to make certain Byelaws.*

- 300. Byelaws for good rule and government, &c.

*Code of Procedure, Penalties, &c. in case of Byelaws  
under several Enactments.*

- 301. Procedure, &c. for making byelaws.
- 302. Penalties for offences against byelaws.
- 303. Evidence of byelaws.

## PART XV.

PROMOTION OF AND OPPOSITION TO PRIVATE LEGISLATION  
BY LOCAL AUTHORITIES.

- 304. Power of county council and town council to promote or oppose private legislation.
- 305. Power of district council to oppose private legislation.

## Section.

- 306. Resolution of local authority to promote or oppose private legislation, and authority by Secretary of State.
- 307. Taxation of expenses of local authority.
- 308. Defraying expenses of local authority.
- 309. Saving for existing powers of town council.
- 310. Right of local authority to make report to Commissioners under Private Legislation Procedure (Scotland) Act, 1936.
- 311. Interpretation.

## PART XVI.

## TRANSFER OF FUNCTIONS, &amp;c.

- 312. Transfer of functions of county road board to county council.
- 313. Transfer of functions relating to licensing of theatres, &c.
- 314. Transfer of functions relating to cinemas.
- 315. Transfer of functions under various Acts from county council to town councils of large burghs.
- 316. Functions of town council of large burgh under Wild Birds Protection Acts.

## PART XVII.

PROVISIONS CONSEQUENTIAL ON TRANSFER OF FUNCTIONS  
BY OR BY VIRTUE OF THIS ACT.

- 317. Transfer of property and liabilities and construction of Acts and documents in case of transfer of functions.
- 318. Transfer and compensation of officers on transfer of functions.
- 319. Provisions as to superannuation rights of transferred officers.
- 320. Interpretation and application of Part XVII of Act and Tenth and Eleventh Schedules.

## PART XVIII.

## DEAN OF GUILD COURT, DEAN OF GUILD, &amp;c.

- 321. Constitution of dean of guild court.
- 322. Election of dean of guild and members of dean of guild court by town council and casual vacancies.
- 323. Committees of dean of guild court.
- 324. Jurisdiction of dean of guild court.
- 325. Master of works for dean of guild court.
- 326. Clerk and prosecutor of dean of guild court.
- 327. Rules as to holding of courts.
- 328. Expenses of dean of guild court.
- 329. Saving for cities.
- 330. Dean of guild, &c. of certain burghs to be members of town council.
- 331. Disqualifications in case of dean of guild, &c.

## PART XIX.

## BURGESSES.

- 332. Qualification of burgesses.
- 333. Admission of honorary burgesses.
- 334. Limitation of rights of persons burgesses by virtue of Part XIX of Act.
- 335. Saving as to admission of burgesses.

## PART XX.

## GENERAL.

*Contracts and Obligations.*

## Section.

336. Contracts and obligations of local authorities.  
 337. Protection for members and officers of local authority in relation to obligations, &c.

*Travelling Expenses, &c. of Members of County Council.*

338. Payment of travelling expenses, &c., of members of county council.

*Expenditure by County Council and Town Council on Special Purposes.*

339. Expenditure by county council and town council on special purposes.

*Acceptance of Gifts.*

340. Acceptance of gifts of property.

*Transfer of Stock on Change of Name of Local Authority, &c.*

341. Transfer of stock on change of name of local authority, &c.

*Execution of Deeds and Use of Seal.*

342. Execution of deeds by local authority and use of seal.

*Legal Proceedings, Notices, &c.*

343. Legal proceedings for protection of inhabitants of area.  
 344. Offences against byelaws may be prosecuted by local authority.  
 345. Appearance on behalf of local authority in legal proceedings.  
 346. Service of legal proceedings and notices on local authority or officers.  
 347. Authentication of notices by local authority.  
 348. Claims in sequestrations and liquidations.  
 349. Service of notices, &c. by local authority or officer.  
 350. Evidence of resolutions, &c. by local authority.  
 351. Public notices.  
 352. Misnomers, &c. not to affect validity of notices, &c.

*Custody of Records and Documents.*

353. Custody of records and documents.

*Reports and Returns.*

354. Reports and returns.

*Local Inquiries.*

355. Provisions as to local inquiries.

*Provision for Default of Local Authority.*

356. Provision for default of local authority.

*Charitable Trusts, Parish Trusts, &c.*

357. Election of trustees under certain Acts, charters, &c.  
 358. Trusts vested in deacons, &c.  
 359. Parish trusts.  
 360. Saving as to election of deacon convener, &c.

*Miscellaneous Provisions.*

361. Provision as to alteration of register of electors in certain cases.  
 362. Limitation of liability of certain owners.  
 363. Power to apply provisions of Act to joint boards, &c.  
 364. Member of local authority appointed to any court or body to cease to be member on ceasing to be member of authority.  
 365. Election and term of office of members of courts for counties under Licensing (Scotland) Act, 1903.

## Section.

- 366. Provisions as to Sunday, &c.
- 367. References to census.
- 368. Adaptation of local Acts relating to local authorities.
- 369. Adaptation of other local Acts.
- 370. Order by Secretary of State relating to House Letting and Rating (Scotland) Act, 1911.
- 371. Transitional regulations.
- 372. Provisions as to orders.
- 373. Power to annul regulations or orders laid before Parliament.
- 374. Application to sheriff in cases of difficulty.
- 375. Provisions regarding applications to court.
- 376. Saving for existing members of local authorities.
- 377. Minor consequential amendments of enactments.
- 378. Cesser of certain enactments.
- 379. Interpretation.
- 380. Interpretation as respects Crown rights.
- 381. Repeals.
- 382. Short title, commencement and extent.

## SCHEDULES :

## First Schedule—

- Part I—Counties.
- Part II—Counties of cities.
- Part III—Large burghs.
- Part IV—Small burghs.

## Second Schedule—

- Part I—Provisions relating to the stages of the election of county councillors for the landward area of a county or of town councillors preceding the poll.
- Part II—Times for the proceedings at an election of county councillors or of town councillors.
- Part III—Provisions relating to contested elections.
- Part IV—Application of Schedule to district council election.
- Part V—Forms for use at the election of county councillors or of town councillors.

## Third Schedule.—Meetings and proceedings of local authorities.

- Part I—County councils.
- Part II—Town councils.
- Part III—District councils.
- Part IV—Provisions relating to local authorities generally.

## Fourth Schedule—Enactments containing provisions as to the acquisition by agreement of, and certain other dealings in, land by local authorities, not affected by the provisions of Part VIII of this Act.

## Fifth Schedule—Expenditure of a town council to be defrayed out of the burgh rate so far as payable by occupiers of lands and heritages only.

## Sixth Schedule—Enactments for the purposes of which money may be borrowed by local authorities repayable within periods other than thirty years.

## Seventh Schedule—

- (1) Form of mortgage by local authority.
- (2) Form of transfer of mortgage.
- (3) Form of minute of renewal of mortgage.
- (4) Form of discharge of mortgage.

## Eighth Schedule—Rules regulating the administration of a loans fund established by a county council or town council under this Act.



Ninth Schedule—Enactments under which the functions of a county council are so far as relating to a large burgh transferred to the town council of the burgh.

Tenth Schedule—Provisions with respect to the construction of Acts and documents and other matters in case of transfer of functions.

Eleventh Schedule—Provisions as to the determination and payment of compensation to officers in case of transfer of functions.

Twelfth Schedule—Maximum rates of allowances in respect of travelling and other personal expenses necessarily incurred and time necessarily lost from ordinary employment by members of a county council or of any committee or sub-committee thereof in attending meetings.

Part I.—Travelling expenses.

Part II.—Other personal expenses.

Part III.—Time necessarily lost from ordinary employment.

Thirteenth Schedule—Enactments ceasing to have effect.

Fourteenth Schedule—Enactments repealed.

An Act to consolidate with amendments the enactments relating to authorities for the purposes of local government in Scotland. [31st July 1947.]

**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.

#### CONSTITUTION AND ELECTIONS.

##### LOCAL GOVERNMENT AREAS.

1.—(1) For the purposes of local government, Scotland shall be divided into counties, counties of cities, large burghs and small burghs, and the landward area of every county shall, save as provided in this Part of this Act, be divided into districts comprising one or more electoral divisions in accordance with a district council scheme made by the county council of the county and approved by the Secretary of State under the Local Government (Scotland) Act, 1929, or this Act. Division into administrative areas.  
19 & 20 Geo. 5.  
c. 25.

(2) Subject to the constitution of new authorities or any alteration of boundaries or other alteration which may take effect after the passing of this Act—

- (a) the counties shall be the counties named in Part I of the First Schedule to this Act;
- (b) the counties of cities shall be the counties of cities named in Part II of the First Schedule to this Act;
- (c) the large burghs shall be the burghs named in Part III of the First Schedule to this Act;

**PART I.**  
—*cont.*

(d) the small burghs shall be the burghs named in Part IV of the First Schedule to this Act; and

(e) the districts shall be the districts existing at the passing of this Act.

(3) It is hereby declared that Orkney and Zetland are separate counties for all purposes other than the election of a member of Parliament.

(4) References in this Act to a large burgh shall be deemed to include references to a county of a city except where otherwise provided and except that references to burghs within a county shall not include references to a county of a city.

**COUNTY COUNCILS.***Constitution.*

Establishment  
of county  
councils.

2.—(1) For every county there shall be a county council which shall, subject to the provisions of this Act, be entrusted with the management of the administrative and financial business of the county and have all such functions as are vested in the county council by this Act or otherwise.

(2) The county council shall be a body corporate by the name of the county council with the addition of the name of the county, shall have perpetual succession and a common seal and may sue or be sued under that name.

Constitution  
of county  
councils.

3.—(1) A county council shall consist of—

(a) county councillors representing the landward area of the county who shall be elected by the local government electors for that area in accordance with the provisions of this Act, one for each of the electoral divisions; and

(b) county councillors representing the burghs within the county who shall be elected by the town councils of the burghs as provided in this Part of this Act.

(2) The number of county councillors for each county and the number of councillors representing respectively the landward area and each of the burghs within the county shall, subject to any alteration made under this Part of this Act or Part VI of this Act, remain the same as at the commencement of this Act.

*County Councillors.*

Term of office  
of county  
councillors.

4.—(1) Subject to the provisions of this section, the term of office of a county councillor shall be three years, and in every third year on the second Tuesday of November the whole number of councillors shall retire from office and their places shall be filled by election.

## (2) Notwithstanding anything in this Act—

PART I.  
—cont.

- (a) the county councillors representing the landward area at the commencement of this Act shall retire from office on the second Tuesday of November in the year nineteen hundred and forty-eight, notwithstanding that the last election before the commencement of this Act was held on the first Tuesday of December in the year nineteen hundred and forty-five;
- (b) a county councillor representing a burgh shall cease to be a county councillor on ceasing to be a town councillor of the burgh, so however that if he ceases to be a town councillor by reason of retirement in ordinary course he shall continue to hold office as a county councillor until the town council have elected a successor in his place;
- (c) on any electoral division of a county being wholly included within the boundaries of a burgh, the county councillor representing the electoral division shall from the date on which the inclusion takes effect cease to hold office, and, except where the Secretary of State otherwise directs, the number of councillors for the county shall be reduced accordingly;
- (d) where a part only of an electoral division of a county is so included, the county councillor for that electoral division shall continue to hold office until the Secretary of State otherwise directs.

*Election of County Councillors representing Landward Area.*

5. The election of county councillors representing the landward area of the county shall take place on the second Tuesday of November in the year nineteen hundred and forty-eight, and subsequent elections of such councillors shall take place on the second Tuesday of November in every third year thereafter.

Day of election of county councillors for landward area.

6.—(1) For the purpose of electing county councillors for the landward area of a county, that area shall be divided into electoral divisions.

Division of landward area of county into electoral divisions.

(2) There shall be a separate election for each electoral division.

(3) The number, contents and boundaries of the electoral divisions in each county shall, subject to any alteration under this Part of this Act or Part VI of this Act, remain the same as at the commencement of this Act.

PART I.  
—cont.  
Electors.

7.—(1) The electors at an election of a county councillor for any electoral division shall be the persons entitled, by virtue of the provisions of the Representation of the People Acts, to vote at that election.

(2) No person shall vote at an election of county councillors for the landward area of a county in more than one electoral division in the county or give more than one vote in any such election.

Polling  
districts.

8: The county council may divide an electoral division in the county into polling districts, and may alter any polling district, and may abolish polling districts in an electoral division.

Appointment  
of returning  
officer, etc.

9.—(1) The county council shall appoint a person to be the returning officer for the purposes of each election of county councillors for the landward area, and if the person so appointed dies, resigns or for any other reason is unable to act, the Secretary of State may appoint another person to be the returning officer at that election.

(2) The returning officer may by writing under his hand appoint one or more fit persons to be his depute or deputies for all or any of the purposes of the election, and anything required or authorised to be done by, to or before the returning officer in relation to the election may, so far as the depute is authorised to act, be done by, to or before any depute so appointed, and any reference in this Act to a returning officer shall, where a depute returning officer is acting for the returning officer under this subsection, include a reference to the depute returning officer.

Conduct of  
election of  
county  
councillors  
for landward  
area.

10.—(1) Subject to the provisions of this Act, an election of a county councillor for an electoral division shall be conducted in accordance with the provisions of the Second Schedule to this Act.

(2) References in the Second Schedule to this Act to county councillors shall be construed as references to county councillors for the landward area of a county.

Expenses of  
election of  
county  
councillors  
for landward  
area.

11.—(1) All expenses properly incurred by the returning officer or the county clerk in relation to the holding of an election of county councillors for the landward area (including expenses properly incurred by the returning officer or the county clerk in any legal proceedings arising out of the election), not exceeding such scale as the county council may fix and as may be applicable, shall be paid (so far as not otherwise provided by law) by the county council and defrayed as part of the general expenses of the council relating exclusively to the landward area of the county.

(2) Before a poll is taken at any such election, the county council shall at the request of the returning officer advance to him such sum not exceeding ten pounds for every thousand electors at the election as he may require.

PART I.  
—cont.

*Election of County Councillors representing Burghs.*

12. Subject to the provisions of this Act relating to fishing burghs, county councillors representing a burgh within the county shall be elected by the town council of the burgh from among their own number at a meeting of the town council to be held in the month of November (after the annual election of town councillors in that month) in the year in which the election of county councillors representing the landward area is appointed to take place.

Election of  
county  
councillors  
representing  
burghs.

*Alteration of Number of County Councillors  
and of Electoral Divisions.*

13. Subject to the provisions of this Act relating to the publication of orders under this Part of this Act, the Secretary of State may, on the representation of a county council or the town council of a burgh within the county or a majority of the county councillors representing the landward area, and shall, so far as necessary for the purpose of giving effect to a direction under paragraph (d) of subsection (2) of section four of this Act, by order alter—

Alteration of  
number of  
county  
councillors and  
of electoral  
divisions.

- (a) the number of county councillors; or
- (b) the assignment of county councillors to the landward area and to each of the burghs within the county; or
- (c) the number or contents and boundaries of the electoral divisions in the county;

and in making any such alteration the Secretary of State shall have regard to the population, the distribution and pursuits of the population, the area, and any other circumstances of the landward area and the burghs respectively which appear to him to affect the matter.

*Convener and Vice-Convener of County.*

14.—(1) The chairman of a county council, who shall be called the convener of the county, shall be elected by the county council from among the county councillors.

Convener and  
vice-convener  
of county.

(2) The term of office of the convener of the county shall be from the day of his election as provided in the next succeeding subsection until the second Tuesday of November in the third year after the day of his election.

PART I.  
—cont.

(3) The election of the convener of the county shall be the first business transacted at the first meeting of the county council held after the election of county councillors, and at that meeting until the convener is elected the returning officer at the election and failing him such councillor as may be selected by the meeting shall preside.

(4) The convener of the county shall, by virtue of his office unless disqualified by any Act, be a justice of the peace for the county, but before acting as such justice he shall take the oaths required by law to be taken by a justice of the peace for the county, unless he is at the date on which he is elected convener a justice of the peace for the county and has taken such oaths or unless the provisions of the Ex-officio Justices of the Peace (Scotland) Act, 1898, apply in his case.

61 & 62 Vict.  
c. 20.

(5) Every county council shall at the first meeting of the council held after the election of county councillors elect a county councillor to be vice-convener of the county who shall hold office until the expiration of the term of office of the convener and, subject to any standing orders made from time to time by the council, anything authorised or required to be done by, to or before the convener may, in the absence of the convener or in the event of his being unable to act for any reason or of a vacancy in the office of convener, be done by, to or before the vice-convener, except that he shall not, by virtue of being vice-convener, act as a justice of the peace.

(6) A person holding the office of convener or vice-convener may at any time resign that office by a notice in writing signed by him and delivered to the county clerk and the resignation shall take effect upon the expiration of three weeks after the date of delivery of the notice or upon such earlier date, if any, as may be stated in the notice as the date on which the resignation is to take effect.

(7) A person holding the office of convener or vice-convener shall cease to hold that office upon ceasing to be a county councillor.

(8) A casual vacancy in the office of convener or vice-convener of the county, whether caused by death or resignation from the office or by the holder of the office ceasing to be a county councillor, shall be filled as soon as practicable by the county council at a meeting of the council the notice of which specifies the filling of the vacancy as an item of business, and the person appointed to fill the vacancy shall hold office only so long as the convener or vice-convener in whose place he was appointed would have held office.

## TOWN COUNCILS.

*Constitution.*PART I.  
—cont.

15.—(1) For every burgh there shall be a town council which shall to the extent provided by this Act or otherwise be entrusted with the management of the administrative and financial business of the burgh and have all such functions as are vested in the town council by this Act or otherwise.

Establishment  
of town  
councils.

(2) The town council of a burgh shall be a body corporate—

- (a) by the name of the town council with the addition of the name of the burgh; or
- (b) in the case of a burgh in which the provost is entitled to the designation of lord provost, by the name of the lord provost, magistrates and councillors with the addition of the name of the burgh, and in the case of any other burgh by the name of the provost, magistrates and councillors with the addition of the name of the burgh; or
- (c) by such other name as may be provided in a local Act.

(3) The town council shall have perpetual succession and a common seal and may sue and be sued under any of the said corporate names.

16.—(1) A town council shall consist of councillors for the burgh elected by the local government electors of the burgh in accordance with the provisions of this Act.

Constitution of  
town councils.

(2) The number of councillors and magistrates to be elected in each burgh shall, subject to any alteration made under this Part of this Act or Part VI of this Act, remain the same as at the commencement of this Act.

(3) In any small burgh formed after the commencement of this Act the number of councillors and magistrates to be elected shall be determined by the sheriff in his deliverance under Part VI of this Act.

(4) Subject to the provisions of this Act relating to the publication of orders under this Part of this Act, the Secretary of State, on the representation of the town council of a burgh, which representation may be combined with a representation for the alteration of wards under this Part of this Act, may by order—

- (a) alter the number of councillors or magistrates of the burgh; and
- (b) determine the manner in which and the date on which the increase or decrease in the number of councillors or magistrates is to be effected in the burgh and in

PART I.  
—*cont.*

the different wards thereof, and the order in which and the dates on which the councillors or magistrates as increased or decreased in number are to vacate office;

and in any such order the Secretary of State may determine or make provision for the determination of any question arising in connection with the increase or decrease :

Provided that any such order shall secure that there shall be three or a multiple of three councillors for the burgh and for each ward.

#### *Town Councillors.*

Term of office  
of town coun-  
cillors.

17.—(1) The term of office of a town councillor shall be three years or such other period until the date of his retirement in accordance with the provisions of this Act.

(2) On the first Tuesday of November in every year one-third of the whole number of town councillors in the case of a burgh not divided into wards, and one-third of the town councillors for each ward in the case of a burgh divided into wards, shall retire from office, and their places shall be filled by election, the number to retire consisting of those who have been longest in office since their last election :

Provided that where the number of councillors for any burgh or ward is not divisible by three, the number to retire in a year shall, until the number of councillors or the number of the wards in the burgh is altered under this Act, be regulated by the practice existing immediately before the commencement of this Act.

(3) Where it is necessary in order to make up the number to retire in accordance with the foregoing provisions that one or more councillors should retire out of the number of those that have been in office for an equal period, then the councillor or councillors to retire shall be those who had the smallest number of votes at their last election, and if there was no contest or an equality of votes at the said election, the town council shall at a meeting determine by lot the order of retiral.

#### *Election of Town Councillors.*

Day of annual  
election of  
town  
councillors.  
Burgh and  
ward  
elections.

18. The ordinary day of election of town councillors of a burgh shall be the first Tuesday of November in each year.

19.—(1) Where a burgh is not divided into wards, there shall be one election of town councillors for the whole burgh.

(2) Where a burgh is divided into wards, there shall be a separate election of town councillors for each ward.



20. The number, contents and boundaries of wards into which a burgh is divided shall, subject to any alteration made under this Part of this Act or Part VI of this Act, remain the same as at the commencement of this Act.

PART I.  
—cont.

Division of burgh into wards.

21.—(1) Subject to the provisions of this Act relating to the publication of orders under this Part of this Act, the Secretary of State, on the representation of the town council of a burgh, which representation may be combined with a representation for the alteration of number of councillors under this Part of this Act, may by order—

Alteration of wards in burgh.

- (a) divide the burgh into wards and define the contents and boundaries of the wards; or
- (b) alter the number or contents and boundaries of wards; or
- (c) abolish the division of the burgh into wards;

and for the purpose of giving effect thereto may determine or alter the number of councillors to be elected for each ward or apportion the existing councillors among the wards, and in any such order the Secretary of State may determine or provide for the determination of any question arising in connection therewith:

Provided that any such order shall secure that there shall be three or a multiple of three councillors for the burgh and for each ward.

(2) In dividing a burgh into wards or in altering the number or contents and boundaries of wards, the Secretary of State shall have regard to the number of local government electors in each ward and any other circumstances which appear to him to affect the matter.

(3) Where a burgh is being divided into wards under this section or in the case of any other alteration under this section where the Secretary of State considers it proper and so directs in the order, all the members of the town council, including the provost and the honorary treasurer, shall, notwithstanding anything in this Act, retire at the first election held after the division is completed, or in accordance with the order, and a new council shall be elected.

(4) Any division of a burgh into wards or any alteration of the number or contents and boundaries of wards in a burgh or any abolition of the division of a burgh into wards under this section shall have effect for parliamentary as well as municipal purposes, but shall not affect the limits of any division of the burgh for the purpose of returning a member to serve for the division in Parliament.

## PART I.

—cont.

3 & 4 Geo. 5.  
c. 33.

(5) Any alteration of the number or contents and boundaries of wards in a burgh made under this section shall not affect the operation of the provisions of the Temperance (Scotland) Act, 1913, as respects any area to which there applies a resolution under that Act passed before the alteration under this section takes effect.

Electors.

22.—(1) The electors at an election of town councillors of a burgh shall be the persons entitled, by virtue of the provisions of the Representation of the People Acts, to vote at that election.

(2) Every elector may give one vote and no more for any one candidate:

Provided that—

(a) where a burgh is not divided into wards, the total number of votes which any person may give shall not exceed the number of councillors to be elected; and

(b) where a burgh is divided into wards, no person shall be entitled to vote at an election in the burgh in more than one ward, and the total number of votes which any person may give at the election in the burgh shall be determined by the number of councillors to be elected for the ward in which he votes.

Polling  
districts.

23. The town council of a burgh may divide the burgh or any ward thereof into polling districts, and may alter any polling district, and may abolish polling districts in the burgh or any ward.

Returning  
officer.

24.—(1) At an election of town councillors of a burgh, the provost shall be the returning officer, but if the office of provost is at the time vacant or if the provost is one of the councillors falling to retire at the election or his term of office expires or he resigns office as at the date of the election or he is incapacitated from acting by illness, absence or other cause or he declines or fails to act, the acting chief magistrate as hereinafter defined shall be the returning officer, and if the provost and all the bailies fall to retire at the election or are prevented from acting or fail to act as returning officer for any of the reasons aforesaid, the town clerk or any fit person appointed by him shall act as returning officer.

(2) The returning officer may by writing under his hand appoint one or more fit persons to be his depute or deputies for all or any of the purposes of the election and anything required or authorised to be done by, to or before the returning officer in relation to the election may, so far as the

depute is authorised to act, be done by, to or before any depute so appointed, and any reference in this Act to a returning officer shall, where a depute returning officer is acting for the returning officer under this subsection, include a reference to the depute returning officer.

PART I.  
—cont.

25. Subject to the provisions of this Act, an election of town councillors of a burgh shall be conducted in accordance with the provisions of the Second Schedule to this Act.

Conduct of election  
of town councillors.

26. All expenses properly incurred by the returning officer or the town clerk in relation to the holding of an election of town councillors of a burgh (including expenses properly incurred by the returning officer or the town clerk in any legal proceedings arising out of the election) shall be paid by the town council and shall be defrayed out of the common good of the burgh or as part of the general expenses of the council, or partly in the one way and partly in the other, as the council determine.

Expenses of  
election of  
town  
councillors.

27. Where in any burgh many local government electors are engaged in the fishing industry and often absent from home in pursuance of their occupation at the time when the annual election of town councillors is due to take place under this Act (which burgh is in this Act referred to as a "fishing burgh"), the Secretary of State, on the representation of the town council of the fishing burgh and after such inquiry, if any, as he shall deem proper, may, subject to the provisions of this Act relating to the publication of orders under this Part of this Act, make an order appointing the annual retirement and election of town councillors to take place on a day other than the first Tuesday of November to be specified in the order, not being earlier than the first Tuesday of November or later than the first Tuesday of February, and making such consequential alterations in the dates or months mentioned in this Act or the dates mentioned in any other enactment or any statutory order as appear to him to be dependent on the date of the annual election (including the date for the election of county councillors representing the fishing burgh), and thereupon the date of retirement and election and other dates as aforesaid shall be altered accordingly.

Provisions as  
to date of  
election in  
fishing burghs.

*Provost, Magistrates, Honorary Treasurer and Judges  
of Police.*

28.—(1) The provost of a burgh shall be elected by the town council of the burgh from among the town councillors.

Election and  
term of office  
of provost.

Any reference in this Act to a provost in the case of a burgh in which the provost is entitled to the designation of

PART I.  
—cont.

lord provost shall, unless the context otherwise requires, be construed as a reference to the lord provost.

(2) Subject to the provisions of this Act relating to filling casual vacancies in the office of provost, the term of office of the provost shall be from the day of his election to that office as hereinafter provided until the first Tuesday of November in the third year after the day of his election, and during that period, notwithstanding anything in this Act, he shall not, so long as he continues to hold the office of provost, be due to retire as a town councillor.

(3) The lord provost of a county of a city shall, by virtue of his office unless disqualified by any Act, be a justice of the peace for the county of the city, and the provost of any other burgh shall, by virtue of his office unless disqualified by any Act, be a justice of the peace for the county in which the burgh is situated, but before acting as such justice he shall take the oaths required by law to be taken by a justice of the peace for the county of the city or for the county, as the case may be, unless he is, at the date on which he is elected to act as lord provost or provost, a justice of the peace for the county of the city or for the county, as the case may be, and has taken such oaths or unless the provisions of the Ex-officio Justices of the Peace (Scotland) Act, 1898, apply in his case.

Election and  
term of office  
of other  
magistrates.

**29.—(1)** The magistrates of a burgh other than the provost shall be called bailies and shall be elected by the town council from among the town councillors.

(2) Subject to the provisions of this Act relating to filling casual vacancies in the office of bailie, the term of office of a bailie shall be from the day of his election to that office as hereinafter provided until the day on which he falls in ordinary course to retire as a town councillor:

Provided that the town council may, when electing to the office of bailie a councillor who has previously held that office, fix a shorter term of office in his case.

Honorary  
treasurer.

**30.—(1)** The town council of every burgh shall elect a town councillor to the office of honorary treasurer of the burgh, and the person so elected shall, subject to the directions of the council, exercise general superintendence over the finances of the council and shall be convener of the finance committee appointed by the council under this Act.

(2) Subject to the provisions of this Act relating to filling casual vacancies in the office of honorary treasurer, the term of office of the honorary treasurer shall be from the day of his election to that office until the first Tuesday of November in the third year after the day of his election, and during that period, notwithstanding anything in this Act, he shall not, so long as he continues to hold the office of honorary treasurer, be due to retire as a town councillor.

(3) The town council of every burgh in which there is not at the commencement of this Act an honorary treasurer shall elect a town councillor to be honorary treasurer of the burgh at the first meeting of the council held after the day of the annual election of town councillors in the year nineteen hundred and forty seven or at any adjournment of that meeting.

(4) A person shall not at any one time hold the offices of magistrate of a burgh and honorary treasurer of the burgh, and where a person holding the office of magistrate is elected to the office of honorary treasurer, he shall be deemed to have resigned from the office of magistrate, or where a person holding the office of honorary treasurer is elected to the office of magistrate, he shall be deemed to have resigned from the office of honorary treasurer.

(5) A person holding the offices of magistrate of a burgh and honorary treasurer of the burgh at the commencement of this Act, shall, unless he intimates to the town clerk in writing before the expiration of fourteen days thereafter that he desires to remain a magistrate and to resign from the office of honorary treasurer, be deemed to have resigned from the office of magistrate at the expiration of the said period.

31.—(1) At the meeting of the town council to be held on the first Friday after the day of the annual election of the town councillors or at any adjournment thereof the council shall fill up by election all vacancies that may then exist in the offices of provost, bailie and honorary treasurer, and where more than one bailie is elected at the same time shall determine the order of seniority among the bailies so elected.

Meeting for  
election of  
provost,  
bailies and  
honorary  
treasurer.

(2) If the town council fail to meet on the day mentioned or to fill any of the said vacancies at the said meeting or at any adjournment thereof, the council may fill the vacancy at any subsequent meeting of the council, but if the council fail to fill any such vacancy within the month of November the sheriff shall, on the application of any four local government electors for the burgh, appoint a councillor to fill the vacancy or, if none of the councillors is willing to accept the office, appoint a person to the office from among the local government electors for the burgh, and the person so appointed shall be a councillor of the burgh for all purposes, so however that his term of office shall expire at the next annual election of town councillors and he shall not be reckoned as part of the number of councillors falling to retire at that election, nor shall his appointment interfere in any way with the ordinary rotation of retirement of the other councillors.

(3) The returning officer at the annual election of town councillors or in the case of his absence the senior bailie

PART I.  
—cont.

present at the meeting or failing any bailie such one of the town councillors as may be selected by the meeting shall preside at the meeting mentioned in subsection (1) of this section:

Provided that the said person presiding shall preside—

- (i) in the event of a vacancy in the office of provost, only until the provost is elected;
- (ii) if there is no such vacancy and the provost is absent or if there is such a vacancy and the person elected is absent, only until all the vacancies existing in the offices of bailie and honorary treasurer have been filled.

(4) In the case of a burgh formed after the commencement of this Act, the town council first elected shall hold their first meeting at twelve noon on the first Friday after the day of the first election of town councillors, and at that meeting the provost, bailies and honorary treasurer shall be elected. A person appointed by the sheriff shall preside at the meeting until the election of the provost.

(5) The election of a magistrate shall not be affected by reason only of any nullity or irregularity in the election of any other magistrate.

Acting chief  
magistrate in  
absence of  
provost.

32. If the provost of a burgh is unable for any reason or fails to discharge any of the functions of his office, the senior bailie, or, if the senior bailie is unable or fails to do so, the next senior bailie, and so on throughout the whole number of bailies, may, subject to any standing orders of the council, discharge any function which the provost, as such, might discharge under this Act or any other enactment or any statutory order except that he shall not by virtue of this section act as a justice of the peace, and anything that requires to be done by, to or before the provost under any enactment or statutory order may be done by, to or before the person acting in his place as aforesaid. Such person is in this Act referred to as the "acting chief magistrate".

Resignation  
of magistrate  
or honorary  
treasurer.

33.—(1) A person holding the office of provost, bailie, or honorary treasurer may at any time resign that office by a notice in writing signed by him, and delivered to the town clerk, and the resignation shall take effect upon the expiration of three weeks after the date of delivery of the notice or upon such earlier date, if any, as may be stated in the notice as the date on which the resignation is to take effect.

(2) Where a person resigns from the office of provost or honorary treasurer at any time after the day on which he

would have been due to retire as a town councillor had he not been elected to that office, his resignation as a provost or honorary treasurer shall be deemed to involve his resignation as a town councillor.

PART I.  
—cont.

34.—(1) A casual vacancy in the office of provost or bailie or honorary treasurer of a burgh, whether caused by death or resignation from the office or by the holder of the office ceasing to be a town councillor or otherwise shall be filled as soon as practicable by the town council at a meeting of the council of which notice specifying that the filling of the vacancy is to be considered has been given to each town councillor not less than five days before the date of the meeting:

Filling of casual vacancies in case of provost, bailie, or honorary treasurer.

Provided that—

- (a) if a casual vacancy in any of the said offices arises in consequence of the holder of the office being appointed to another office, the council may fill the vacancy in the office vacated at the meeting at which the holder is appointed to the other office;
- (b) if a casual vacancy in the office of bailie arises at any time within the four months preceding the day of the next annual election of town councillors, the town council may determine not to fill the vacancy until after that election.

(2) A person elected to fill a casual vacancy under this section shall hold office only until the day of the next annual election of town councillors except where the casual vacancy is filled at the meeting of the council held on the first Friday after the day of the annual election of town councillors or at any adjournment thereof.

35. The provost and other magistrates of a burgh shall, while holding office as such, be freed and exempted from being returned and from serving upon juries.

Magistrates exempted from serving on juries.

36. The town council of a burgh may appoint any town councillor of the burgh who has held the office of magistrate of any burgh having a police court to be a judge of the police court and to sit as magistrate in the police courts of the burgh until he is due to retire as a town councillor or for such shorter period as the council may determine, and any person while acting as a judge of the police court and sitting may exercise any jurisdiction, power or authority competent to or exercisable by any magistrate of the burgh sitting in the police court. Such councillor is in this Act referred to as a "judge of police".

Appointment of town councillor to act as judge of police.

37. A person holding the office of provost, bailie, honorary treasurer, or judge of police of a burgh shall cease to hold that office upon ceasing to be a town councillor.

Provost, &c. to go out of office on ceasing to be town councillor.

PART I.  
—cont.

## DISTRICT COUNCILS.

*District Council Schemes and Constitution of District Councils.*District  
council  
schemes.

38.—(1) Save as in this section provided, every county council shall have a scheme made by the county council and approved by the Secretary of State (in this Act called "a district council scheme") dividing the landward area of the county into districts for the purposes of district councils in such manner that each district shall comprise one or more electoral divisions.

(2) The district council scheme made and approved under section twenty-five of the Local Government (Scotland) Act, 1929, and in force in a county at the commencement of this Act shall, until it is revoked or altered under this Part of this Act or Part VI of this Act, be the district council scheme for the county.

(3) A district council scheme for a county may be revoked or altered by a district council scheme prepared and submitted to the Secretary of State for his approval by the county council, and the council shall, so far as necessary for the purpose of giving effect to a direction by the Secretary of State under proviso (iii) to subsection (2) of the next but one succeeding section, prepare and submit to the Secretary of State forthwith a scheme amending the district council scheme.

The Secretary of State may approve the scheme either as submitted or with such modifications and amendments as he thinks proper and on approval the scheme shall have effect, and any such scheme may make provision for doing anything which may be required or be expedient for the proper carrying into effect of the scheme, including without prejudice to the said generality provision for financial adjustments in the case of a scheme altering the boundaries of a district.

(4) In the case of each of the counties of Kinross and Nairn, the provisions of this section and of so much of section one of this Act as refers to the division of the landward area of every county into districts shall not apply unless the county council of the county so determine, and until the council so determine, references in this Act or any other enactment or any statutory order to a district council and to the district of a district council shall be construed as references to the county council and to the county respectively:

Provided that if the county council of either of the said counties at any time determine that the county shall be divided into districts, the county council shall make a district council scheme and submit the same to the Secretary of State for his approval, and the provisions of the immediately preceding subsection shall, subject to any necessary modifications, apply



to any such scheme as they apply to a scheme altering the boundaries of a district.

PART I.  
—cont.

(5) A district council scheme under this section shall not be made by a county council except at a meeting of the council the notice of which specifies the making of the scheme as an item of business.

(6) The county council shall cause to be published in a newspaper circulating in the district to which a scheme will apply a notice that the scheme is being submitted to the Secretary of State for his approval, and the Secretary of State shall consider any objections and representations made to him with respect to the scheme.

39.—(1) For every district there shall be a district council which shall have all such functions as are vested in the district council by this Act or otherwise. Establishment and constitution of district councils.

(2) The district council shall be a body corporate by the name of the district council with the addition of the name of the district shall have perpetual succession and may have a common seal and may sue and be sued under that name.

(3) The district council shall consist of—

- (a) the county councillors representing the electoral divisions within the district who shall be *ex officio* members of the district council; and
- (b) the district councillors who shall be elected for the electoral divisions within the district or for the wards forming part thereof (in this Act referred to as the elected district councillors).

(4) The number of district councillors for the district and the apportionment of the elected district councillors among the electoral divisions or wards within the district shall be such as are specified in the district council scheme for the time being in force.

#### *District Councillors.*

40.—(1) An *ex officio* member of a district council shall hold office as a member of the council only so long as he is a county councillor representing an electoral division within the district. Term of office of district councillors.

(2) The term of office of an elected district councillor shall be three years, and in every third year on the second Tuesday of November the whole number of elected district councillors shall retire from office and their place shall be filled by election:

Provided that—

- (i) the elected district councillors at the commencement of this Act shall go out of office on the second Tuesday

PART I.  
—cont.

of November in the year nineteen hundred and forty-eight, notwithstanding that the last election before the commencement of this Act was held on the first Tuesday of December in the year nineteen hundred and forty-five;

- (ii) on any electoral division or ward of an electoral division within a district being wholly included within the boundaries of a burgh, the elected district councillors representing the electoral division or ward shall from the date on which the inclusion takes effect cease to hold office, and the number of elected district councillors for the district shall be reduced accordingly;
- (iii) where a part only of an electoral division or ward of an electoral division is so included, the elected district councillors for that electoral division or ward shall continue to hold office until the Secretary of State otherwise directs.

*Election of Elected District Councillors.*

Day of election  
of elected  
district  
councillors.

41. The election of elected district councillors shall take place on the second Tuesday of November in the year nineteen hundred and forty-eight, and subsequent elections of such councillors shall take place on the second Tuesday of November in every third year thereafter.

District  
council  
elections.

42.—(1) There shall be a separate election of elected district councillors for each electoral division within a district or, where an electoral division is divided into wards, for each ward thereof.

(2) Where a district comprises only one electoral division and that division is not divided into wards, there shall be one election of elected district councillors for the whole district.

Division of  
electoral  
division  
into wards.

43.—(1) The number, contents and boundaries of wards into which an electoral division within a district is divided shall, subject to any alteration made by a district council scheme or otherwise under this Part of this Act or Part VI of this Act, remain the same as at the commencement of this Act.

(2) A district council scheme may—

- (a) divide an electoral division into wards and define the contents and boundaries of the wards; or
- (b) alter the number or contents and boundaries of wards in an electoral division; or
- (c) abolish the division of an electoral division into wards;

and for the purpose of giving effect thereto may determine or alter the number of elected district councillors to be elected

for each ward or apportion the existing elected district councillors for an electoral division among the wards thereof, and such a scheme may provide for the determination of any question arising in connection therewith or for doing anything that is considered necessary or proper for giving full effect to the scheme so far as referring to the matters aforesaid :

Provided that a county council shall before preparing a district council scheme making any provision under this subsection consult with the district council of the district concerned.

(3) In dividing an electoral division into wards or altering the number or contents and boundaries of wards in an electoral division or determining or altering the number of district councillors to be elected for each ward or apportioning the existing elected district councillors for an electoral division among the wards under this section, regard shall be had to the number of local government electors and any other circumstances which appear to affect the matter.

44.—(1) The electors at an election of elected district councillors shall be the persons entitled, by virtue of the provisions of the Representation of the People Acts, to vote at that election. Electors.

(2) Every elector may give one vote and no more for any one candidate :

Provided that—

- (a) the total number of votes which any person may give shall not exceed the number of elected district councillors to be elected for the electoral division or ward in which he votes; and
- (b) a person shall not vote at an election in more than one electoral division within a district or in more than one ward in any electoral division divided into wards.

45.—(1) Subject to the provisions of this Act, an election of elected district councillors shall be conducted in accordance with the provisions of the Second Schedule to this Act, and the county council of the county shall make due provision for the election of elected district councillors, and, subject to the provisions of the immediately succeeding section, shall pay the expenses incurred in relation thereto. Conduct of  
election of  
elected district  
councillors.

(2) References in Part IV of the Second Schedule to this Act to district councillors shall be construed as references to elected district councillors.

(3) A county council may refer to the Secretary of State any question that may arise as to the performance of their

PART I.  
—cont.

duty under Part IV of the Second Schedule to this Act, and the determination of the Secretary of State shall be final.

Expenses of  
election of  
elected district  
councillors.

46. The expenses incurred in relation to the election of elected district councillors by a county council, as ascertained and apportioned by agreement between the county council and the district council concerned or failing agreement by the Secretary of State, shall be repaid to the county council by the district council and be defrayed by the district council as part of their general expenses.

*Chairman and Vice-Chairman of District Council.*

Chairman and  
Vice-Chairman  
of district  
council.

47.—(1) The chairman of a district council shall be elected by the district council from among the district councillors.

(2) The term of office of the chairman of the district council shall be from the day of his election to that office as provided in the next succeeding subsection until the second Tuesday of November in the third year after the day of his election.

(3) The election of the chairman of the district council shall be the first business transacted at the first meeting of the council held after the election of district councillors, and at that meeting, until the chairman is elected, such district councillor as may be selected by the meeting shall preside.

(4) The chairman of a district council shall, by virtue of his office unless disqualified by any Act, be a justice of the peace for the county within which the district is situated, but before acting as such justice he shall take the oaths required by law to be taken by a justice of the peace for the county, unless he is at the date on which he is elected chairman a justice of the peace for the county and has taken such oaths or unless the provisions of the Ex-officio Justices of the Peace (Scotland) Act, 1898, apply in his case.

(5) Every district council shall at the first meeting of the council held after the election of district councillors elect a district councillor to be vice-chairman of the district council, who shall hold office until the expiration of the term of office of the chairman, and subject to any standing orders made from time to time by the council anything authorised to be done by, to or before the chairman may, in the absence of the chairman or in the event of his being unable to act for any reason, or of a vacancy in the office of chairman, be done by, to or before the vice-chairman except that he shall not by virtue of being vice-chairman act as a justice of the peace.

(6) A person holding the office of chairman or vice-chairman of a district council may at any time resign that office by a notice in writing signed by him and delivered to the

clerk of the council and the resignation shall take effect upon the expiration of three weeks after the date of delivery of the notice or upon such earlier date, if any, as may be stated in the notice as the date on which the resignation is to take effect.

PART I.  
—cont.

(7) A person holding the office of chairman or vice-chairman of a district council shall cease to hold that office upon ceasing to be a district councillor.

(8) A casual vacancy in the office of chairman or vice-chairman of a district council, whether caused by death or resignation from the office or by the holder of the office ceasing to be a district councillor, shall be filled as soon as practicable by the district council at a meeting of the council of which notice specifying that the filling of the vacancy is to be considered has been given to each councillor not less than seven days before the date of the meeting, and the person appointed to fill the vacancy shall hold office only so long as the chairman or vice-chairman in whose place he is appointed would have held office.

#### General.

48. Where at a meeting of a local authority or a joint committee or joint board or any committee or sub-committee thereof held under this Act or held under any other enactment or any statutory order which does not contain any provision on the subject an equal number of votes is given for two or more persons—

Determination  
by lot in case  
of equality of  
votes in  
certain  
matters.

- (a) in the election of a member of the authority, joint committee, joint board, committee or sub-committee to any office or of a person to be a member of any committee or sub-committee; or
- (b) in the selection of a member of the authority, joint committee, joint board, committee or sub-committee to preside in the absence of the chairman (by whatever name he may be known); or
- (c) in the election by a local authority of a person to fill a casual vacancy on the authority,

the meeting shall determine by lot which of the persons, for whom an equal number of votes is given, shall be elected or selected, as the case may be.

49.—(1) The Secretary of State before making an order under this Part of this Act shall cause a draft of the proposed order or a notice setting forth the place at which and the period during which a copy of the draft may be inspected free of charge to be published in such manner as he shall determine in order to make the same known to all persons

Publication  
of orders by  
Secretary of  
State under  
Part I.

**PART I.**  
*—cont.*

interested and shall consider any objections and representations respecting the proposed order and may if he sees fit to do so cause a local inquiry to be held.

(2) Any order made by the Secretary of State under this Part of this Act or a notice setting forth the place at which and the period during which a copy of the order may be inspected free of charge shall as soon as may be be published by the clerk of the local authority to whom the order applies in the Edinburgh Gazette and in a newspaper circulating in the area to which the order relates.

**PART II.****GENERAL PROVISIONS AS TO MEMBERS OF LOCAL  
AUTHORITIES AND ELECTIONS.***Qualifications for Office.*

Qualifications  
for  
nomination,  
election and  
holding office  
as member of  
local  
authority.

**50.** A person shall, unless disqualified by virtue of this Act or any other enactment, be qualified to be nominated as a candidate for election as, or to be elected, or to be, a member of a local authority if he is of full age and a British subject and not subject to any legal incapacity and—

- (a) is, on the day on which he is nominated as a candidate, a local government elector for the area or any part of the area of the authority; or
- (b) has during the whole of the twelve months preceding the day on which he is nominated as a candidate resided in the area of the authority.

For the purposes of this section, the area of a county council shall include any burgh within the county.

Re-election.

**51.** A person ceasing to hold office to which he is elected under this Act shall, unless he is not qualified or is disqualified, be eligible for re-election.

*Disqualifications for Office.*

Disqualifica-  
tions for  
nomination,  
election and  
holding office  
as member of  
local  
authority.

**52.—(1)** A person shall be disqualified for being nominated as a candidate for election as, or for being elected, or for being, a member of a local authority if—

- (a) he or a partner of his holds any paid office or other place of profit in the gift or disposal—
  - (i) of the authority or of any committee or sub-committee of the authority; or
  - (ii) of any joint committee or joint board the expenses of which are defrayed in part by the authority; or

- (b) he is a person whose estate has been sequestrated by a competent court in Scotland or who has been adjudged bankrupt elsewhere than in Scotland; or
- (c) he is disqualified for being elected or for being a member of a local authority under any enactment relating to corrupt or illegal practices:

Provided that—

- (i) the disqualification attaching to a person whose estate has been sequestrated shall cease if and when—
  - (a) the sequestration of his estate is recalled or reduced; or
  - (b) he obtains his discharge from a competent court;
- (ii) the disqualification attaching to a person by reason of his having been adjudged bankrupt shall cease if and when—
  - (a) the bankruptcy is annulled; or
  - (b) he is discharged.

(2) For the purposes of this section a committee all the members of which, other than any ex-officio members, are appointed by a local authority shall, where the expenses of the committee are defrayed wholly or partly by the authority, be deemed to be a committee of the authority, notwithstanding that the committee may exercise functions which are not vested in the authority.

53.—(1) Where a person is at the time of his election disqualified within the meaning of this section for acting as a member of a local authority or where a member of a local authority becomes so disqualified for acting as a member of the authority (such person or member being in this section referred to as "the person in question"), his office shall nevertheless not be vacated and he shall not be prevented from voting or acting as a member of the authority until—

Procedure in  
case of dis-  
qualification.

- (a) he resigns; or
- (b) a declaration has been made by the sheriff in proceedings under subsection (2) of this section that the office of the person in question is vacant; or
- (c) a resolution declaring the office vacant has been passed by the authority at a meeting of the authority of which notice specifying the consideration of the matter as an item of business has been given to the person in question and to every other member of the authority:

PART II.  
—cont.

Provided that—

- (i) the person in question may within fourteen days of the date on which any such resolution is passed by the authority appeal against the resolution to the sheriff who, after making such inquiry, if any, as is deemed necessary and hearing parties, shall make such order as to the sheriff seems proper; and
- (ii) the person in question shall not be entitled to vote and act as a member of the authority pending the determination of the appeal.

(2) Proceedings to have it declared that an office is vacant for the purposes of paragraph (b) of the preceding subsection may be instituted before the sheriff by the local authority or by any four or more local government electors for the area of the authority (including in the case of a county council any burgh within the county) or in the case of a disqualification alleged to exist at the time of nomination or election by any opposing candidate at the election, on the ground in the case of any person acting as a member of the authority of his being disqualified within the meaning of this section for so acting, and on the like ground in the case of any person claiming to be entitled so to act:

—Provided that proceedings under this subsection on the ground of a person acting as aforesaid may not be instituted after the alleged disqualification has ceased to exist, but nothing in this subsection shall be deemed to prevent proceedings under this section being dealt with and disposed of although the person has ceased to act as aforesaid.

The procedure in any such proceedings shall, so far as practicable, be that applicable in the case of an election petition under the Elections (Scotland) (Corrupt and Illegal Practices) Act, 1890.

53 & 54 Vict.  
c. 55.

(3) Where in any proceedings under subsection (2) of this section it is proved that the person in question has acted as a member of a local authority while disqualified for so acting, the sheriff shall have power—

- (a) to make a declaration to that effect and to declare that the office in which the person in question has acted is vacant;
- (b) to grant interdict against the person in question so acting;
- (c) to order that the person in question shall pay such sum as the sheriff thinks fit not exceeding one hundred pounds, which sum shall be paid to the authority and applied in such manner as the authority may direct.



(4) Where in any such proceedings it is proved that the person in question claims to act as a member of a local authority and is disqualified from so acting, the sheriff shall have power to make a declaration to that effect and to declare that the office in which the person in question claims to be entitled to act is vacant and to grant interdict against the person in question so acting.

(5) For the purposes of this section, the sheriff means the sheriff (other than a sheriff substitute) of the county in which the area of the local authority is situated.

(6) The sheriff shall have the same powers and privileges as a judge on the trial of a parliamentary election petition.

(7) For the purposes of this section, a person shall be deemed to be disqualified for acting as a member of a local authority and a disqualification shall be deemed to exist in his case if he is not qualified to be or is disqualified for being a member of the authority.

54. The acts and proceedings of any person elected to an office under this Act and acting in that office shall, notwithstanding any question as to the validity of his election or his disqualification or want of qualification, be as valid and effectual as if he had been duly elected and qualified.

Validity of  
acts done by  
unqualified  
persons.

*Declaration by member elected by Local Authority.*

55. A person who is elected by a local authority as a member of the authority shall, before attending a meeting or otherwise acting as a member of the authority, sign a declaration that:—

Declaration  
by member  
elected by  
local  
authority.

- (a) none of the disqualifications for office set out in section fifty-two of this Act apply in his case;
- (b) he is otherwise qualified for election in terms of section fifty of this Act;
- (c) he accepts office as a member of the authority; and
- (d) he will faithfully perform the duties of the office;

and any person attending a meeting or otherwise acting as a member of the authority before signing such a declaration, or signing such a declaration knowing any statement therein to be false, shall be liable on summary conviction to a fine not exceeding fifty pounds.

## PART II.

—cont.

Resignation.

*Resignation and Vacation of Office.*

**56.** A member of a local authority may at any time resign his office as member by a notice in writing signed by him and delivered to the clerk of the authority, and his resignation shall take effect upon the expiration of three weeks after the date of delivery of the notice or upon such earlier date, if any, as may be stated in the notice as the date on which the resignation is to take effect.

Vacation of  
office by  
failure to  
attend  
meetings.

**57.—(1)** If a member of a local authority fails throughout a period of six consecutive months to attend any meeting of the authority, he shall, unless he has been granted leave of absence by the authority as in this section provided or unless the failure to attend was due to some reason approved by the authority, be deemed to have become disqualified for acting as a member of the authority and the provisions of section fifty-three of this Act shall apply in his case:

Provided that—

- (a) attendance as a member at a meeting of any committee or sub-committee of the authority or at a meeting of any joint committee or joint board to which any function of the authority has been delegated shall be deemed for the purposes of this subsection to be attendance at a meeting of the authority;
- (b) a member of any branch of His Majesty's naval, military or air forces, when employed during war or any emergency on any naval, military or air force service, and a person whose employment in the service of His Majesty in connection with war or any emergency is such as in the opinion of the Secretary of State to entitle him to relief from disqualification on account of absence, shall not cease to be a member of a local authority by reason only of failure to attend meetings of the authority if the failure is due to that employment;
- (c) in calculating in relation to a member of a county council, the said period of six consecutive months, no account shall be taken of any period before the date of the commencement of this Act.

(2) A local authority may grant leave of absence to a member of the authority, on his application and on reasonable cause shown, for any period not exceeding at any one time twelve months.

(3) The provisions of this section shall not apply to a person who is ex-officio a district councillor in respect of his membership of a county council.

*Casual Vacancies.*

PART II.

—cont.

58.—(1) A casual vacancy in the office of member of a local authority shall arise or be deemed to have arisen in any of the following events; that is to say—

- (a) on the death of a member, in which case the vacancy shall be deemed to have arisen, if the death occurred in the United Kingdom, the Channel Islands or the Isle of Man, on the date of death, and if the death occurred elsewhere on the date on which the clerk of the authority is informed of the death;
- (b) on the resignation of a member, in which case the vacancy shall be deemed to have arisen on the date on which the notice of resignation takes effect in accordance with the provisions of the last but one preceding section;
- (c) on a county councillor representing a burgh ceasing to be a county councillor by reason of his ceasing to be a town councillor, in which case the vacancy shall be deemed to have arisen on the date on which he ceases to be a town councillor;
- (d) in the case of the election of a person who is not qualified to be elected or who is disqualified for being elected a member of a local authority or of a member of a local authority ceasing to be qualified to be a member of the authority or becoming disqualified for being a member of the authority, on the office being declared to be vacant in accordance with the provisions of section fifty-three of this Act, in which case the vacancy shall be deemed to have arisen on the date on which the office has been declared to be vacant by the sheriff or the authority or, where an appeal is taken under that section, on the date on which the appeal is determined;
- (e) on the full number of members of a local authority not being elected at an election, in which case the vacancy shall be deemed to have arisen on the date of the election;
- (f) on an election of a member being declared void on an election petition or otherwise, in which case the vacancy shall be deemed to have arisen on the date of the decision of the court;
- (g) on a vacancy arising from any other cause (not being a vacancy arising by reason of retirement in ordinary course or a vacancy to which the provisions of subsection (2) of this section apply), in which case the

PART II.  
—cont.

vacancy shall be deemed to have arisen on the date on which the authority determine that a vacancy has arisen.

(2) Where a person is both a county councillor representing a burgh within the county and a county councillor for an electoral division of the county, a casual vacancy shall be deemed to have arisen in the office of county councillor representing the burgh, except where all the town councillors of a burgh are county councillors by virtue of being town councillors, in which case the casual vacancy shall be deemed to have arisen in the office of county councillor for the electoral division, and the vacancy for the purposes of this section shall be deemed to have arisen on the date of election by the town council or the date of election for the electoral division, whichever is the later.

Filling of  
casual  
vacancies.

59.—(1) Subject to the provisions of this section, on a casual vacancy occurring in the office of a member of a local authority, the authority shall, as soon as practicable after the date on which the vacancy shall be deemed to have arisen (not being more than six months thereafter in the case of a county council or a district council and not being more than three months thereafter in the case of a town council) determine, at a meeting of the authority the notice of which specifies the consideration of the filling of the casual vacancy as an item of business, whether the authority shall themselves elect a person to fill the vacancy or whether they shall order that an election by the electors be held for the purpose, and if they determine themselves to elect a person to fill the vacancy they shall at the said meeting or at a meeting held as soon as practicable thereafter elect a person.

(2) A person elected by a town council to fill a casual vacancy shall hold office only until the day of the annual election of town councillors next after the date on which the vacancy is deemed to have arisen, and an election by the electors shall then be held to fill the vacancy:

Provided that where a vacancy is deemed to have arisen within the period of five weeks preceding the day of the annual election then, unless the vacancy arose in the office of a town councillor due to retire at that election, the person elected by the council shall hold office until the day of the next succeeding annual election.

If the councillor whose office was filled by the election by the town council under this section was due to retire in ordinary course at the annual election at which the person so elected is due to retire, that person shall be reckoned as one of the councillors due to retire at that election but, save as aforesaid, he shall not be so reckoned.

(3) If a local authority order that an election by the electors be held for the purpose of filling the vacancy, the election shall be held as soon as practicable thereafter on a date to be fixed by the authority and shall be conducted in the same manner as an election in ordinary course, and the provisions of this Act with respect to such an election shall apply subject to any necessary modifications and to the substitution for the dates set out in Part II of the Second Schedule to this Act of such dates as the returning officer shall fix:

Provided that in the case of a vacancy in the office of an elected district councillor the date of the election shall be fixed by the county council who shall appoint a returning officer for the purposes of the election.

(4) Where a casual vacancy is deemed to have arisen in the office of a member of a county council or district council within nine months and of a town council within four months before the next election in ordinary course, the local authority may at the meeting at which they consider the filling of the vacancy determine not to take action with respect to filling the vacancy but to direct that the vacancy shall be filled at the next election in ordinary course:

Provided that—

- 91
- (a) if, upon a vacancy, or a number of simultaneous vacancies so occurring, the total number of unfilled vacancies in the membership of the authority exceeds one-third of the whole number of members, the foregoing provisions of this subsection shall not apply; and
  - (b) subject to the provisions of paragraph (a) hereof, if in the case of a town council the vacancy is deemed to have arisen within the period commencing on the eighth Tuesday and ending on the fifth Tuesday (both days inclusive) preceding the day of the annual election, the vacancy shall not be filled except by election at the time of the next annual election.

(5) Where more than one casual vacancy in the office of a town councillor is filled at the same election, whether the election is by the town council or by the electors, or where at an annual election two or more vacancies are to be filled, then, as between the members elected, the person elected by the smallest number of votes shall, for the purpose of ascertaining the councillors due to retire, be deemed to have been longest in office, and the person elected by the next smallest number of votes shall be deemed to have been the next longest in office, and so with respect to the others, and if there has not

PART II.  
—cont.

been a contested election, or if there has been an equality of votes between persons elected, or if any doubt arises, the order of retirement shall be determined by lot.

(6) Where under this section any question is required to be determined by lot, the lots shall as soon as practicable after the question has arisen be drawn at a meeting of the town council.

(7) At any election to fill a casual vacancy (other than such an election combined with an ordinary election of town councillors) any person may, notwithstanding anything in this Act, vote in any electoral division or ward for which he is registered as a local government elector.

(8) Save as otherwise provided in this section, a person elected to fill a casual vacancy in the office of town councillor shall, for the purposes of ascertaining the councillors due to retire at an annual election, be treated as holding office from the date of his election under this section.

(9) Such of the foregoing provisions of this section shall not apply as are inconsistent with the provisions of a local Act.

(10) The foregoing provisions of this section shall not apply in the case of a casual vacancy in the office of county councillor representing a burgh, and where any such casual vacancy occurs the town council of the burgh shall, as soon as practicable (not being more than three months) after the date on which the vacancy shall be deemed to have arisen, appoint a person to fill the vacancy, and such person shall hold office until the time of the next election in ordinary course by the town council of representatives to the county council under section twelve of this Act.

*Miscellaneous Provisions as to Elections.*

Right of candidate to use of school room, &c. at election.

60.—(1) A candidate at an election of a county councillor for any electoral division of a county or of town councillors of a burgh or of an elected district councillor shall be entitled for the purpose of holding public meetings in furtherance of his candidature to use free of charge, after reasonable notice and at all reasonable times during the period commencing on the day on which the notice of election is given and ending on the day preceding the day of election, any suitable room in a grant-aided school situated in the electoral area in which he is a candidate (or if there is no such school in the area, in such a school in an adjacent electoral area), or any suitable room the expense of maintaining which is payable by a district council:

Provided that—

PART II  
—cont.

- (a) nothing in this section shall authorise the use of a room used as part of a private dwelling-house or authorise any interference with the use of a school for educational purposes; and
- (b) any expenses reasonably incurred by the authority or person having control over the room or any damage done to the room or its contents or to the school in consequence of the room being so used shall be defrayed by the person by whom or on whose behalf the meeting was convened.

(2) Any question as to what is reasonable or suitable under this section shall be determined where the question arises in relation to a room in a school by the authority or person having control of the school, and in the case of a room maintained by a district council by that council.

61.—(1) An election held under this Act shall not be invalidated—

Election not  
invalidated  
by non-  
compliance in  
certain cases.

- (a) by non-compliance with the provisions of the Second Schedule to this Act or by mistake in the use of any of the forms therein mentioned, if it appears to the court having cognizance of the question that the election was conducted in accordance with the principles laid down in this Act and that the non-compliance or mistake did not affect the result of the election; or
- (b) by reason of a defect in the title or want of title of the person presiding at or conducting the election if that person was then in actual possession of or acting in the office giving the right to preside at or conduct the election.

(2) Any misnomer or inaccurate description of any person or place named in any register of electors, nomination paper, ballot paper or notice shall not affect the full operation of that document with respect to that person or place in any case where the description of the person or place is such as to be commonly understood.

(3) The election of a member of a local authority shall not be affected by reason only of any nullity or irregularity in the election of any other member of the authority.

62. An election held under this Act or under any enactment repealed by this Act, unless questioned by election petition within the period fixed by law for those proceedings, shall be deemed to have been to all intents a good and valid election.

Election valid  
unless  
questioned  
by election  
petition.

## PART II.

—*cont.*

Election where  
poll counter-  
manded on  
account of  
death of  
candidate.

63. If at an election of members of a local authority the poll is countermanded in accordance with the provisions of the Second Schedule to this Act by reason of the death of a candidate before the commencement of the poll or in accordance with any enactment repealed by this Act, the returning officer shall order an election to be held as soon as practicable thereafter on a date to be fixed by him, and the provisions of this Act with respect to the holding of elections shall apply with the substitution of such dates as the returning officer may fix for the dates set forth in Part II of the Second Schedule to this Act and subject to any other necessary modifications and adaptations, so however that no fresh nomination shall be necessary in the case of a candidate who remained validly nominated for the election which was not held.

Provision in  
case of non-  
election of  
local author-  
ity, &c.

64.—(1) If for any reason a local authority or members of a local authority are not elected in accordance with the provisions of this Act and the case is not otherwise provided for in this Act, or if there is for any reason no legally constituted local authority for any area or the number of members of a local authority then in office is less than the quorum ascertained in accordance with the provisions of the Third Schedule to this Act, the Secretary of State may by order direct the holding of an election for filling such vacancies as exist, and (except where the election relates to county councillors representing a burgh) the election shall be held as soon as practicable thereafter on a date to be fixed by the Secretary of State, and the provisions of this Act with respect to the holding of elections shall apply with the substitution of such dates as the Secretary of State may fix for the dates set forth in Part II of the Second Schedule to this Act and subject to such other modifications and adaptations as may be specified in the order.

(2) The Secretary of State may by order make such provision as seems to him expedient for authorising any person to act in place of a local authority pending the election of members of the authority under the preceding subsection.

Provisions as  
to ballot boxes.

65.—(1) Any ballot boxes, fittings and compartments provided for parliamentary elections out of moneys provided by Parliament may on request be lent to the returning officer at an election under this Act upon such terms and conditions as the Treasury may determine.

(2) Any ballot boxes, fittings and compartments provided by or belonging to a local authority shall on request and if not required for immediate use by that authority, be lent to the returning officer at an election held under this Act on such terms and conditions as may be agreed.



66. Save as otherwise expressly provided, nothing in this Act shall affect the provisions of the Elections (Scotland) (Corrupt and Illegal Practices) Act, 1890.

PART II.  
—*cont.*  
Saving for Elections  
(Scotland) (Corrupt  
and Illegal  
Practices) Act, 1890.

### Offences.

67.—(1) If a person whose duty it is to act as returning officer at or to take part in the conduct of an election under this Act neglects or refuses to conduct the election or to declare the result of or to take part in the conduct of the election as required by this Act, he shall for every such offence be liable on summary conviction to a fine not exceeding one hundred pounds.

Failure of  
returning  
officer, &c.  
to conduct  
elections.

(2) If any returning officer or officer appointed by the returning officer under the Second Schedule to this Act or the partner or clerk of any such officer shall act as a polling or counting agent under the said Schedule in contravention of the provisions of paragraph 48 of Part III of that Schedule, he shall be liable on summary conviction to a fine not exceeding fifty pounds.

(3) If any person acts in contravention of, or fails to comply with, any of the provisions of paragraph 53 of Part III of the Second Schedule to this Act, he shall in respect of each contravention or failure be liable on summary conviction to imprisonment for a term not exceeding six months.

68. If any person—

- (a) forges or fraudulently defaces or fraudulently destroys any nomination paper or delivers to the returning officer or the town clerk, as the case may be, any nomination paper knowing it to be forged; or
- (b) signs any nomination paper as candidate or proposer or as a solicitor on behalf of a candidate, knowing any of the statements contained therein to be false; or
- (c) forges or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or
- (d) without due authority supplies a ballot paper to any person; or
- (e) fraudulently puts into a ballot box any paper other than the ballot paper which he is authorised by law to put in; or
- (f) fraudulently takes out of the polling station any ballot paper; or

Offences in  
relation to  
nomination  
papers, ballot  
papers and  
ballot boxes.

PART II.  
—cont.

- (g) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of an election; or
- (h) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts;

he shall—

- (i) if he is a returning officer or an officer appointed to assist in taking the poll or counting the votes, be liable on conviction on indictment to imprisonment for a term not exceeding two years; and
- (ii) in any other case be liable on conviction on indictment or on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding fifty pounds or to both such imprisonment and fine.

Offence of  
personation.

69. If any person—

- (a) applies for a ballot paper in the name of some other person, whether that name be the name of a person living or dead or of a fictitious person; or
- (b) having voted once at an election applies at the same election for a ballot paper in his own name;

he shall be guilty of the crime of personation and shall be liable—

- (i) on conviction on indictment to imprisonment for a period not exceeding two years; or
- (ii) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding fifty pounds or to both such imprisonment and fine.

Penalty for  
voting in more  
than one elec-  
toral division  
or ward.

70. If any person, at an election held under this Act—

- (a) of county councillors of a county, votes in more than one electoral division in the county; or
- (b) of town councillors of a burgh, votes in more than one ward of the burgh; or
- (c) of elected district councillors of a district, votes in more than one electoral division or ward in the district; or

(d) asks for a ballot paper for the purpose of so voting; he shall (except in the case to which subsection (7) of section fifty-nine of this Act applies) be liable on summary conviction to a fine not exceeding fifty pounds:

Provided that the fact that any person has asked for a ballot paper in any of the said electoral areas in circumstances which entitled him only to mark a tendered ballot paper in pursuance of paragraph 23 of Part III of the Second Schedule to this Act, shall not, if he does not exercise that right, prevent his voting or asking for a ballot paper in another electoral area.

PART II.  
—cont.

### PART III.

#### MEETINGS, PROCEEDINGS AND OFFICES OF LOCAL AUTHORITIES.

##### *Meetings and Proceedings.*

71. Subject to the provisions of this Part of this Act and of any local Act, the provisions of Parts I to IV of the Third Schedule to this Act relating to the meetings and proceedings of local authorities and of committees and sub-committees thereof and the meetings and proceedings of the magistrates of a burgh shall have effect.

Meetings and proceedings of local authorities, &c.

72.—(1) A county councillor representing a small burgh shall not be entitled to exercise a deliberative vote or to submit a motion or, except with leave of the meeting, to take part in a discussion in respect of any matter relating solely to the exercise of a function which the county council are not entitled to exercise within the burgh.

Voting by county councillors.

(2) A county councillor representing a large burgh shall not be entitled to exercise a deliberative vote or to submit a motion or, except with leave of the meeting, to take part in a discussion except in respect of a matter relating solely or, in the opinion of the person presiding at the meeting, mainly to the exercise of a function which the county council are entitled to exercise within the burgh or to a service which the county council under this Act or any other enactment or any statutory order or by arrangement provide within the burgh.

(3) Notwithstanding anything in this section, a county councillor representing any burgh whether large or small shall be entitled to exercise a deliberative vote, submit a motion and take part in a discussion in respect of any matter relating to the change of name of the county.

(4) For removal of doubts it is hereby declared that a county councillor representing any burgh shall not be entitled to exercise a deliberative vote or to submit a motion or, except with leave of the meeting, to take part in a discussion in respect of any matter relating to the election of a county councillor for an electoral division in the county, or an extension of boundaries of a burgh, or the formation of a new burgh, or the dissolution of a small burgh.

PART III.  
—cont.

(5) Any reference in this Act or in any other enactment to the whole number of members of a county council or to every member of a county council or to the whole number of councillors or members of a county council or any such reference to the like effect or to a specified portion thereof shall as regards any matter be construed as a reference to the whole number of county councillors entitled to exercise deliberative votes in respect of that matter or to a specified portion thereof, as the case may be, so however that for the purpose of ascertaining the number entitled to exercise deliberative votes in the matter members who are disabled from voting by reason only of the immediately succeeding section shall not be excluded.

For the purpose of ascertaining the whole number of county councillors entitled to exercise deliberative votes in respect of any matter under this subsection where the question arises otherwise than at a meeting, county councillors representing a large burgh shall be deemed to be entitled to exercise deliberative votes in respect of any matter if the convener of the county is of the opinion that the matter relates mainly to the exercise of a function which the county council are entitled to exercise within the burgh or to a service which the county council provide within the burgh.

A decision by the convener under this subsection with respect to a matter in relation to a meeting shall be binding on the chairman of the meeting at which that matter is the subject of consideration, and a decision by the chairman of a meeting with respect to a matter under subsection (2) of this section shall be binding on the chairman of any adjourned meeting at which that matter is the subject of consideration.

(6) Nothing in this section shall be construed as preventing the convener of the county or the vice-convener of a county or any other county councillor from presiding at a meeting of the county council or a committee or sub-committee thereof, while transacting any business whatsoever or while so presiding from taking part in a discussion in respect of any matter, notwithstanding that such convener, vice-convener or other councillor is a representative of a burgh whether large or small.

Disability of member of local authority for voting on account of interest in contract, &c.

73.—(1) If a member of a local authority has any pecuniary interest direct or indirect in any contract or proposed contract or other matter and is present at a meeting of the authority at which the contract or other matter is the subject of consideration, he shall at the meeting as soon as practicable after the commencement thereof disclose the fact and shall not take part in the consideration or discussion of or vote on any question with respect to the contract or other matter:

Provided that this section shall not apply to an interest in a contract or other matter which a member may have as a ratepayer or inhabitant of the area or as an ordinary consumer of gas, electricity or water or to an interest in any matter relating to the terms on which the right to participate in any service provided by the authority, including the supply of goods, is offered to the public.

(2) For the purposes of this section, a person shall, subject as hereafter in this subsection provided, be treated as having indirectly a pecuniary interest in a contract or other matter if—

- (a) he or any nominee of his is a member of a company or other body with which the contract is made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or
- (b) he is a partner or is in the employment of a person with whom the contract is made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration:

Provided that a person shall not be treated as so interested—

- (i) by reason only of his being a member of or employed by any public body;
- (ii) by reason only of his being a member of a company or other body, if he has no beneficial interest in any shares or stock of that company or other body.

(3) For the purposes of this section, a member of a local authority who is or has at any time within three months been in receipt of or is an applicant for poor relief from the authority shall be treated as having indirectly a pecuniary interest in the matter of the amount of outdoor poor relief (other than relief in respect of medical needs) to be provided by the authority in the case of any other person.

(4) In the case of married persons living together, the interest of one spouse shall, if known to the other, be deemed for the purposes of this section to be also an interest of that other spouse.

(5) A general notice given in writing to the clerk of the local authority by a member thereof to the effect that he or his spouse is a member or in the employment of a specified company or other body or that he or his spouse is a partner or in the employment of a specified person shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract, proposed contract or other matter relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.

**PART III.**  
—*cont.*

(6) The clerk of the local authority shall record in a book to be kept for the purpose particulars of any disclosure made under subsection (1) of this section and of any notice given under subsection (5) thereof, and the book shall be open at all reasonable hours to the inspection of any member of the authority.

(7) If any person fails to comply with the provisions of subsection (1) of this section, he shall for every offence be liable on summary conviction to a fine not exceeding fifty pounds, unless he proves that he did not know that a contract, proposed contract or other matter in which he had a pecuniary interest was the subject of consideration at the meeting.

(8) In any case in which the number of members of a local authority disabled by the provisions of this section at any one time would be so great a proportion of the whole as to impede the transaction of any particular item of business, the Secretary of State may, on the application of the authority or otherwise and subject to such conditions as he may think fit to impose, remove any disability imposed by this section as respects such business or, with the consent of the authority and after such inquiry as he may direct, himself transact the business on their behalf—any business so transacted being of full force and effect and binding upon the authority—and the Secretary of State may also, on any such application or otherwise and subject to such conditions as he may think fit to impose, remove any disability in any other case in which it appears to him that it is in the interests of the inhabitants of the area that he should do so:

Provided that notwithstanding anything in this section every member of the authority may take part in the consideration or discussion of and vote on the question whether any such application shall be made or any such consent granted.

(9) A local authority may by standing orders provide for excluding a member of the authority from a meeting of the authority while any contract, proposed contract or other matter in which he has such an interest as aforesaid is under consideration.

*Halls, Offices and Buildings.*

Provision of  
halls, offices  
and buildings.

74.—(1) A local authority may acquire or provide and furnish and maintain halls, offices and other buildings whether within or without the area of the authority to be used for the purpose of transacting the business of the authority and the business of any other body or court for which the authority is required or authorised by this Act or any other enactment or any statutory order to provide accommodation and for public meetings and assemblies:

Provided that buildings shall not be provided for public meetings and assemblies under this section except with consent of the Secretary of State.

PART III.  
—cont.

(2) The powers conferred by this section shall in the case of a county council be deemed to include power to acquire or provide and furnish and maintain such halls, offices and buildings in conjunction with court-houses under the Sheriff Court-houses (Scotland) Acts, 1860 to 1884, or any local Act.

(3) The expenditure incurred by a county council or a town council under this section shall be defrayed as part of such branch or branches of expenditure as the council determine, having regard to the purpose for which the expenditure is incurred in each case.

(4) Where the town hall of a burgh or the principal offices of the town council are situated outwith the burgh, then notwithstanding anything in this Act or in any other enactment requiring the declaration of the result of an election to be made within the burgh or a dean of guild court or other court for the burgh to be held within the burgh, such declaration may be made or such court may be held at the town hall or principal offices outwith the burgh.

(5) Any hall, offices or other buildings provided by a local authority under this section or under any enactment repealed by this Act for the purpose of transacting the business of the authority may be used for the purposes of concerts or other entertainments which the authority are hereby authorised to provide or which may be provided by any other person, and any such hall, offices or buildings may be let by the authority for those purposes or for the purposes of meetings or bazaars or for other such purposes at such times and in such manner as will not interfere with the purposes for which the hall, offices or buildings are provided, so however that no concert or other entertainment provided by a local authority under this subsection shall include—

- (a) the performance of a stage play: or
- (b) any performance which is in the nature of a variety entertainment or in which scenery theatrical costumes or scenic or theatrical accessories are used; or
- (c) the showing of any cinematograph film, other than a film illustrative of questions relating to health or disease or any function of the authority.

(6) Nothing in this section shall affect the provisions of the Sheriff Court-houses (Scotland) Acts, 1860 to 1884, or any local Act relating to court-houses.

PART III.  
—cont.  
Use of school-  
room for  
district council  
meetings.

75.—(1) A district council shall, for the purpose of any meeting of the council or of any committee or sub-committee thereof or for the purpose of any meeting relating to any of the functions of the council, be entitled to use free of charge after reasonable notice and at all reasonable times any suitable room in a grant-aided school:

Provided that—

- (a) nothing in this section shall authorise the use of a room used as part of a private dwelling-house or authorise any interference with the use of a school for educational purposes; and
  - (b) any expense reasonably incurred by the authority or person having control over the room or any damage done to the room or its contents or to the school in consequence of the room being so used shall be defrayed by the district council.
- (2) Any question as to what is reasonable or suitable under this section shall be determined by the authority or person having control of the school.

#### PART IV.

#### OFFICERS.

##### *Officers of County Council.*

County clerk. 76.—(1) Every county council shall appoint a county clerk who shall be clerk of the council and may pay to him such reasonable salary as they may determine.

(2) Subject to the provisions of this Part of this Act relating to officers holding office at the commencement of this Act, the salary paid to the county clerk shall, unless otherwise agreed between the county council and the county clerk, be deemed to be the remuneration for all business which he may by reason of his office as county clerk be called upon to perform, including any legal, parliamentary or other business which he may transact on behalf of the council.

(3) The county clerk shall hold office during the pleasure of the county council, so however that he shall not be removed from office except by a resolution of the council passed by not less than two-thirds of the members present at a meeting of the council the notice of which specifies the consideration of the removal from office of the county clerk as an item of business.

(4) References in any enactment to the clerk of supply or the county road clerk shall be construed as references to the county clerk, and references to the clerk of the peace in any



enactment relating to functions vested in the county council by this Act or otherwise and previously vested in the justices of the peace shall be construed as references to the county clerk.

PART IV.  
—cont.

77.—(1) Every county council shall appoint a county treasurer who shall be the chief financial officer of the council and may pay to him such reasonable salary as they may determine. County treasurer.

(2) Regulations may be made by the Secretary of State prescribing the qualifications which shall be required to be possessed by any person appointed to the office of county treasurer by a county council, and after the date of the regulations or after such later date as may be therein prescribed a person shall not be appointed to that office unless he possesses such qualifications.

(3) The county treasurer shall hold office during the pleasure of the county council, so however that he shall not be removed from office except by a resolution of the council passed by not less than two-thirds of the members of the council present at a meeting of the council the notice of which specifies the consideration of the removal from office of the county treasurer as an item of business.

78.—(1) Every county council shall appoint a county collector who shall be the collector of rates levied by the council and may pay to him such reasonable salary as they may determine. County collector.

(2) The county collector shall hold office during the pleasure of the county council, so however that he shall not be removed from office except by a resolution of the council passed by not less than two-thirds of the members of the council present at a meeting of the council the notice of which specifies the consideration of the removal from office of the county collector as an item of business.

79.—(1) Every county council shall appoint a medical officer who shall be called the medical officer of health of the county and an officer who shall be called the sanitary inspector of the county, and shall, subject to the approval of the Secretary of State, regulate the duties of the medical officer and sanitary inspector and their relations to each other, and may pay such officers such reasonable salaries as the council may determine. County medical officer of health and county sanitary inspector.

(2) A person shall not be appointed medical officer of health of a county unless he is a registered medical practitioner, and is registered on the medical register as the holder of a diploma in sanitary science, public health or state medicine.

PART IV.  
—cont.

(3) Except with the sanction of the Secretary of State, no person shall be appointed sanitary inspector of a county unless he possesses such qualifications as may be prescribed by the Secretary of State.

(4) The names and addresses of the medical officer of health and the sanitary inspector appointed under this section shall be reported by the county council to the Secretary of State immediately on any such appointment being made.

(5) Subject to the provisions of this Part of this Act relating to officers holding office at the commencement of this Act, the offices of medical officer of health of a county and sanitary inspector of a county shall not be held by the same person or by persons who stand in relation to one another as partners or as employer and employee.

(6) Subject to the provisions of subsection (7) of section eighty-seven of this Act, the medical officer of health of a county or the sanitary inspector of a county shall not hold any other appointment or engage in private practice or employment without the written consent of the county council.

(7) Neither the medical officer of health nor the sanitary inspector of a county shall be removable from office except by or with the sanction of the Secretary of State.

(8) The sanitary inspector of a county shall be the inspector of common lodging-houses within the meaning of the Public Health Acts.

(9) The medical officer of health of a county and the sanitary inspector of a county shall make to the Secretary of State such annual and other reports and returns as he may require, and such reports and returns shall be in such form as he may direct.

(10) A county council may appoint for the purpose of this section two or more medical officers of health or two or more sanitary inspectors:

Provided that—

- (a) there shall be only one person holding the statutory office of medical officer of health for any particular part of the county; and
- (b) there shall, save as hereinafter provided, be only one person holding the statutory office of sanitary inspector for any particular part of the county, so however that the council may, if they consider it necessary, appoint two or more sanitary inspectors for the county or any particular part of the county

so long as there is assigned to each of the sanitary inspectors so appointed a separate specified part of the duties pertaining to the office of sanitary inspector;

PART IV.  
—cont.

and where any appointments are made under this subsection the other provisions of this section shall apply subject to the necessary modifications.

80.—(1) Every county council shall appoint a county surveyor who shall be the county road surveyor for the purposes of the Roads and Bridges Acts, and may pay to him such reasonable salary as they may determine.

County  
surveyor.

(2) References to a district surveyor and to a district in section forty-nine of the Roads and Bridges (Scotland) Act, 1878 (which provides for reports on the condition of highways and estimates of the costs of maintenance) shall be construed as references to the county surveyor and to the county respectively.

41 & 42 Vict.  
c. 51.

(3) The county surveyor shall hold office during the pleasure of the county council, so however that he shall not be removed from office except by a resolution of the council passed by not less than two-thirds of the members present at a meeting of the council the notice of which specifies the consideration of the removal from office of the county surveyor as an item of business.

81.—(1) An assessor under the Valuation Acts appointed by a county council shall hold office during the pleasure of the council, so however that he shall not be removed from office except by a resolution of the council passed by not less than two-thirds of the members present at a meeting of the council the notice of which specifies the consideration of the removal from office of the assessor as an item of business.

County  
valuation  
assessor.

(2) It shall not be lawful for a county council to appoint an officer of Inland Revenue to be assessor under the Valuation Acts or for such an officer to continue to act as assessor without the consent of the Treasury, and where an officer of Inland Revenue is appointed assessor with the consent of the Treasury, the amount of the salary payable to him shall be subject to the approval of the Treasury, and any regulations made with respect to his duties as assessor shall likewise be subject to the approval of the Treasury.

82.—(1) Every county council shall appoint such other officers as the council think necessary for the efficient discharge of the functions of the council.

Appointment  
of other staff.

(2) A county council may pay to every officer appointed by the council under this section such reasonable salary as

PART IV.  
—cont.

they may determine, and every such officer shall hold office during the pleasure of the council.

(3) Nothing in the foregoing provisions of this section shall be deemed to affect the provisions of any enactment or statutory order requiring the appointment of any officer for the purposes of that enactment or order.

(4) Save as otherwise provided in this Part of this Act or in any other enactment or any statutory order relating to the appointment of an officer, a county council may if they think fit appoint two or more persons jointly to fill one office or one person to fill two or more offices under the council, and where two or more persons are appointed jointly to fill an office, then on the death of any of them, unless otherwise provided in the terms of the appointment, the survivors or survivor shall be deemed to be the holders or holder of the office.

Appointment  
of depute or  
interim  
officers.

83.—(1) A county clerk, a county treasurer, a county collector, a medical officer of health of a county, a sanitary inspector of a county, a county surveyor or an assessor under the Valuation Acts appointed by a county council may, and if required by the county council shall, appoint one or more persons approved by the council to act as his depute or deputies, and all things required or authorised by law to be done by or to the officer appointing the depute or deputies may be done by or to any depute so appointed by him, and any reference in this Act or any other enactment or any statutory order to the officer appointing the depute shall, where the depute is acting for the officer, include a reference to the depute.

(2) If the office of any of the officers mentioned in the preceding subsection is vacant or the holder of the office is for any reason unable to act and no depute has been appointed under the provisions of the preceding subsection or the depute so appointed is unable to act, the county council may, notwithstanding any law or practice to the contrary, appoint a person to act temporarily in that office for a period not exceeding six months with power to the council to renew the appointment for a further period not exceeding six months, and all things required or authorised by law to be done by or to any such officer may be done by or to the person appointed to act temporarily in the office of that officer, and any reference in this Act or any other enactment or any statutory order to such officer shall, where a person is acting temporarily in his office under this section, include a reference to the person so acting.

(3) Any depute appointed by an officer under subsection (1) of this section may, notwithstanding that the officer appointing the depute has by reason of death, resignation or other cause ceased to hold office, exercise and discharge the powers and duties of the office until the county council otherwise determine.

(4) A person shall not be appointed a depute medical officer of health or to act in place of a medical officer of health under this section unless he is a registered medical practitioner, nor shall a person be appointed to act temporarily in place of a medical officer of health for a longer period than six months except with the sanction of the Secretary of State.

(5) A person acting under this section as depute or in place of an officer shall be deemed to be an officer of the county council, and the council may pay to the person so acting such reasonable remuneration as they may determine.

(6) A person appointed as a depute under this section shall cease to hold office as depute if either the officer appointing the depute or the county council so determine, but if at the time of his appointment as depute he was an officer of the council or if his duties when acting as depute involve whole-time service with the council he shall not, except where the council so determine, cease to be an officer of the council, and a person appointed to act in place of an officer under this section shall hold office during the pleasure of the county council.

#### *Officers of Town Council.*

84.—(1) Every town council shall appoint a town clerk Town clerk. of the burgh who shall be clerk of the council and may pay to him such reasonable salary as they may determine.

(2) Subject to the provisions of this Part of this Act relating to officers holding office at the commencement of this Act, the salary paid to the town clerk shall, unless otherwise agreed between the town clerk and the town council, be deemed to be the remuneration for all business which he may by reason of his office as town clerk be called upon to perform, including any legal, parliamentary or other business which he may transact on behalf of the council.

(3) Subject to the provisions of this Part of this Act relating to officers holding office at the commencement of this Act, a town clerk shall, notwithstanding any law or practice to the contrary, hold office during the pleasure of the town council, so however that he shall not be removed from office except by a resolution of the council passed by not less than two-thirds of the members present at a meeting of the council specially called for the purpose, by a circular addressed to

PART IV.  
—cont.

the members of the council not less than forty-eight hours nor more than fourteen days before the meeting.

(4) A town clerk, a depute town clerk, or a partner of, or a person in the employment of a town clerk or a depute town clerk shall not act as agent or solicitor or prosecutor—

- (a) on behalf of any party in the trial of any offence in any police court of the burgh; or
- (b) on behalf of any party in any opposed proceedings before the dean of guild court of the burgh unless the court have the assistance as legal assessor of an independent person and, where he acts for a party other than the town council, the sanction of the council has previously been obtained thereto;

and in the event of a contravention of this provision the town clerk or the depute town clerk, as the case may be, shall be forthwith disqualified from holding any office under the council and from being at any time thereafter elected a town councillor, so however that the said disqualification may be removed on the recommendation of the council by an order made by the Secretary of State.

Town  
chamberlain.

85.—(1) Every town council shall appoint a town chamberlain of the burgh who shall be the chief financial officer of the council and may pay to him such reasonable salary as they may determine. Any reference in this Act to the treasurer of a local authority shall in its application to a town council be construed as a reference to the town chamberlain.

(2) Regulations may be made by the Secretary of State prescribing the qualifications which shall be required to be possessed by any person appointed to the office of town chamberlain by a town council, and after the date of the regulations or after such later date as may be therein prescribed a person shall not be appointed to that office unless he possesses such qualifications.

(3) Subject to the provisions of this Part of this Act relating to officers holding office at the commencement of this Act, the offices of town clerk and town chamberlain shall not, except with the sanction of the Secretary of State, be held by the same person or by persons who stand in relation to one another as partners or as employer and employee.

(4) The town chamberlain shall hold office during the pleasure of the town council, so however that he shall not be removed from office except by a resolution passed by not less than two-thirds of the members present at a meeting of the council the notice of which specifies the consideration of the removal from office of the town chamberlain as an item of business.

86.—(1) Every town council shall appoint a burgh collector who shall be the collector of rates levied by the council and may pay to him such reasonable salary as they may determine.

PART IV.  
—cont.  
Burgh collector.

(2) The burgh collector shall hold office during the pleasure of the town council, so however that he shall not be removed from office except by a resolution of the council passed by not less than two-thirds of the members of the council present at a meeting of the council the notice of which specifies the consideration of the removal from office of the burgh collector as an item of business.

87.—(1) Every town council shall appoint a medical officer who shall be called the medical officer of health of the burgh, and an officer who shall be called the sanitary inspector of the burgh, and shall, subject to the approval of the Secretary of State, regulate the duties of the medical officer and sanitary inspector and their relations to each other, and may pay such officers such reasonable salaries as the council may determine.

Burgh medical officer of health and burgh sanitary inspector.

(2) A person shall not be appointed medical officer of health of a burgh unless he is a registered medical practitioner and is registered on the medical register as the holder of a diploma in sanitary science, public health or state medicine.

(3) Except with the sanction of the Secretary of State, no person shall be appointed sanitary inspector of a burgh unless he possesses such qualifications as may be prescribed by the Secretary of State.

(4) The names and addresses of the medical officer of health and the sanitary inspector appointed under this section shall be reported by the town council to the Secretary of State immediately on any such appointment being made.

(5) Subject to the provisions of this Part of this Act relating to officers holding office at the commencement of this Act, the offices of medical officer of health of a burgh and sanitary inspector of a burgh shall not be held by the same person or by persons who stand in relation to one another as partners or as employer and employee.

(6) Subject to the provisions of this Part of this Act relating to officers holding office at the commencement of this Act, the medical officer of health of a large burgh or the sanitary inspector of a large burgh shall not hold any other appointment or engage in private practice or employment without the written consent of the town council.

(7) On any vacancy arising in the post of the medical officer of health of a small burgh, then, unless in any particular case the Secretary of State otherwise agrees, the medical officer

**PART IV.**  
—*cont.*

of health of the county within which the burgh is situated shall be appointed to the office by the town council of the burgh who shall pay to the county council such proportion of the salary and expenses of the officer as the county council and the town council may agree and failing agreement as may be determined by the Secretary of State.

(8) Neither the medical officer of health nor the sanitary inspector of a burgh shall be removable from office except by or with the sanction of the Secretary of State.

(9) The sanitary inspector of a burgh shall be the inspector of common lodging-houses within the meaning of the Public Health Acts.

(10) The medical officer of health of a burgh and the sanitary inspector of a burgh shall make to the Secretary of State such annual and other reports and returns as he may require, and such reports and returns shall be in such form as he may direct.

(11) A town council of a large burgh may appoint for the purposes of this section two or more medical officers of health or two or more sanitary inspectors:

Provided that—

(a) there shall be only one person holding the statutory office of medical officer of health for any particular part of the burgh; and

(b) there shall, save as hereinafter provided, be only one person holding the statutory office of sanitary inspector for any particular part of the burgh, so however that the council may if they consider it necessary appoint two or more sanitary inspectors for the burgh or any particular part of the burgh, so long as there is assigned to each of the sanitary inspectors so appointed a separate specified part of the duties pertaining to the office of sanitary inspector;

and where any appointments are made under this subsection the other provisions of this section shall apply subject to the necessary modifications.

Burgh  
surveyor,  
inspector of  
cleansing and  
inspector of  
lighting.

88.—(1) Every town council shall appoint a burgh surveyor whose duties shall include acting as surveyor of the paving and drainage with respect to which the council exercise any function under any enactment or byelaw:

Provided that this subsection shall not apply where under or in pursuance of a local Act a town council appoint an officer whose functions include the aforesaid functions of the burgh surveyor.

(2) A town council may appoint an inspector of cleansing of the burgh whose duties shall include superintending and



securing compliance with the provisions of the enactments and byelaws relating to cleansing.

(3) A town council may appoint an inspector of lighting of the burgh whose duties shall include superintending and securing compliance with the provisions of the enactments and byelaws relating to lighting.

(4) The town council may pay to the burgh surveyor, the inspector of cleansing and the inspector of lighting such reasonable salaries as they may determine.

(5) The burgh surveyor, the inspector of cleansing and the inspector of lighting shall hold office during the pleasure of the town council, so however that any such officer shall not be removed from office except by a resolution of the council passed by not less than two-thirds of the members present at a meeting of the council the notice of which specifies the consideration of the removal from office of the officer as an item of business.

89.—(1) The town council shall appoint a clerk of the burgh police court of the burgh and may pay to the person so appointed such reasonable salary as they may determine. Clerk of burgh  
police court.

(2) Where in any burgh there are two or more police courts, the town council may appoint more than one clerk of the police court and may pay to each such clerk such reasonable salary as they may determine.

(3) A clerk of the police court shall hold office during the pleasure of the town council.

90.—(1) Every town council shall appoint a burgh prosecutor, and may pay to him such reasonable salary as they may determine. Burgh  
prosecutor.

(2) The burgh prosecutor shall within the burgh have all the powers and privileges pertaining by law to a procurator fiscal.

(3) Subject to the provisions of this Part of this Act relating to officers holding office at the commencement of this Act, neither the offices of town clerk and burgh prosecutor nor the offices of clerk of police court and burgh prosecutor shall be held by the same person or by persons who stand in relation to one another as partners or as employer and employee.

(4) In the absence of the burgh prosecutor or any depute or any person acting temporarily in that office, the magistrate or other person presiding at the police court may appoint a person to act in name and on behalf of the burgh prosecutor at any diet and sign complaints for him, so however that the burgh prosecutor shall not be responsible for the acts of any such person.

PART IV.  
—cont.

(5) A burgh prosecutor shall not be removed from office or have his salary diminished by the town council without consent of the provost or acting chief magistrate of the burgh and the sheriff (not being a sheriff substitute) or, in the case of their differing in opinion, of the Lord Advocate, but a burgh prosecutor may be suspended by the magistrates of the burgh, with consent of the sheriff (not being a sheriff substitute), for a definite period pending any inquiry with a view to his removal:

Provided that this subsection shall not apply in any case where provision is made by a local Act with respect to the removal from office of the burgh prosecutor.

Burgh  
valuation  
assessor.

91.—(1) An assessor under the Valuation Acts appointed by a town council, being a local authority for the purposes of the Valuation Acts, shall hold office during the pleasure of the council, so however that he shall not be removed from office except by a resolution of the council passed by not less than two-thirds of the members present at a meeting of the council the notice of which specifies the consideration of the removal from office of the assessor as an item of business.

(2) It shall not be lawful for a town council to appoint an officer of Inland Revenue to be assessor under the Valuation Acts or for such an officer to continue to act as assessor without the consent of the Treasury, and where an officer of Inland Revenue is appointed assessor with the consent of the Treasury, the amount of the salary payable to him shall be subject to the approval of the Treasury, and any regulations made with respect to his duties as assessor shall likewise be subject to the approval of the Treasury.

Appointment  
of other staff.

92.—(1) Every town council shall appoint such other officers as the council think necessary for the efficient discharge of the functions of the council.

(2) A town council may pay to every officer appointed by the council under this section such reasonable salary as they may determine, and every such officer shall hold office during the pleasure of the council.

(3) Nothing in the foregoing provisions of this section shall be deemed to affect the provisions of any enactment or statutory order requiring the appointment of any officer for the purposes of that enactment or order.

(4) Save as otherwise provided in this Part of this Act or in any other enactment or any statutory order relating to the employment of an officer, a town council may if they think fit appoint two or more persons jointly to fill one office or one person to fill two or more offices under the council, and where two or more persons are appointed jointly to fill an

office, then, on the death of any of them, unless otherwise provided in the terms of the appointment, the survivors or survivor shall be deemed to be the holders or holder of the office.

PART IV.  
—cont.

93.—(1) A town clerk, a town chamberlain, a burgh collector, a medical officer of health of a burgh, a sanitary inspector of a burgh, a burgh surveyor, an inspector of cleansing of a burgh, an inspector of lighting of a burgh, a clerk of police court, a burgh prosecutor or an assessor under the Valuation Acts appointed by a town council may, and if required by the town council shall, appoint one or more persons approved by the town council to act as his depute or deputies, and all things required or authorised by law to be done by or to the officer appointing the depute or deputies may be done by or to any depute so appointed by him, and any reference in this Act or any other enactment or any statutory order to the officer appointing the depute shall, where the depute is acting for the officer, include a reference to the depute.

Appointment  
of depute or  
interim  
officers.

(2) If the office of any of the officers mentioned in the preceding subsection is vacant or the holder of the office is for any reason unable to act and no depute has been appointed under the provisions of the preceding subsection or the depute so appointed is unable to act, the town council may, notwithstanding any law or practice to the contrary, appoint a person to act temporarily in that office for a period not exceeding six months with power to the council to renew the appointment for a further period not exceeding six months, and all things required or authorised by law to be done by or to any such officer may be done by or to the person appointed to act temporarily in the office of that officer, and any reference in this Act or any other enactment or any statutory order to such officer shall, where a person is acting temporarily in his office under this section, include a reference to the person so acting.

(3) If the office of town clerk is vacant, or the town clerk is for any reason unable to act and no depute or other person to act temporarily in place of the town clerk has been appointed, or the depute or person so appointed is unable to act, any function of the town clerk relating to the issue of notices of meetings of the council or of committees thereof or the conduct of elections may be discharged by, and any intimations to the town clerk may be made to, the provost or acting chief magistrate.

(4) Any depute appointed by an officer under subsection (1) of this section may, notwithstanding that the officer appointing the depute has by reason of death, resignation or other cause ceased to hold office, exercise and discharge the

**PART IV.**  
*—cont.*

powers and duties of the office until the town council otherwise determine.

(5) A person shall not be appointed a depute medical officer of health or to act in place of a medical officer of health under this section unless he is a registered medical practitioner, nor shall a person be appointed to act in place of a medical officer of health for a longer period than six months except with the sanction of the Secretary of State.

(6) A person acting under this section as depute or in place of an officer shall be deemed to be an officer of the town council, and the council may pay to the person so acting such reasonable remuneration as they may determine.

(7) A person appointed as a depute under this section shall cease to hold office as depute, if either the officer appointing the depute or the town council so determine, but if at the time of his appointment as depute he was an officer of the Council or if his duties when acting as depute involve whole-time service with the council he shall not, except where the council so determine, cease to be an officer of the council, and a person appointed to act in place of an officer under this section shall hold office during the pleasure of the town council.

*Officers of District Council.*

District  
council  
officers.

94.—(1) Every district council shall appoint a clerk of the council and a treasurer of the council and such other officers as the council think necessary for the efficient discharge of the functions of the council, and may pay to the clerk, treasurer and other officers appointed under this section such reasonable salaries as the council may determine.

(2) The clerk, the treasurer and every other officer appointed under this section shall hold office during the pleasure of the council, so however that neither the clerk nor the treasurer shall be removed from office except by resolution of the council passed by not less than two-thirds of the members of the council present at a meeting of the council the notice of which specifies the consideration of the removal from office of the officer as an item of business.

(3) A clerk or a treasurer of a district council may, and if required by the council, shall, appoint a person approved by the council to act as his depute, and if either of the said offices is vacant or the holder of the office is unable to act and there is no depute acting, the district council may appoint a person to act temporarily in the office for a period not exceeding six months, with power to the council to renew the appointment for a further period not exceeding six months,

and all things required or authorised to be done by or to any such officer may be done by or to the depute or person appointed to act temporarily in the office, and any reference in this Act or any other enactment or any statutory order to the principal officer shall include a reference to the depute or person acting in the office.

(4) Nothing in this section shall be deemed to affect the provisions of any enactment or statutory order requiring the appointment of any officer for the purposes of that enactment or order.

*Officers of Joint Committee or Joint Board.*

95. A joint committee or joint board may, subject to the agreement, order or other document regulating the joint committee or joint board or in the case of a joint committee or joint board appointed under any enactment, other than this Act, or any statutory order subject to that enactment or statutory order, appoint such officers as the committee or board think necessary for the efficient discharge of the functions of the committee or board and may pay to such officers such reasonable salaries as the committee or board may determine, and any officers so appointed shall hold office during the pleasure of the committee or board.

Officers of  
joint com-  
mittee or joint  
board.

*General.*

96. In arranging the terms of service of an officer appointed under this Part of this Act, regard shall be had to the provisions of the Local Government Superannuation (Scotland) Act, 1937, or any other enactment or any scheme relating to superannuation allowances which is applicable to the officer, and any provision in this Act relating to the tenure of office of an officer under a local authority shall not affect any right or obligation of the officer to retire on attaining any specified age or on the happening of any specified event in pursuance of the said Act of 1937 or such other enactment or scheme.

Regard to be  
had to  
enactments  
relating to  
superannua-  
tion.

1 Edw. 8. & 1  
Geo. 6. c. 69.

97.—(1) A local authority may regulate the duties of officers employed by the authority under this Act or any other enactment or any statutory order and the relations of these officers to each other, so however that nothing done under this subsection shall be contrary to the provisions of this Act or any other enactment or any statutory order with respect to the employment of any officer for the purposes thereof.

Local  
authority may  
regulate duties  
of officers, &c.

(2) A local authority may suspend any officer of the authority:

Provided that this subsection shall not apply in the case of any officer of the authority with respect to whose suspension or removal from office provision is made by any other enactment.

PART IV.  
—cont.  
Security to  
be given by  
officers.

98.—(1) Every local authority in the case of each of the treasurer, the collector, and such other officers as the Secretary of State may prescribe shall, and in the case of any other officer employed by them may, require the officer to obtain in name of the authority from any company accepted by the Court of Session as cautioner for a judicial factor appointed by the court security for the faithful execution of his office and for his duly accounting for all money or property which may be entrusted to him to such amount as the local authority think sufficient, not being less in the case of a treasurer or a collector of a county council or a town council than one thousand pounds.

(2) The provisions of the foregoing subsection shall apply in the case of an officer of a local authority holding office at the commencement of this Act, except in so far as security has been provided by him which complies with that subsection.

(3) If any officer of a local authority fails to provide security in accordance with subsection (1) of this section within three months after the date on which the authority have required him to do so, he shall be deemed to have resigned from his office at the expiration of the said period of three months.

(4) A local authority may, in the case of a person who is not employed by them but who or whose employees are or are likely to be entrusted with the custody or control of money or property belonging to the authority, require such person to obtain in name of the authority or themselves take from any such company as aforesaid such security as they think sufficient for all such money or property being duly accounted for.

(5) The local authority shall defray the premium in respect of any security taken under this section.

(6) Every such deed of security shall be delivered to and remain in the custody of the clerk of the authority or other officer designated by the authority for the purpose and shall be produced by the clerk or other officer to the auditor at the audit of the accounts of the authority, and the auditor shall in each case report whether in his opinion security of a sufficient amount has been provided and whether the premiums payable have been duly paid.

Apportionment of loss due to defalcation of officer of local authority.

99. If any officer of a local authority becomes insolvent and the sums for which he is accountable are not fully paid by or recovered from him or the company providing security for his intromissions, the deficiency shall be defrayed as part of such branch or branches of expenditure of the authority or out of funds managed by the authority (including in the

case of a burgh having a common good the common good of the burgh) as the authority may determine or partly in one way and partly in the other, having regard to the circumstances of the case.

PART IV.  
—cont.

100. For removal of doubts it is hereby declared that, notwithstanding any provision in this Act or any other enactment or any statutory order that a person holding any office shall hold the office during the pleasure of a local authority, there may be included in the terms on which he holds the office a provision that the appointment shall not be terminated by either party without giving to the other party such reasonable notice as may be agreed, and where at the commencement of this Act an officer of a local authority holds office upon terms which purport to include such a provision, that provision shall as from the commencement of this Act be deemed to be valid.

Notice of termination of appointments held during pleasure.

101. It shall not be lawful for a local authority or for a committee or sub-committee of the authority (including any committee or sub-committee to which section fifty-two of this Act applies) or for a joint committee or joint board containing persons appointed by the authority to appoint to any paid office in the gift or disposal of the authority or of the committee or sub-committee or of the joint committee or joint board, as the case may be, a person who is or has within six months prior to the date of appointment been a member of the authority or a person who is or has within six months prior to the date of appointment been a partner in business of the person who is or has within the said six months been a member of the authority.

Member of local authority not to be appointed officer of authority or of committee or joint committee or joint board.

102.—(1) If it comes to the knowledge of an officer employed by a local authority under this Act or any other enactment or any statutory order that a contract in which he has any pecuniary interest whether direct or indirect (not being a contract to which he is himself a party) has been or is proposed to be entered into by the authority, he shall as soon as practicable give notice in writing to the authority of the fact that he is interested therein:

Disclosure by officers of interest in contracts.

Provided that this subsection shall not apply to an officer other than the clerk or treasurer of the authority, unless the contract relates to a matter in connection with which the officer is employed by the authority and the officer is normally consulted by the authority or by members thereof in connection with such contracts.

For the purposes of this subsection an officer shall be treated as having indirectly a pecuniary interest in a contract

PART IV.  
—cont.

or proposed contract if he would have been so treated by virtue of subsection (2) or subsection (4) of section seventy-three of this Act had he been a member of the authority.

(2) An officer of a local authority shall not under colour of his office or employment exact or accept for himself any fee or reward whatsoever other than his proper remuneration.

(3) The provisions of subsections (5) and (6) of section seventy-three of this Act shall subject to any necessary modifications apply in the case of an officer of a local authority as they apply in the case of a member of the authority, so however that the book mentioned in the said subsection (6) shall be open to the inspection only of any member or the clerk of the authority.

(4) If any person fails to comply with subsection (1) or contravenes any of the provisions of subsection (2) of this section he shall be liable on summary conviction to a fine not exceeding fifty pounds.

(5) References in this section to a local authority shall include references to a committee or sub-committee of the authority (including any committee or sub-committee to which section fifty-two of this Act applies) or to a joint committee or joint board.

Protection for  
officer of local  
authority  
acting in  
execution of  
duty.

103.—(1) An officer of a local authority shall not be personally liable in respect of any act done by him in the execution of any enactment or statutory order relating to a function of the authority and within the scope of his employment, if he acted reasonably and in the honest belief that his duty under such enactment or statutory order required or entitled him to do it:

Provided that nothing in this subsection shall be construed—

- (a) as relieving a local authority from any liability in respect of acts of their officers, or
- (b) as exempting any officer of a local authority from being surcharged in accordance with the provisions of Part X of this Act.

(2) Where an action has been brought against an officer of a local authority in respect of an act done by him in the execution or purported execution of any such enactment or statutory order and the circumstances are such that he is not legally entitled to require the authority to indemnify him, the authority may nevertheless indemnify him against the whole or a part of any damages or expenses which he may have been ordered to pay or may have incurred if they are satisfied that he honestly believed that the act complained of was within the scope of his employment and that his duty under such enactment or order required or entitled him to do it.



104.—(1) Subject to the provisions of sections ninety-eight and one hundred of this Act, nothing in this Act shall affect the appointment, emoluments, or tenure of office of any officer of a local authority holding office at the commencement of this Act to which office he was duly appointed in accordance with the law in force at the time of appointment.

PART IV.  
—cont.

Savings for  
existing  
officers, &c.

(2) Nothing in this Part of this Act shall affect the terms of any agreement made between a local authority and the Minister of Transport under subsection (2) of section seventeen of the Ministry of Transport Act, 1919, with respect to the appointment, retention or dismissal of any engineer or surveyor of the authority responsible for the maintenance of roads.

9 & 10 Geo. 5.  
c. 50.

## PART V.

### ADMINISTRATIVE SCHEMES, COMMITTEES AND JOINT COMMITTEES.

#### *Administrative Schemes.*

105.—(1) The county council of every county and the town council of every county of a city shall have a scheme setting forth the administrative arrangements made by the council for discharging throughout their area the functions of the council relating to education.

Schemes for  
administration  
of functions in  
county and  
large burgh.

(2) The county council of every county and the town council of every large burgh shall have a scheme setting forth the administrative arrangements made by the council for discharging throughout their area their functions as a local health authority within the meaning of the National Health Service (Scotland) Act, 1947.

10 & 11 Geo. 6.  
c. 27.

(3) The county council of every county and the town council of every large burgh shall have a scheme or schemes setting forth the administrative arrangements made by the council for discharging throughout their area the functions of the council relating to (a) poor law, and (b), in the case of a county council, roads.

Schemes required by this and the two preceding subsections are in this Act referred to as "administrative schemes".

(4) The administrative scheme or schemes approved under section fourteen of the Local Government (Scotland) Act, 1929, and in force in a county or large burgh at the commencement of this Act shall, until revoked or altered by a scheme made under either of the succeeding subsections of this section, be the administrative scheme or schemes for the county or burgh.

Where in the area of any local health authority within the meaning of the National Health Service (Scotland) Act, 1947, there is no administrative scheme for the discharge of their

**PART V.**  
—*cont.*

functions as such an authority in force at the commencement of this Act, paragraph 1 of the Fifth Schedule to the said Act of 1947 shall, until such an administrative scheme comes into force in that area, continue to apply to that authority in like manner as if this Act had not passed.

(5) Any administrative scheme may be revoked or altered by a revised scheme prepared and submitted to the Secretary of State by the council to which it relates, and the Secretary of State may approve that scheme as submitted or with such modifications and amendments as he thinks proper, and on approval it shall have effect, and the council shall discharge their functions in accordance with that scheme if it entirely supersedes the previous administrative scheme, and if it amends the previous scheme, in accordance with the previous scheme as amended by the revised scheme.

Notwithstanding anything in any administrative scheme approved by the Secretary of State before the commencement of this Act, the preparation of the first revised scheme relating to education after the commencement of this Act shall stand referred to the education committee of the council constituted as hereafter in this Part provided.

(6) The Secretary of State may at any time from time to time require any council having an administrative scheme to review any administrative scheme of the council in order that a revised scheme may be submitted by the council for his approval, and the provisions of the immediately preceding subsection shall apply to the revised scheme when submitted. If the council fail to submit a scheme to the Secretary of State within three months from the date of his requirement, he may himself make a scheme, but before making such a scheme he shall publish in a newspaper circulating in the area to which the scheme will relate a notice stating his intention to make such a scheme and that a copy of the draft scheme is open to inspection at a specified place and that representations thereon may be made to him within fourteen days after the publication of the notice, and he shall consider any representations which may be submitted to him within that period, and any scheme so made shall have effect as if it were a scheme submitted by the council and approved by the Secretary of State and may be revoked or altered in like manner as any other scheme in accordance with the provisions of the immediately preceding subsection.

Contents of  
administrative  
scheme for  
education.

9 & 10 Geo. 6.  
c. 72.

**106.—(1)** Every administrative scheme of a council relating to education shall, save as provided in this section, provide for the delegation to the education committee of the council of all functions of the council as education authority whether under the Education (Scotland) Act, 1946, or under any other enactment.

(2) The following functions shall be excluded from the delegation to the education committee as well as the function of raising money by rate or loan which, in accordance with the provision of section one hundred and twenty-four of this Act, may not be delegated to a committee—

- (i) the approval with or without adjustment of the estimates (including supplementary estimates) of capital and revenue expenditure and the authorisation of the expenditure included therein;
- (ii) the power to incur expenditure on behalf of the council other than expenditure previously authorised in accordance with the estimates approved by the council or otherwise; or expenditure necessarily incurred in circumstances of urgency.

(3) The following functions may be excluded from the delegation to the education committee—

- (i) the acquisition and disposal of land: provided that, except in cases of urgency, before acquiring land for, or disposing of land held for, educational purposes, the council shall give the education committee an opportunity of considering the matter and shall receive and consider a report from the committee as to the suitability of the land for the purpose for which it is proposed to acquire it or as to whether the land is no longer required or likely to be required for educational purposes, as the case may be;
- (ii) the appointment, dismissal, remuneration and conditions of service (other than functions) of the director of education and of any deputy or assistant director of education: provided that the council shall have regard to any recommendations made by the education committee with regard to such matters;
- (iii) the remuneration and the conditions of service of staff other than teachers: provided that the council shall have regard to any recommendations made by the education committee with regard thereto;
- (iv) the medical services in schools, junior colleges and other educational establishments provided under the Education (Scotland) Act, 1946; but any arrangements made for the administration of the said services shall be such as to ensure close co-operation between the education committee and the teachers and other officers responsible to that committee on the one hand, and any committee charged with the responsibility for the said services and the officers responsible to that committee on the other;

**PART V.**  
*—cont.*

(v) any function with regard to which the council satisfy the Secretary of State that, having regard to other functions of the council, it is expedient that that function shall not be so delegated: provided that in such a case, and without prejudice to the reference or delegation of the said function to any other committee, the scheme shall provide that the said function shall stand referred to the education committee, and the council or any other committee to whom the function may have been delegated shall not, unless in their opinion the matter is urgent, be entitled to exercise the said function until they have received and considered the report of the education committee thereon.

(4) Every administrative scheme relating to education made after the commencement of this Act shall, except where in the special circumstances of a county the Secretary of State otherwise agrees, provide for the constitution of sub-committees of the education committee for the management of educational establishments and for the functions of such sub-committees in accordance with the provisions of section one hundred and nine of this Act.

(5) Every administrative scheme relating to education shall set forth the functions to be assigned to the director of education.

(6) Every administrative scheme relating to education made by the county council of a county within which a large burgh is included for the purpose of education shall, unless the Secretary of State otherwise directs, include provision for the co-operation of the county council and the town council in the execution by the county council of the functions of the county council as education authority relating to the medical examination, inspection, supervision and treatment, and to the cleansing of pupils attending schools, junior colleges and other educational establishments in the large burgh.

The county council, before making any administrative scheme which includes any provision with respect to the matters mentioned in this subsection, shall consult with the town council of the large burgh, and the Secretary of State before approving any such scheme shall consult with the town council, and any such scheme when so approved shall, so far as it contains provisions made under this subsection, be binding on the town council.

(7) Where the Public Libraries Acts are in operation within any part of the landward area of a county, an administrative scheme of the county council relating to education may provide—

(a) for the administration of the said Acts throughout the areas within which they are in operation being

under the general supervision of the education committee;

PART V.  
—cont.

- (b) for the appointment as a library committee for each of the said areas of the district council of the district or of a committee consisting, to the extent of not less than one-third and not more than one-half, of persons who, not being members of the education committee, are resident within the area; and
- (c) for the functions of the committees under the Public Libraries Acts being exercised by the education committee or the library committees as specified in the scheme;

and where the scheme makes such provision as aforesaid, the provisions of the Public Libraries Acts relating to the appointment of committees shall not apply.

107.—(1) Every administrative scheme relating to the discharge of the functions of the council as a local health authority within the meaning of the National Health Service (Scotland) Act, 1947, shall provide for the appointment of a committee which shall be known as the health committee and, subject as hereinafter provided, all matters relating to the said functions shall stand referred to that committee, and the council before exercising any such function shall, unless in their opinion the matter is urgent, receive and consider a report of the health committee with respect thereto:

Contents  
of other  
administrative  
schemes.

Provided that nothing in this subsection shall prevent the council from referring to any committee appointed by them any matter arising out of and incidental to the said functions which by reason that it relates also to a general service of the council ought, in the opinion of the council, to be so referred, and in that event the provisions of this subsection with respect to matters standing referred shall not apply to any such matter, but before deciding on a proposal for a reference under this proviso the council shall receive and consider a report of the health committee on the proposal.

(2) The administrative scheme relating to poor law may and, if the Secretary of State so requires, shall make provision for the appointment of a committee for the purposes of that scheme and the matters standing referred to that committee, and the council before exercising any function relating to a matter so standing referred shall, unless in their opinion the matter is urgent, receive and consider the report of the committee with respect to the matter in question.

(3) Without prejudice to the provisions of section one hundred and twenty-three of this Act, an administrative scheme relating to poor law or roads made by a county

PART V.  
—cont.

council may provide for the county council appointing to act as agents of the council the town council of any small burgh within the county or the district council of any district within the county or a joint committee of such a town council and district council (of which joint committee the members of the county council representing the burgh and the district shall be members) to carry out the functions specified in the scheme so far as exercisable within the small burgh or district or small burgh and district as the case may be, but subject always to the terms and conditions set forth in the scheme.

(4) An administrative scheme may provide that any form of assistance to which this subsection applies which might be provided either by way of poor relief or by virtue of any enactments other than the Poor Law Acts shall be provided exclusively under and by virtue of the enactments other than the Poor Law Acts and not by way of poor relief, but nothing in this subsection or in any scheme shall diminish or otherwise affect the duty of the council to provide relief for the poor or the right of any poor person to relief under the Poor Law Acts.

The assistance to which this subsection applies shall be the arrangements made for the care of expectant and nursing mothers and children who are not attending a school under the management of an education authority, and who have not attained, or are deemed under section thirty-three of the Education (Scotland) Act, 1946, not to have attained the age of five years, or of blind persons, or the feeding, clothing and treatment of pupils attending schools, junior colleges and other educational establishments, or the care and after care under section twenty-seven of the National Health Service (Scotland) Act, 1947, of persons suffering from illness or mental deficiency, or the maintenance and guardianship of mental defectives placed under guardianship.

(5) Every administrative scheme of a county council relating to roads shall, for the purpose of meeting as far as practicable the interests and conveniences of the county council, the town council of any small burgh concerned, and the inhabitants thereof, make provision with respect to the opening or breaking up of any classified road within the small burgh under the control of the county council, whether by the county council for the purpose of reconstructing, repairing or maintaining the road or by the town council for the purpose of laying, replacing, repairing or maintaining sewers or other like things under the said road, and before making any administrative scheme which includes any provision with respect to the matters mentioned in this subsection the county council shall consult with the town council.

*Certain Statutory Committees of Local Authorities.*

PART V.

—cont.

108.—(1) Every county council and the town council of every county of a city shall have a committee for the purposes of their functions relating to education, which committee shall be known as the education committee and shall be constituted as provided in this section.

(2) Subject to the provisions of this Act, the education committee of every such council as aforesaid existing at the commencement of this Act shall be the education committee of the council, and the scheme relating to the constitution of the education committee made by each such council and approved under section twelve of the Local Government (Scotland) Act, 1929, and in force at the commencement of this Act shall, until revoked or altered as after provided in this section, be the scheme relating to the constitution of the education committee of such council.

(3) The provisions of subsections (5) and (6) of section one hundred and five of this Act (relating to the revocation or alteration of administrative schemes) shall apply as respects a scheme relating to the constitution of an education committee as they apply as respects an administrative scheme, with the substitution of two months for the period of three months mentioned in subsection (6) and subject to any necessary modifications.

(4) Every scheme relating to the constitution of an education committee shall provide—

(a) for the appointment by the council appointing the committee of at least a majority of the committee from persons who are members of the council;

(b) for the appointment by the council of persons of experience in education and of persons acquainted with the needs of the various kinds of schools in the area for which the council act, including—

(i) in all cases at least two persons interested in the promotion of religious instruction in terms of section eight of the Education (Scotland) Act, 1946, nominated by a meeting of representatives of the churches or denominational bodies (other than those having a right to nominate as herein-after in this paragraph provided) having duly constituted charges or other regularly appointed places of worship within the area, and the scheme shall prescribe the constitution of the meeting and the manner of convening it; and

(ii) in the case of a council maintaining any school to which the provisions of section eighteen of the Education (Scotland) Act, 1946, apply,

PART V.  
—cont.

at least one representative nominated by the church or denominational body by whom the teachers in the school are required to be approved as regards religious belief and character;

- (c) for the inclusion of women as well as men among the members of the committee; and
- (d) for the term of office of members of the committee, so however that in the case of a county or a city a different term of office may be fixed for members of the committee who are not members of the town council from that fixed for the other members of the committee.

## Sub-committees for management of educational establishments.

109.—(1) Every administrative scheme of a council relating to education shall, except where in the special circumstances of a county the Secretary of State otherwise agrees, include provisions for the constitution of sub-committees of the education committee for the exercise, subject to any directions given by the council, of such of the functions of management and supervision of educational establishments or groups of educational establishments under the control of the council (including functions relating to attendance thereat) as may be set forth in the scheme. Provision shall be made—

- (a) for the due representation—
  - (i) in the case of every such sub-committee, of the education committee;
  - (ii) in the case of a sub-committee having schools or junior colleges under their management, of the parents of the pupils attending the educational establishments under the management of the sub-committee;
  - (iii) in the case of a sub-committee having junior colleges or local technical colleges under their management, of persons concerned or engaged in crafts, industries, commerce or other employments in the area;
  - (iv) in the case of a sub-committee having under their management educational establishments used wholly or partly for any form of voluntary further education, of persons having experience of such education;
- (b) for the appointment thereto—
  - (i) in the case of every sub-committee, on the nomination of the teachers or other educational staff employed in the educational establishments under the management of the sub-committee, or, failing such nomination, directly, of at least one such teacher or member of such other educational staff;



(ii) in the case of every sub-committee of an education committee of a county council, on the nomination of local bodies (including town and district councils), or, failing such nomination, directly, of persons resident in the locality and otherwise qualified to represent local interests in the management of educational establishments; and

(iii) in the case of any sub-committee, of such other persons as the council consider appropriate, regard being had to the functions to be performed by the sub-committee; and

(c) in the case of a sub-committee having under their management one or more schools to which the provisions of section eighteen of the Education (Scotland) Act, 1946, apply, for the appointment thereto of at least one member in whose selection regard shall be had to the religious belief of the parents of the pupils attending such school or schools.

(2) Where the education authority is a county council, sub-committees shall be reconstituted after each election of the council on such date as the council may fix, being not less than one month or more than two months after such election, and shall remain in office until the next reconstitution, or until the coming into force of a revised scheme relating to the constitution of sub-committees, whichever of these events shall first occur. Where the education authority is the town council of a burgh being a county of a city, the sub-committees shall be reconstituted at such intervals as the Secretary of State may direct.

(3) The provisions of subsection (1) of section one hundred and fourteen of this Act shall not apply to sub-committees appointed under this section.

(4) The provisions of the Education (Scotland) Act, 1918, 8 & 9 Geo. 5. relating to school management committees shall cease to have effect, and any reference in any enactment, scheme, trust deed or other document to a school management committee shall be construed as a reference to a sub-committee appointed under this section. The Secretary of State may by order determine which sub-committee under this section shall exercise the functions of a school management committee under a trust deed or other document. c. 48.

(5) The provisions of Part XVII of this Act so far as relating to the transfer and compensation of officers shall, with the necessary modifications, apply in relation to officers of school management committees affected by the provisions of this section or by anything done thereunder as they apply to officers

PART V.  
—cont.

of local authorities affected by a transfer of functions by this Act.

(6) In this section the expression "school management committee" shall have the meaning assigned to it in the said Education (Scotland) Act, 1918.

Roads  
committee  
in county.

110.—(1) Every county council shall have a committee for the purposes of their functions relating to roads, which committee shall be known as the roads committee.

(2) Subject to the provisions of this Act, the roads committee of every county council existing at the commencement of this Act shall be the roads committee of the council.

(3) Such matters as may be specified in the administrative scheme of the county council relating to roads shall stand referred to the roads committee of the council, and the council before exercising any function relating to a matter so standing referred shall, unless in their opinion the matter is urgent, receive and consider the report of the roads committee with respect to the matter in question.

(4) Save as otherwise provided in this Part of this Act, a county council may delegate to the roads committee of the council, with or without restrictions or conditions as the council think fit, any of their functions relating to roads.

(5) For the purposes of this section the functions of a county council relating to roads shall be deemed to include any functions relating to roads delegated to the council under any enactment.

Health  
committee  
and committee  
for poor law  
purposes.

111.—(1) The health committee may to an extent not exceeding one-third of the members consist of persons not being members of the council who have special knowledge and experience in regard to the functions of the committee.

(2) Save as otherwise provided in this Part of this Act, a council may delegate to the health committee or any committee appointed under the administrative scheme relating to poor law, with or without restrictions or conditions as the council think fit, any of the functions of the council relating to the purposes for which the Committees are appointed or relating to any other matter standing referred to the committee.

(3) Subject to the provisions of this Act, the committee of a council appointed for any of the purposes aforesaid existing at the commencement of this Act shall be the committee of the council for that purpose.

Police com-  
mittee in  
county and  
large burgh  
with police  
force.

112.—(1) Save as in this section provided, every county council shall have a committee for the purposes of their functions relating to police, which committee shall be known as the police committee, and any reference in any Act to the police committee shall in relation to

a county or a county council be construed as a reference to the police committee appointed by the county council, so however that, save as otherwise in this section provided, no appointment by or other decision of the police committee of the council shall be final until the same is confirmed and adopted by the council.

(2) Subject to the provisions of this Act, the police committee of every county council existing at the commencement of this Act shall be the police committee of the council.

(3) Save as in this section provided, the town council of every large burgh having a police force shall have a committee for the purposes of their functions relating to police, and any such council having no such committee at the commencement of this Act shall appoint a committee immediately thereafter.

(4) Such matters relating to police as may be specified in the standing orders of the county council or the town council or as may be otherwise directed by the council shall stand referred to the committee under this section, and the council before exercising any function relating to any matter so standing referred shall, unless in their opinion the matter is urgent, receive and consider the report of the said committee with respect to the matter in question.

(5) Save as otherwise provided in this Part of this Act, a county council or a town council may delegate to the committee under this section, with or without restrictions or conditions as the council think fit, any of their functions relating to police.

(6) The provisions of this section shall not apply in the case of a county council or town council whose areas are amalgamated for police purposes under the Police (Scotland) Act, 1946. 9 & 10 Geo. 6.  
c. 71.

113.—(1) Every local authority shall have a finance committee whose duties shall include— Finance  
committee in  
case of every  
local authority.

- (a) advising the authority on financial matters;
- (b) subject to the directions of the authority, supervising the recovery of moneys due to the authority and generally the whole financial arrangements of the authority; and
- (c) exercising such other functions as are by this Act or any other enactment or any statutory order imposed on the finance committee.

(2) Subject to the provisions of this Act, the finance committee of every local authority existing at the commencement of this Act shall be the finance committee of the authority, and any local authority having no such committee at the commencement of this Act shall appoint such a committee within six weeks after the commencement of this Act.

PART V.  
—cont.

(3) Subject to the provisions of this Part of this Act, of any administrative scheme thereunder and of section eighty-six of the Education (Scotland) Act, 1946, every local authority shall make provision by standing orders or otherwise with respect to the matters standing referred to the finance committee and the functions of the authority delegated to that committee.

Constitution  
of sub-  
committees of  
committees for  
administrative  
scheme  
functions.

114.—(1) Save as otherwise provided in this Part of this Act, a sub-committee appointed by a committee whose functions are functions to which an administrative scheme relates may, subject to the provisions of the scheme or to any standing orders or any directions by the county council or town council, consist in part of persons not being members of the committee, so however that at least two-thirds of the members of any such sub-committee shall be members of the council:

Provided that—

- (i) a person who is not a member of the council or of the committee shall not be appointed to a sub-committee except with the consent of the council;
- (ii) a sub-committee of the education committee of a council may consist to an extent not exceeding one half of persons who are not members of the council.

(2) Notwithstanding anything in this Part of this Act, the education committee of a council shall not delegate to a sub-committee any function in regard to—

- (a) the appointment, transfer, remuneration or dismissal of teachers; or
- (b) the recognition, establishment or discontinuance of schools, junior colleges and other educational establishments.

*General Power to Appoint Committees and  
Provisions as to Committees.*

Appointment  
of committees,  
and sub-  
committees.

115.—(1) A local authority may appoint a committee for the purpose of any of the functions exercisable by the authority and may refer or direct that there shall stand referred to a committee so appointed all or any matters relating to any such function, and, save as otherwise provided in this Part of this Act, may delegate to a committee so appointed with or without restrictions or conditions as the authority think fit any function so exercisable, and a function so referred or delegated may relate to the whole or a part of the area of the authority:

Provided that nothing in this subsection shall authorise the appointment of a committee for any purpose for which a local authority are authorised or required to appoint a committee by this Act or any other enactment or any statutory order.

(2) A committee appointed by a local authority, whether under the preceding subsection or otherwise, may, subject to the provisions of this Part of this Act or of any administrative scheme thereunder, to any standing orders or to any directions by the authority; appoint sub-committees and may delegate to a sub-committee any of their functions, but only so far as they are authorised to do so by standing orders or any directions by the authority.

116.—(1) Save as otherwise provided in this Act or any other enactment or any statutory order with respect to any committee or sub-committee—

Constitution of committees and sub-committees and term of office of members thereof.

- (a) a committee appointed by a local authority and a sub-committee thereof shall consist wholly of members of the authority; and
- (b) a local authority shall determine the number of members of a committee appointed by the authority and shall fix the term of office of members of the committee.

(2) Every member of a committee appointed by a local authority who at the time of appointment is a member of the authority shall, upon his ceasing to be a member of the authority, also cease to be a member of the committee.

117.—(1) A local authority appointing a committee may appoint a member of the committee to be the convener or chairman thereof and a member to be the vice-convener or vice-chairman.

Proceedings of committees and sub-committees.

(2) A committee of a local authority appointing a sub-committee may, subject to any standing orders or any directions by the authority, appoint a member of the sub-committee to be the convener or chairman thereof and a member to be vice-convener or vice-chairman.

(3) A local authority may make, vary and revoke standing orders respecting the quorum, proceedings (including the keeping of minutes) and place of meeting of committees appointed by the authority and of any sub-committee thereof and other matters mentioned in this section, but subject to any such standing orders or to any directions by the authority, the quorum, proceedings and place of meeting shall be such as the committee or sub-committee, as the case may be, may determine.

(4) Subject to any standing orders or any directions by the local authority, every committee shall report its proceedings to the authority, and every sub-committee shall report its proceedings to the committee appointing the sub-committee.

PART V.  
—cont.

- (5) The foregoing provisions of this section shall apply—
- (a) subject to the provisions of this Act and of any administrative scheme which may be applicable; and
  - (b) in the case of a committee or sub-committee appointed under an enactment other than this Act or any statutory order or a committee appointed under this Act but exercising the functions of a committee provided for under an enactment other than this Act or a statutory order, subject to the provisions of that other enactment or that statutory order.

*Combination of Local Authorities.*

Combination of counties of Perth and Kinross and of Moray and Nairn for certain purposes.

118.—(1) There shall be combined—

- (i) the county of Kinross with the county of Perth, and
- (ii) the county of Nairn with the county of Moray,

for every purpose for which any small burgh is by virtue of the Local Government (Scotland) Act, 1929, included within a county and for any other purpose for which any small burgh is by virtue of any enactment or statutory order subsequent to the said Act of 1929 included within a county but not for any other purpose, and the provisions of subsections (2), (3), (4) and (5) of this section shall have effect for the purposes of such combination.

(2) The members of the county councils of the two counties forming the combined county shall form a joint county council for the combined county.

(3) The combined county and the joint county council shall be the county and the county council respectively for the purposes of the provisions of Part III of the Local Government (Scotland) Act, 1929, relating to the county apportionment and the General, Additional and Supplementary Exchequer Grants, and the separate counties and the county councils thereof shall be the counties and the county councils respectively for the purposes of the provisions of the said Part of the said Act relating to the Landward General Exchequer Grants, and the other provisions of the said Part shall have effect accordingly.

(4) The expenses of the joint county council, so far as requiring to be apportioned and allocated between the landward parts of the two separate counties, shall be so apportioned and allocated between the two county councils in like manner as expenses are apportioned and allocated for the purpose of ascertaining the contributions of small burghs to a county council, and the provisions of Part XI of this Act relating to requisitions by county councils to town councils of small burghs shall, subject to the necessary modifications, apply to the sums so apportioned and allocated.

(5) The joint county council may, subject to the provisions of this Part of this Act and of their administrative schemes, delegate any of their functions to the county council of either county as if such council were a committee of the joint county council.

(6) References to a county council and to a county in this Act or any other enactment or any statutory order relating to any of the purposes for which the combination under this section is to have effect shall, in the application of this Act or any such enactment or statutory order to the counties mentioned in subsection (1) of this section, be construed as references to the joint county council and the combined county respectively.

119.—(1) Subject to the provisions of this section, any two or more local authorities may combine for any purpose in which they are jointly interested (including; without prejudice to the foregoing generality, for the purpose of conducting and managing their business and the employment of officers) and that on such terms and conditions as may be agreed between them.

Voluntary  
combination  
of local  
authorities.

(2) Subject to the provisions of this Part of this Act, any agreement made for the purposes of any such combination may without prejudice to any other arrangement provide—

- (a) for the appointment of a joint committee of the authorities concerned consisting of such number of members as is specified in the agreement and for the delegation to the joint committee of any function relating to the purpose for which the combination has effect; or
- (b) for the joint exercise in any other manner by the authorities concerned of any function of the authorities; or
- (c) for one of the authorities concerned furnishing to or on behalf of the other authorities concerned any service for which the combination has effect on the terms and conditions specified or provided for in the agreement, and such agreement may provide that, notwithstanding anything in this Act or any other enactment or any statutory order, representatives of the other authorities may be appointed members of any committee or sub-committee of the authority furnishing the service.

(3) The expenses of any joint committee appointed under the agreement or of any combination of authorities under this section shall be defrayed by the authorities concerned in the proportions specified or provided for in the agreement, and the proportion of the expenses falling to be defrayed by any

PART V.  
—cont.

authority shall be defrayed by that authority in like manner as the expenses would have been defrayed had the service been provided by that authority.

(4) The Minister concerned on the application of all the local authorities concerned may by order constitute a joint committee under this section a body corporate by such name as may be determined by the order, and such joint committee shall have perpetual succession and a common seal.

(5) Where under an enactment or statutory order the sanction of a Minister is required to any combination into which local authorities may if they think fit enter, the provisions of this section shall apply in the case of such combination so far as not inconsistent with the provisions of any such enactment or statutory order, but the sanction of the Minister shall be required to the combination.

(6) Nothing in this section shall authorise a combination of local authorities for any of the purposes of the Town and Country Planning (Scotland) Act, 1932, the Town and Country Planning (Scotland) Act, 1945, the Water (Scotland) Act, 1946, the Police (Scotland) Act, 1946, the National Health Service (Scotland) Act, 1947, or the Fire Services Act, 1947.

(7) For the purposes of this section any statutory authority, commissioners or trustees to which section two hundred and seventy of this Act applies shall also be deemed to be a local authority.

Compulsory  
combination  
of local  
authorities.

120.—(1) Subject to the provisions of this section, it shall be lawful for the Minister concerned on the application of a local authority, if it shall appear to him that the combination of that authority with any other local authority or authorities for any purpose would be of public or local advantage, to make an order combining the authorities as respects their areas or parts thereof for the purposes specified therein:

Provided that an order shall not be made under this section except after a local inquiry unless all the local authorities concerned consent.

(2) Subject to the provisions of this Part of this Act, any such order may without prejudice to any other arrangement provide—

(a) for the appointment of a joint committee of the authorities concerned consisting of such number of members as is specified in the order and for the delegation to the joint committee of any function relating to the purpose for which the combination has effect; or



- (b) for the joint exercise in any other manner by the authorities concerned of any function of the authorities; or
- (c) for one of the authorities furnishing to or on behalf of the other authorities concerned any service for which the combination has effect on the terms and conditions specified or provided for in the order, and such order may provide that, notwithstanding anything in this Act or any other enactment or any statutory order, representatives of the other authorities may be appointed members of any committee or sub-committee of the authority furnishing the service.

(3) Any such order shall define the powers, rights, duties, liabilities and obligations of the local authorities and the mode of defraying the expenses of the combination and may provide for any other matter or thing which it appears necessary or proper to regulate for the better carrying into effect of the order.

(4) The Minister concerned, on the application of any of the local authorities concerned and after consultation with the other local authorities concerned, may by order constitute a joint committee under this section a body corporate by such name as may be determined by the order, and such joint committee shall have perpetual succession and a common seal.

(5) The provisions of subsection (1) of this section shall not apply in any case where under any other enactment or any statutory order a Minister may require two or more local authorities to combine, but in the case of any such combination the other provisions of this section shall apply so far as not inconsistent with the provisions or purposes of that other enactment or that statutory order.

(6) Nothing in this section shall authorise a combination of local authorities for any of the purposes of the Town and Country Planning (Scotland) Act, 1932, the Town and Country Planning (Scotland) Act, 1945, the Water (Scotland) Act, 1946, the Police (Scotland) Act, 1946, the National Health Service (Scotland) Act, 1947, or the Fire Services Act, 1947.

(7) For the purposes of this section any statutory authority, commissioners or trustees to which section two hundred and seventy of this Act applies shall also be deemed to be a local authority.

121.—(1) The members of a joint committee or joint board shall be appointed at such times and in such manner and shall hold office for such period as may be provided in the agreement or order regulating the combination, and failing any

Provisions as to members and proceedings of joint committees and joint boards.

**PART V.**  
—*cont.*

such provisions the members of a joint committee or joint board appointed by a local authority shall hold office for such period as may be fixed by that authority.

(2) Every member of a joint committee or joint board who at the time of his appointment is a member of the local authority by whom he is appointed, shall, if he ceases to be a member of that authority, cease on the expiry of two months thereafter or on the appointment of his successor, whichever shall first occur, to be a member of the joint committee or joint board.

(3) Subject to the provisions of the agreement or order regulating the combination—

- (a) the joint committee or joint board shall elect a chairman who shall hold office for such period as shall be fixed at the time of his election;
- (b) the quorum, proceedings and place of meeting of the joint committee or joint board shall be such as the joint committee or joint board may determine;
- (c) the joint committee or joint board may appoint sub-committees and delegate to any such sub-committee any of their functions, and every such sub-committee shall, as soon as reasonably practicable, report its proceedings to the joint committee or joint board; and
- (d) the chairman or other person presiding at a meeting of the joint committee or joint board or a sub-committee thereof shall have a casting vote as well as a deliberative vote.

(4) Where the chairman of a joint committee or joint board falls to be elected by the joint committee or joint board, then, at any meeting of the committee or board until the chairman is elected, such member of the committee or board as shall be selected by the meeting shall preside.

(5) Nothing in this section shall apply in the case of a joint board established under a local Act unless the Secretary of State on the application of the joint board by order otherwise directs, but save as aforesaid, the provisions of this section shall apply whether the joint committee or joint board is appointed under this Act or any other enactment or any statutory order, but subject in the case of a joint committee or joint board appointed under any other enactment or any statutory order to the provisions of that enactment or order.

Provisions  
as to basis of  
valuation in  
cases of com-  
binations of  
local autho-  
rities, etc.

**122.—(1)** Where in any enactment, agreement or order regulating a combination of local authorities passed or made before the sixteenth day of May, nineteen hundred and thirty, reference is made to the gross annual or other valuation of the areas of the authorities concerned (whether for the

purpose of defraying the expenses of the combination or otherwise) then, unless the Minister concerned on the application of any of the authorities otherwise determines for all or any of the purposes of the combination, the reference shall be construed as a reference to the rateable valuation of the areas of the authorities.

PART V.  
—cont.

(2) On the dissolution of any combination of local authorities whether under this Act or any other enactment or any statutory order, the Minister concerned shall make an order regulating the rights and liabilities of the authorities concerned and containing such other provisions as are necessary or proper in the circumstances, except where the agreement or order regulating the combination makes provision on the subject or the authorities agree or the Minister considers no provision necessary.

*Appointment by County Council of Town Councils of Small Burghs and District Councils to be Agents.*

123.—(1) Subject to the provisions of this Part of this Act, and of any administrative scheme which may be applicable, a county council may, on such terms and conditions as the councils concerned agree, appoint—

County council may appoint town councils of small burghs and district councils to be agents.

- (a) the town council of a small burgh within the county; or
- (b) the district council of a district within the county; or
- (c) a joint committee of such a town council and district council (of which joint committee the members of the county council for the burgh and district shall be members),

to act as the agents of the county council to carry out any function (other than a function relating to education or police) vested in the county council and exercisable within the small burgh or district or small burgh and district, as the case may be, so however that no such appointment shall be made as respects a function relating to any form of medical or surgical treatment except with the approval of the Secretary of State, and subject to the terms of appointment a council or joint committee so acting as agent may act through a committee or sub-committee thereof.

The provisions of this subsection shall apply with respect to functions delegated to a county council by the Minister of Transport under the Trunk Roads Act, 1936, as they apply with respect to functions vested in the county council, so however that any appointment with respect to the said functions shall be made only with consent of the said Minister.

1 Edw. 8. &  
1 Geo. 6. c. 5.

PART V.  
—cont.

(2) Any council so acting as agent or having representation on any such joint committee may contribute towards the expenses incurred by the council or joint committee in so acting as agent, and any such contribution by a town council may be paid as part of such branch or branches of expenditure falling to be defrayed out of rates payable by owners and occupiers in equal proportions as the council determine.

*Provisions common to Committees, Joint Committees and Joint Boards.*

Prohibition of delegation to committee, &c. of power to rate or borrow.

124.—(1) Notwithstanding anything in this Act or any other enactment or any statutory order, a local authority shall not delegate to any committee, nor shall any committee of a local authority have, the power of raising money by rate or loan, and any function the delegation of which is expressly prohibited by any enactment or statutory order shall not be delegated by a local authority to a committee.

(2) The preceding subsection shall apply in the case of a joint committee or a joint board constituted for the purposes of a combination under this Act or any enactment repealed by this Act, and also in the case of delegation of functions by a county council to the town council of a small burgh or a district council or a joint committee of such councils in like manner as it applies in the case of a committee of a local authority.

Disqualification for membership of committees, joint committees and joint boards.

125. A person who is disqualified under Part II of this Act for being elected or being a member of a local authority shall be disqualified for being—

(a) a member of a committee or sub-committee of that authority, including any committee to which section fifty-two of this Act applies (as respects the members thereof other than any *ex officio* members), so however that, as respects a sub-committee appointed by an education committee for the management of educational establishments, the disqualification in paragraph (a) of subsection (1) of section fifty-two of this Act shall not apply to preclude—

(i) a teacher or other member of the educational staff employed by the authority being a representative on that sub-committee of such teachers or educational staff, or

(ii) any other person employed by the authority being a member of that committee if the duties of that other person do not relate to any of the functions of the sub-committee; and

(b) a representative of that authority on a joint committee or joint board,

PART V.  
—cont.

whether the committee, sub-committee, joint committee or joint board are appointed under this Act or any other enactment or any statutory order, and the provisions of section fifty-three of this Act shall apply as respects any such person subject to the following and other necessary modifications:—

- (i) in the case of any committee which exercise functions not vested in the authority appointing the committee, either the committee or the authority, and in the case of a joint committee or joint board, either the joint committee or joint board or the authority appointing the person to be a member of the joint committee or joint board, may pass a resolution under the said section fifty-three, and in either of the said cases proceedings may be instituted under the said section fifty-three either by the committee or joint committee or joint board, as the case may be, or by the authority or by any four or more local government electors for the area of the authority; and
- (ii) in the case of a joint committee or joint board, the sheriff shall be the sheriff of the county in which the area of the authority which appointed the person to be a member of the committee or board is situated.

126. Section seventy-three of this Act shall apply in the case of members of a committee or sub-committee of a local authority (including any committee or sub-committee to which section fifty-two of this Act applies), whether appointed under this Act or any other enactment or any statutory order, or of members of any joint committee or joint board in like manner as that section applies in the case of members of local authorities, subject to the following modifications:—

Disability of member for voting on account of interest in contract, &c.

- (a) as respects members of a committee or sub-committee, references to meetings of the committee or sub-committee shall be substituted for references to meetings of the local authority, and the right of persons who are members of the committee or sub-committee but not members of the authority to inspect the book to be kept under subsection (6) of the said section seventy-three shall be limited to the inspection of the entries in the book relating to members of the committee or sub-committee;
- (b) as respects members of any joint committee or joint board, references to meetings of the joint committee or joint board shall be substituted for references to

PART V.  
—cont.

meetings of the local authority and references to the clerk to the joint committee or joint board for references to the clerk of the authority;

- (c) in subsection (8) of the said section seventy-three references to the local authority shall be construed, in the case of a committee or sub-committee exercising functions vested in the authority, as references to the authority, and in any other case as references to the committee, sub-committee, joint committee or joint board.

## PART VI.

CHANGE OF NAME OF AREAS, BOUNDARIES OF AREAS AND  
ALTERATION OF AREAS.*Change of Name.*

Change of  
name of  
county or  
burgh.

127.—(1) Save as provided in this section, the names of the counties sometime known as the county of Edinburgh, the county of Elgin or the county of Elgin and Forres and the county of Forfar shall for all purposes be respectively the county of Midlothian, the county of Moray and the county of Angus.

(2) Subject to compliance with the provisions of this section, the county council of a county or the town council of a burgh may by resolution with the consent of the Secretary of State change the name of the county or burgh, and such change shall have effect for all purposes save as provided in this section.

(3) The resolution to change the name of a county or burgh shall be considered at a meeting of the council thereof the notice of which specifies the consideration of the change of name as an item of business, and shall not be deemed to be the resolution of the council unless passed by a majority consisting of not less than two-thirds of the members of the council present at the meeting and voting.

(4) Before submitting the resolution to the Secretary of State for his consent, the council shall cause to be published in the Edinburgh Gazette and in a newspaper circulating within the county or burgh, as the case may be, a notice containing a copy of the resolution passed by the council and stating that such change of name requires the consent of the Secretary of State and that any person having any objection to the change may within fourteen days of the publication of the notice send to the Secretary of State a statement in writing setting forth the grounds of his objection.

(5) The Secretary of State shall consider all objections lodged with him and may if he thinks fit order a local inquiry to be held and where such an inquiry is held shall consider the report of the person holding the inquiry.

(6) The consent of the Secretary of State shall be given by order which shall state the date on which the change of name shall take effect.

PART VI.  
—cont.

(7) The change of name of a county or burgh under this section shall not affect any rights or obligations of the council of the county or burgh or of any other authority or person whose designation may be affected by the change, nor shall it affect the name of the county or burgh for parliamentary purposes as set forth in the Ninth Schedule to the Representation of the People Act, 1918.

7 & 8 Geo. 5.  
c. 64.

(8) For any reference in any Act of Parliament, decree, order, award, deed, regulation, byelaw, notice or other document to the county or burgh by its former designation there shall, save as in this section provided, be substituted a reference to the county or burgh, as the case may be, by its new designation.

(9) Any legal or other proceedings begun before the change by or against the council of the county or burgh or other authority or person whose designation may be affected by the change may be carried on with the substitution of the new designation for the former designation but otherwise as if no change had been made.

#### *Boundaries of Areas.*

128. For the purposes of this Act and of any other enactment relating to local government or to any of the functions of local authorities, counties shall, subject to any alteration effected by this Act or after the commencement of this Act, have the contents and boundaries which they respectively had immediately before the commencement of this Act for the purposes of the Local Government (Scotland) Act, 1889.

Boundaries  
of counties.

52 & 53 Vict.  
c. 50.

129.—(1) For the purposes of this Act and of any other enactment relating to local government or to any of the functions of local authorities, the boundary of a burgh shall, subject to any alteration thereof effected after the commencement of this Act, be the boundary of the burgh as at the commencement of this Act for the purposes of the Burgh Police (Scotland) Act, 1892, or, in the case of a burgh to which the said Act does not apply, for the purposes of the local Acts applicable to the burgh.

Boundaries  
of burghs.

55 & 56 Vict.  
c. 55.

(2) The said boundary of a burgh for the time being in force shall be called the burgh boundary, and any reference in this Act or any of the said enactments to a burgh shall be construed as a reference to the burgh within the burgh boundary thereof, and any reference in any of the said enactments passed before the commencement of this Act to the boundary of a burgh as fixed for municipal purposes or for police purposes or to the

PART VI.  
—cont.

municipal boundary or to the police boundary of the burgh shall be construed as a reference to the burgh boundary of the burgh.

*Alteration of Areas.*

Alteration of  
boundaries  
of counties.

130.—(1) Any burgh which immediately before the commencement of this Act is situated in two or more counties shall be deemed to be situated wholly within that county in which is situated the part of the burgh having the greater or greatest rateable valuation, and the boundaries of the counties concerned shall be altered accordingly.

(2) Where, after the commencement of this Act, the burgh boundary of a burgh is under this Part of this Act or by any other enactment altered to include within the burgh lands situated in a county other than the county in which the burgh is situated, any lands within that other county so included within the burgh shall be deemed to be situated wholly within the county in which the burgh prior to the alteration was situated, and the boundaries of the counties concerned shall be altered accordingly.

(3) Where any new burgh formed under this Part of this Act or by any other enactment is situated in two or more counties, the burgh shall be deemed to be situated wholly within that county in which is situated the part of the burgh having the greater or greatest rateable valuation, and the boundaries of the counties concerned shall be altered accordingly.

(4) Any question as to the county within which a burgh is by virtue of this section deemed to be situated shall be determined by the Secretary of State.

(5) Save as otherwise provided in this Part of this Act, any alteration of boundaries by this section shall have effect for all purposes.

Power of  
sheriff to  
alter burgh  
boundary.

131.—(1) On the application of the town council of a burgh, the sheriff shall have power to alter (including power to extend or contract) the burgh boundary of the burgh:

Provided that an alteration of the burgh boundary of any burgh shall not encroach upon the boundary of any other burgh, unless the town council of the other burgh by resolution agree, which resolution shall not be deemed to be the resolution of the council of the other burgh unless passed by two-thirds of the members thereof present and voting at a meeting and confirmed by two-thirds of the members thereof present and voting at a subsequent meeting held not sooner than four weeks after the earlier meeting. The notice in the case of both meetings shall specify the consideration of the resolution or the purport thereof as an item of business, and



a notice of the second meeting shall be published in a newspaper circulating in the burgh once in each of the weeks intervening between the two meetings.

(2) The town council shall on making an application under this section cause notice thereof to be published in the *Edinburgh Gazette* and in a newspaper circulating in the burgh and in such other manner as the sheriff may direct.

(3) Before altering the burgh boundary, the sheriff shall make such inquiry as he shall deem necessary and shall give all parties interested an opportunity of being heard, and, where any area is proposed to be included within the burgh shall take into consideration all the circumstances of the case, including without prejudice to the said generality the number of dwelling-houses, whether existing or about to be erected within that area (with power to allow a reasonable margin for future extension), the density of the population of the burgh and of that area, and the persons for whom and the authority by whom the dwelling-houses within that area have been or are to be erected.

(4) In the case of a burgh divided into wards, the application for the alteration of the burgh boundary shall set forth the proposals of the town council with respect to the alteration in the number or contents and boundaries of the wards in consequence of the alteration of the burgh boundary, and also, where it is proposed to alter the number of wards, the alteration in the number of councillors, and the sheriff shall, if the application for the alteration of the burgh boundary is granted, make such alteration in the number or contents and boundaries of the wards as seems proper to him in the circumstances and any alteration in the number of councillors consequential on the alteration in the number of the wards.

(5) The sheriff shall in a deliverance under this section altering the number of councillors of a burgh secure that there shall be three or a multiple of three councillors for the burgh and for each ward and determine the manner in which and the date on which the alteration in the number of councillors is to be effected, and may in any deliverance under this section determine any question arising in connection with the alteration of wards or the number of councillors and do anything that appears to the sheriff to be necessary or proper for giving full effect to the deliverance.

(6) The sheriff in a deliverance under this section altering the number or contents and boundaries of the wards of a burgh may, where he considers it proper in the special circumstances of the case notwithstanding anything in this Act, direct that all the councillors of the burgh including the provost and honorary treasurer shall retire at one time and a new council be elected.

PART VI.  
—cont.

(7) Where the town council of a large burgh in their application to the sheriff under this section for an alteration of the burgh boundary apply also for an alteration of the areas of the registration districts for the purposes of the Registration of Births, Deaths and Marriages Acts, being areas which would be affected by the alteration of the burgh boundary, the sheriff may in a deliverance under this section make such alteration of the areas of the registration districts as seems to him proper having regard to the alteration made in the burgh boundary, which alteration of registration districts shall be published in like manner as an alteration of registration districts under the said Acts.

(8) A deliverance by the sheriff under this section shall, unless appealed against in manner provided in the immediately succeeding section, be final and be recorded along with the application on which it proceeds in the sheriff court books of the county, and come into force on the sixteenth day of May first occurring after the date on which it is recorded as aforesaid or, if the sheriff so directs, be deemed to have come into force on the sixteenth day of May last occurring before the date on which it is so recorded.

(9) Where the burgh and any part of the lands which it is proposed to include within the burgh lie in more than one county, the application shall be subject to the provisions of this Act be made to and disposed of by the sheriffs of all the counties concerned, and the sheriffs shall in determining the land to be included within the burgh have regard to the provisions of this Part of this Act relating to the alteration of boundaries of counties.

(10) All expenses incurred by the sheriff in carrying out the provisions of this section shall be paid as part of the general expenses of the town council.

(11) In this section and in the immediately succeeding section the expression "sheriff" does not include a sheriff substitute.

Appeal to  
Court of  
Session  
against  
alteration of  
burgh  
boundary.

**132.**—(1) An appeal may be submitted to the Court of Session against any deliverance by the sheriff under the immediately preceding section so far as the same alters the burgh boundary of a burgh, within twenty-one days after the date of the deliverance—

- (a) by any person being the owner or occupier of lands which have been included within the burgh by any such deliverance; or
- (b) in the case of the alteration of the boundary of a small burgh, by the county council of any county within which any such lands are situated;

and on any such appeal the Court of Session may confirm or revoke or vary the deliverance by the sheriff so far as relating to the alteration of the burgh boundary.

PART VI.  
—cont.

(2) Where the Court vary the burgh boundary as determined by the deliverance of the sheriff, they may, where the deliverance relates thereto, vary the deliverance so far as relating to the alteration in the number or contents and boundaries of wards or in the number of councillors, or remit to the sheriff to make such variation as seems proper to him in consequence of the decision of the Court with respect to the burgh boundary.

(3) The decision of the Court of Session shall be final and shall be recorded in like manner as the deliverance by the sheriff appealed against and shall come into force on the sixteenth day of May first occurring after the date on which it is so recorded, or where a remit is made by the Court to the sheriff, after the date on which the deliverance by the sheriff under that remit is so recorded:

Provided that the Court of Session or, where a remit is made to the sheriff, the sheriff may direct that the decision shall be deemed to have come into force on the sixteenth day of May last occurring before the day on which it is so recorded.

133.—(1) Any twelve or more persons being local government electors for the area defined in the application, being a populous place within the meaning of this section, may present to the sheriff an application to fix the boundaries thereof and to declare the same to be a burgh, and every such application shall be signed by the persons presenting it.

Formation of  
new small  
burgh.

(2) The sheriff may require the persons presenting the application to find caution for payment of the expenses after-mentioned.

(3) The sheriff shall hold a local inquiry and notice of the application and of the inquiry shall be given by advertisement for two consecutive weeks in the Edinburgh Gazette and in a newspaper circulating in the county in which the populous place is situated.

(4) The inquiry shall be held not less than fourteen days after the notice of the application and of the inquiry has first been published.

(5) The sheriff shall appoint a person to ascertain and report to him the population and the amount of the rateable valuation of the populous place.

(6) At the inquiry all parties interested, including the county council of the county and the district council of the district in which the populous place is situated and the town council

PART VI.  
—cont.

of any contiguous or closely adjacent burgh, shall be given an opportunity of being heard.

(7) The sheriff shall, if he is satisfied that the populous place or part thereof is suitable for being formed into a burgh, issue a deliverance (in this section referred to as a " preliminary deliverance ") fixing the boundaries of the area suitable for being formed into a burgh.

(8) The sheriff in determining whether an area is suitable for being formed into a burgh shall have regard to all the circumstances of the case, including without prejudice to the said generality the number of dwelling-houses in the area, the density of its population and its rateable valuation, and in fixing the boundaries of the area shall have regard to the provisions of this Part of this Act relating to the alteration of boundaries of counties and shall include within the area the whole area which in his opinion properly belongs to and forms part of the same town with such reasonable margin for extension as he thinks fit, but the boundary so fixed shall not encroach on the boundary of any other burgh.

(9) The sheriff shall refuse the application if he is of opinion that no part of the area defined in the application is suitable for being formed into a burgh.

(10) The sheriff shall as soon as may be after he has issued a preliminary deliverance under this section direct that a meeting be convened of the local government electors for the area as defined in that deliverance for the purpose of considering whether the area should be formed into a burgh.

(11) The said meeting shall be held at such place and at such time as the sheriff shall direct, and the meeting and the purpose thereof shall be advertised in a newspaper circulating in the area and published in such other manner, if any, as the sheriff may direct. The sheriff or such person as he may appoint shall preside at the meeting and shall appoint a clerk who shall take a minute of the proceedings.

(12) It shall be the duty of the registration officer for the registration area under the Representation of the People Acts in which the area defined in the preliminary deliverance is situated within fourteen days after receiving a demand to furnish to the sheriff a certified copy of the names and addresses of all local government electors for the area as defined in the preliminary deliverance on payment of a fee of not more than one shilling for each hundred names, and such list shall be sufficient proof of the qualifications of the persons named therein.

(13) The said meeting may determine whether the said area shall be a burgh, or may appoint a committee of those qualified

to vote, not exceeding nine, to inquire and report to a future meeting to be held on such date as shall be appointed by the person presiding, and such future meeting shall, on the report of the committee, determine whether the area shall be a burgh.

PART VI.  
—cont.

(14) The person presiding shall ascertain the determination of the meeting by a show of hands or in such other manner as shall appear to him expedient, and in case of an equality of votes shall give a casting vote, and the determination of the meeting shall be final unless a poll is demanded in writing by any twelve persons qualified to vote present at the meeting.

(15) In the event of a poll being demanded, the poll of the local government electors for the said area shall be taken within twenty-eight days of the demand in accordance with regulations made by the Secretary of State. The Secretary of State in making such regulations shall have regard to the provisions of Part III of the Second Schedule to this Act and may prescribe forms for voting papers, notices and other documents.

(16) If any such meeting as aforesaid determine that the said area shall be a burgh or if, in the event of a poll being taken, a majority of the persons qualified and voting vote in favour of the area being declared to be a burgh, the sheriff shall issue a deliverance finding and declaring the area to be a burgh, and from the date on which the deliverance comes into force the area shall be a small burgh for the purposes of this Act and any other public general Act, and the sheriff shall in the said deliverance determine the number of councillors and magistrates to be elected for the burgh, having regard to the number of councillors and magistrates in burghs having approximately the same population, and, where he is of opinion that the burgh should be divided into wards, divide the burgh into wards and define the contents and boundaries thereof and apportion the councillors among the wards:

Provided that there shall be three or a multiple of three councillors for the burgh and for each ward.

Such a finding and declaration by the sheriff under this subsection shall come into force on the sixteenth day of May first occurring after its date or, if the sheriff thinks it proper having regard to the circumstances of the case and in the deliverance so directs, shall be deemed to have come into force on the sixteenth day of May last occurring before its date.

(17) If as a result of the meeting or the poll no deliverance declaring the area to be a burgh falls to be issued, the sheriff shall refuse the application.

PART VI.  
—cont.

(18) The expenses incurred in connection with any application under this section (including without prejudice to the said generality the expenses of and in connection with the inquiry and the publication thereof, the meeting of, and the taking of a poll of, the local government electors) shall, subject to such audit as the sheriff may direct, be paid, if the area described in the application or any part thereof is declared to be a burgh, as part of the general expenses of the town council of the burgh, and if no part of that area is declared to be a burgh, by the persons presenting the application.

(19) Where an application under this section has been refused, it shall not be competent for such an application to be made in respect of the area described in the application or any part thereof until after the lapse of two years from the date of such refusal, and, where part only of the area described in the application has been declared to be a burgh, it shall not be competent for an application to be made under this Part of this Act for the inclusion of any other part of that area within the burgh until after the lapse of two years from the date of the order declaring part of the area to be a burgh.

(20) As soon as may be after a deliverance under this section comes into force declaring a populous place or part thereof to be a burgh, an election of town councillors thereof shall be held, and for that purpose the provisions of this Act relating to the election of town councillors shall apply subject to the following and any other necessary modifications:—

- (a) the returning officer shall be the sheriff or such person as he may appoint, and the day of election shall be such day as the returning officer shall appoint;
- (b) anything required to be done to or by or before the town clerk shall be done to or by or before the returning officer or such person as he shall appoint for the purpose;
- (c) for the dates set out in Part II of the Second Schedule to this Act there shall be substituted such dates as the returning officer shall appoint;
- (d) for the references to persons registered under the Representation of the People Acts as local government electors for the burgh and to persons who have resided within the burgh, there shall be substituted respectively references to persons registered under the Representation of the People Acts as local government electors for the area as defined in the preliminary deliverance and to persons who have resided within such area.

(21) For the purposes of this section the expression "populous place" means any town, village, place or locality (not being a burgh) or any two or more contiguous towns, villages, places or localities (not being burghs) containing according to the last published census for the time being a population of two thousand inhabitants or upwards, and the expression "sheriff" does not include a sheriff substitute and means the sheriff of the county in which the area described in the application is situated or, where the area as so described is situated in two or more counties having different sheriffs, such one of the sheriffs as the Secretary of State may appoint.

134.—(1) Subject to the provisions of this section, a small burgh may be dissolved and the area thereof form part of the landward area of the county. Dissolution of small burgh.

(2) The town council of a small burgh and the county council of the county in which the burgh is situated may enter into an agreement that the burgh shall be dissolved and the area thereof form part of the landward area of the county, and where such an agreement has been made the councils may present a petition for confirmation of the agreement in the case of a royal burgh to His Majesty, and in the case of any other burgh to the Secretary of State, and His Majesty may by Order in Council in the case of a royal burgh, and the Secretary of State may by order in the case of any other burgh, confirm the agreement, and from the date on which the confirming order takes effect, the burgh shall be dissolved and the area thereof shall form part of the landward area of the county.

(3) A town council shall not enter into any such agreement unless—

- (a) a resolution that the burgh be dissolved and the area thereof form part of the landward area of the county has been considered at a meeting of the council the notice of which has specified the consideration of the dissolution of the burgh as an item of business and has been passed by a majority consisting of not less than two-thirds of the whole number of members of the council present and voting at the meeting;
- (b) a notice containing a copy of the resolution as passed and stating that a poll will be taken of the local government electors for the burgh on the question whether the resolution be approved has been published for two consecutive weeks in the Edinburgh

PART VI.  
—cont.

Gazette and in a newspaper circulating in the burgh and in the county; and

- (c) a poll of the local government electors for the burgh has been taken in accordance with regulations made by the Secretary of State on the question whether the resolution as passed be approved, and the resolution has been approved by a majority of the electors voting.

(4) A county council may enter into any such agreement if a resolution that the burgh be dissolved and the area thereof form part of the landward area of the county has been passed by a majority of the council present and voting at a meeting, the notice of which specifies the resolution or the purport thereof as an item of business.

(5) An agreement under this section shall make provision with respect to the property and liabilities of the burgh, including any relating to the common good of the burgh or to any trust under a deed of trust or other document administered by the town council or by members thereof as such, and may provide for levying for a limited period not exceeding ten years different rates in the area of the burgh from those levied in other parts of the landward area of the county.

(6) Before presenting a petition for confirmation of an agreement under this section to His Majesty or to the Secretary of State, the town council and county council shall cause to be published in the Edinburgh Gazette and in a newspaper circulating in the burgh and in the county a notice setting forth the main purport of the agreement or stating a place within the burgh at which and the period during which a copy of the agreement may be inspected, and stating that the agreement requires confirmation by His Majesty or the Secretary of State, as the case may be, and that any person having any objection to the agreement may within fourteen days of the publication of the notice send to the Secretary of State a statement in writing setting forth the grounds of his objection.

(7) Before any Order in Council or other order is made under this section, the Secretary of State may direct a local inquiry to be held.

(8) An Order in Council or other order under this section may confirm any such agreement with or without modifications and may alter the number of county councillors for the county and provide—

- (a) for making any consequential alteration in the number, contents and boundaries of electoral



divisions of the county and for the election or appointment of county councillors for electoral divisions affected by such alteration;

- (b) for making any consequential alteration in the number, contents and boundaries of districts of the county for the purposes of district councils and for the election or appointment of district councillors for the districts affected by such alteration; and
- (c) for doing anything that appears necessary or proper for the purpose of carrying into effect the dissolution of the burgh and the incorporation of the area thereof within the landward area of the county:

Provided that—

- (i) nothing herein contained shall authorise any alteration of the purposes of any such trust as aforesaid; and
- (ii) the county councillors and the district councillors elected or appointed as aforesaid shall hold office only until the expiration of the term of office of the county councillors elected for the other electoral divisions of the county and the elected district councillors for the other districts of the county.

(g) Without prejudice to the provisions of the immediately preceding subsection, an Order in Council or other order confirming any such agreement may provide that until an alteration is made in accordance with the provisions of this Act the area of the burgh shall form one or more electoral divisions and also form a district for district council purposes, and that, until the first election of elected district councillors, the members of the town council of the burgh holding office immediately prior to the dissolution taking effect shall constitute the district council of the district, and such members of the district council as may be elected by the district council shall be the county councillors representing the electoral divisions within the district.

(10) An Order in Council or other order confirming an agreement under this section shall come into force on the sixteenth day of May first occurring after the date of the order or, if the Order in Council or other order so directs, shall be deemed to have come into force on the sixteenth day of May last occurring before its date.

(11) An Order in Council or other order confirming an agreement under this section shall be laid before each House of Parliament as soon as may be after it is made.

PART VI.  
—cont.

Power of  
Secretary of  
State to alter  
parish  
boundary or  
name of parish

135.—(1) Without prejudice to any other enactment relating to the union, disjunction or erection of parishes, the Secretary of State, on the representation of a county council or a town council, may by order provide—

- (a) for altering the boundary of a parish situated wholly or partly within the county or burgh; or
- (b) for uniting several such parishes or parts of such parishes into one parish or annexing such a parish or part of such a parish to another parish; or
- (c) for dividing any such parish and if it is considered expedient uniting all or any of such subdivisions with other parishes; or
- (d) for altering the name of any such parish.

(2) The provisions of subsections (4) and (5) of section one hundred and twenty-seven of this Act shall subject to the necessary modifications apply with respect to a representation under this section in like manner as they apply with respect to the submission to the Secretary of State for his approval of a resolution to change the name of a county or burgh.

(3) An order under this section shall not affect any rights or obligations in relation to teinds nor have effect for ecclesiastical purposes, but save as otherwise provided in this Part of this Act shall have effect for all other purposes.

Rectification  
of boundary.

136.—(1) The Secretary of State or the sheriff may, on application by any local authority concerned, rectify any accidental error that has been made in any order by the Secretary of State or any deliverance by the sheriff, as the case may be, under this Part of this Act in fixing the boundaries of an area that has been formed into a burgh, or altering the boundary of a county or a burgh or a parish.

(2) Any deliverance by the sheriff under this section shall be final.

(3) The boundary as so rectified shall as regards all future acts, payments and liabilities be held to be the boundary originally fixed by the Secretary of State or the sheriff, as the case may be, but any acts done or payments made or liabilities incurred prior to the rectification shall be no wise affected thereby, and the same, in so far as done or made or incurred in good faith, shall notwithstanding such error be as valid, final and free from challenge as if the error had not been made.

Alteration  
of districts

137. Districts within a county for the purposes of district councils and the boundaries of such districts within a county

may be altered by a district council scheme made by the county council of the county and approved by the Secretary of State under Part I of this Act.

PART VI.  
—cont.  
and districts  
boundaries.

*Supplemental Provisions.*

138.—(1) An application or representation under this Part of this Act for the alteration of the boundary of any burgh or parish, or for the formation of a new burgh, and any order or deliverance under this Part of this Act altering any such boundary or fixing the boundaries of an area that may be declared to be a burgh, shall describe the boundary as proposed to be altered or the boundary or boundaries as fixed, as the case may be, by reference to a map which shall be on a scale to be prescribed by the Secretary of State, and, if there is any discrepancy between the area delineated on the map and the description in the order or deliverance, the area delineated on the map shall be deemed to be correct and shall prevail.

General provisions as to change of name and alteration of areas.

(2) Any change of name of a county or burgh or parish, or any alteration of the boundary of a county or burgh or parish, or deliverance declaring an area to be a burgh, or any dissolution of a burgh under this Part of this Act, shall be published in such manner and intimated in such manner and to such persons as the Secretary of State may prescribe, and where the deliverance or order altering any such boundary or declaring a populous place to be a burgh refers to a map, such intimation shall be accompanied, in such cases as may be prescribed, by a copy of the map certified in such manner as the Secretary of State may prescribe, and in other cases either by such a certified copy or by a statement where the map or such a certified copy thereof may be inspected free of charge.

139. All statutory requirements and provisions applicable to any proceedings relating to a change of name or an alteration of area under this Part of this Act or to corresponding proceedings under any Act repealed by this Act shall be deemed to have been duly complied with unless the proceedings are challenged in a competent court within twelve months from the date of the order or deliverance confirming the change of name or making or confirming the alteration of area:

Presumption of compliance with statutory provisions.

Provided that a deliverance under any Act repealed by this Act altering the boundaries of a burgh or fixing the boundaries of a place formed into a burgh may be challenged at any time within twelve months after the commencement of this Act,

PART VI.  
—cont.

not being more than three years from the date of the alleged failure to comply with the requirements or provisions applicable in the case.

Transfer of  
functions.

140.—(1) Where under or in pursuance of this Part of this Act the boundary of any county or burgh or district is altered and lands (in this Part of this Act referred to as the "added area") which were not previously included therein are so included, the council of the county, burgh or district to which the area is added shall, subject to the provisions of this section, exercise within the added area the same functions as they exercised within the county or burgh or district prior to the alteration of boundary, and for that purpose the corresponding functions of any other local authority so far as relating to the added area shall be deemed to have been transferred to the county council, town council or district council, as the case may be, and in the case of the alteration of the boundary of a large burgh, the added area shall, as from the date on which the alteration takes effect, be deemed, for the purpose of ascertaining the settlement or status of irremovability of a person under the Poor Law Acts, to have always formed part of the burgh, except in the case of a person who had at the said date such a settlement or status within the county by reason of residence partly within the added area and partly within another part of the county, and in that case the person shall, as from the said date, be deemed to have such a settlement or status within the burgh or within the county according as his place of residence at the time of acquiring the settlement or status was within the added area or within another part of the county.

(2) On the formation of a burgh under this Part of this Act, the town council thereof shall, subject to the provisions of this section, exercise all the functions of the town council of a small burgh therein, and for that purpose the functions of the county council and of the district council concerned, so far as corresponding with the functions of the town council of a small burgh and so far as relating to the area within the burgh boundary, shall be deemed to have been transferred to the town council.

(3) On the dissolution of a burgh under this Part of this Act, the county council and the district council shall, subject to the provisions of this section, respectively exercise within the area which was previously within the burgh boundary of the burgh the same functions as they exercise within other parts of the landward area, and the functions of the town council of the said burgh shall, so far as they correspond with functions of the county council, be deemed to have been

transferred to the county council, and, so far as the said functions correspond with functions of the district council, be deemed to have been transferred to the district council.

(4) In this section a reference to the town council of a burgh shall be deemed to include a reference to the magistrates of the burgh or the dean of guild court, the licensing court, or other authority within the burgh, where there is such a court or other authority, as regards their respective functions, and a reference to a county council shall be deemed to include a reference to the licensing court or other authority within the county as regards their respective functions, but nothing in this subsection shall be deemed to authorise the establishment of a licensing court or other authority.

(5) Nothing in the foregoing provisions of this section shall be deemed to affect the provisions of any local Act, but, except in any case to which the immediately succeeding subsection applies, the Secretary of State, on the joint application of any local authority concerned and of the authority, if any, under the local Act and after consultation with any other local authority or authority or body concerned and after such local inquiry, if any, as he considers necessary, may by order alter the area to which any service provided under the local Act applies or make such modifications or adaptations in the provisions of the local Act as seem to him proper in the circumstances, and any such order may make provision with regard to the transfer of functions and of property and liabilities and the terms and conditions on which such transfer shall take effect.

(6) Nothing in the foregoing provisions of this section shall be deemed to affect the functions of a local authority relating to any public utility undertaking (other than a water undertaking) but, without prejudice to any power conferred by any other enactment, the Minister concerned with the undertaking, on the joint application of any local authority concerned and of the authority carrying on the public utility undertaking and after consultation with any other local authority or authority or body concerned and after such local inquiry, if any; as he considers necessary, may by order alter the area to which the undertaking relates or make such modifications or adaptations in the provisions of any local Act or statutory order relating to the undertaking as seem to him proper in the circumstances, and any such order may make provision with regard to the transfer of functions and of property and liabilities and the terms and conditions on which such transfer shall take effect.

141.—(1) Where any alteration of area has been made or is proposed to be made under this Part of this Act or under Adjustment of  
property and  
liabilities.

PART VI.  
—cont.

any enactment repealed by this Act, the local authorities concerned and any other public bodies concerned may make an agreement for the purpose of adjusting any property, income, debts, liabilities and expenses of the parties to the agreement (so far as affected by the alteration of area) and any financial relations between them, and with respect to any other matter or thing which may be required for the proper carrying into effect of the alteration and the settlement of difficulties arising therefrom.

(2) The agreement may provide for the transfer or retention of any property, debts or liabilities with or without conditions, for the joint use of any property and for payment by either party to the agreement in respect of property, debts and liabilities so transferred or retained or of such joint use, and in respect of the remuneration or compensation payable to any officer or person and that by way of a capital sum or of an annual payment for a period of years.

(3) In default of agreement as to any matter requiring adjustment, such adjustment may, at any time within two years from the date on which the alteration of area takes effect and whether the alteration was made by order of the Secretary of State or by deliverance of the sheriff or otherwise under this Part of this Act, be referred to the Secretary of State or to an arbiter appointed by the Secretary of State, and the decision of the Secretary of State or the arbiter, as the case may be, shall be final.

(4) Any sum required to be paid for the purposes of any adjustment under this section shall be defrayed by a local authority or any other public body in such manner as may be specified in the agreement or decision and, failing the agreement or decision so specifying, in such manner as the local authority or other public body making the payment may determine.

(5) Any capital sum received by a local authority in respect of an adjustment under this section shall be treated as capital and shall be applied with the sanction of the Secretary of State in the repayment of capital debt or for any other purpose for which capital money may be applied.

Adjustment  
in respect of  
increase of  
burden on  
ratepayers.

142.—(1) On any adjustment under the immediately preceding section and on any adjustment in connection with any alteration of area under any enactment passed after the commencement of this Act except where that enactment otherwise provides, provision shall, unless the local authorities concerned otherwise agree, be made for the payment to any local authority of such sum as seems equitable in accordance with the provisions of the immediately succeeding subsection

in respect of any increase of burden which will properly be thrown on the ratepayers of that authority as a consequence of any alteration of boundary.

(2) In determining the sum to be paid in pursuance of this section, regard shall be had to—

- (a) the difference if any between the burden on the ratepayers which will properly be incurred by the local authority of an area in respect of which an alteration of boundary has taken place in meeting the cost of executing any of their functions and the burden on the ratepayers which would properly have been incurred by the authority in meeting such cost had no alteration of boundary taken place; but the loss of rateable area as such shall not of itself be held to be an increase of burden; and
- (b) the length of time during which any increase of burden may be expected to continue.

(3) The sum payable to any local authority in respect of any increase of burden shall not exceed, or, if payable by instalments or by way of annuity, the capitalised value of the instalments or annuity shall not exceed, the average annual increase of burden multiplied by fifteen.

(4) This section shall also apply to any adjustment outstanding at the commencement of this Act consequent upon an alteration of boundary effected after the twenty-eighth day of August nineteen hundred and fourteen made (otherwise than by agreement) under section fifty or section fifty-one of the Local Government (Scotland) Act, 1889, or section forty-six of the Local Government (Scotland) Act, 1894, whether as originally enacted or as applied by any other enactment.

57 & 58 Vict.  
c. 58.

143.—(1) Any funds held in trust by a local authority or by any members of the authority for the benefit of the whole area of the authority or the inhabitants thereof (including, in the case of a burgh, the common good thereof), unless the trust deed or other document regulating the purposes of the trust otherwise specifically provides, shall—

Funds held in trust for whole area to apply to area after alteration.

- (a) on an alteration of boundary by the inclusion of an added area under this Part of this Act, apply to the whole area of the authority including the added area in like manner as they applied to the area of the authority before the alteration of boundary; and
- (b) on an alteration of a boundary involving an area ceasing to be part of the area of a local authority under this Part of this Act, extend only to the area of the authority remaining after the alteration has been given effect to.

PART VI.  
—cont.

(2) Nothing in this section shall apply to any educational endowment.

Power of  
Secretary of  
State to make  
orders to carry  
alteration of  
area into  
effect

**144.** The Secretary of State, for the purpose of giving effect to any alteration of area under this Part of this Act so far as specific provision on any matter is not contained in this Part of this Act, may make an order with respect to—

- (a) the jurisdiction of any authority over any part of the area affected by the alteration, the functions of any such authority and the officers thereof, the property and liabilities of such authorities and the settlement of differences between such authorities;
- (b) any matter which appears to him necessary or proper to be dealt with:

Provided that an order with respect to any matter mentioned in paragraph (a) hereof shall be made only after consultation with any authorities concerned.

For the purposes of this section the expression "authority" includes any court or body or the holder of any public office.

Savings.

**145.** Save as otherwise expressly provided, nothing in the provisions of this Part of this Act relating to alteration of areas shall affect, nor shall anything done thereunder affect—

- (a) the limits of any parliamentary county or parliamentary borough or any division of any such county or borough; or
- (b) the area of the registration district for which a registrar is required to be appointed under the Registration of Births, Deaths and Marriages Acts or the provisions of those Acts relating to registration districts; or
- (c) the operation of the provisions of the Temperance (Scotland) Act, 1913, as respects any area to which there applies a resolution under that Act passed before the alteration of area under this Part of this Act takes effect.

## PART VII.

## SPECIAL DISTRICTS.

Special  
districts.

**146.**—(1) Subject to the provisions of this Part of this Act, a part of the landward area of a county may be formed into a district (in this Act referred to as a "special district") for



the purpose of providing or maintaining within the district all or any of the following services:—

PART VII.  
—cont.

- (a) water supply;
- (b) sewerage and sewage disposal;
- (c) lighting;
- (d) scavenging and removal of dust, ashes and other refuse from streets, roads, footpaths, lands and premises;
- (e) public baths (other than swimming baths) or wash-houses or drying grounds.

Any reference in this Act or any other enactment or any statutory order to a special drainage district shall be construed as a reference to a special district formed for the purpose of sewerage and sewage disposal or any part of that service.

(2) The special districts existing at the commencement of this Act shall continue as if formed under this Act.

147.—(1) A county council at any time after giving such notice of the proposal as is provided in this section may, and upon receiving a requisition in writing from any one or more district councils whose districts are wholly or partly within the area to which the requisition relates or from any ten or more local government electors for the said area and after giving such notice of the requisition as is provided in this section shall, consider the propriety of passing a resolution to form a special district under this Part of this Act, or to alter (by extending or contracting) the boundaries of any special district, or to combine two or more special districts or parts thereof, or to dissolve any special district.

Procedure for  
formation,  
alteration,  
combination or  
dissolution  
of special  
districts.

(2) The county council shall cause notice of the proposal or requisition, of the place within the county at which and the period during which the full terms of the proposal or requisition may be inspected, and of the date of the meeting at which it will be considered by the council, to be published in a newspaper circulating in the county and in the Edinburgh Gazette at least twenty-one days before the date of the meeting of the council, and shall not less than fourteen days before the date of the meeting transmit to the Secretary of State a copy of the notice as published.

(3) The resolution of the county council disposing of the proposal or requisition shall, where necessary, define the boundaries of the special district, and determine all questions regarding the payment of any debt affecting the special district and the right to impose and the obligation to pay any rate affected by the determination and any other matters necessary or proper for carrying the resolution into effect, and shall fix the date at which any such determination shall take effect.

PART VII.  
—cont.

Without prejudice to the foregoing provisions of this subsection, a resolution of a county council altering the boundaries of a special district or combining two or more special districts or parts thereof or dissolving a special district may, if the council consider the circumstances of the case so require, make provision for payment during such period not exceeding ten years as the council may determine, in the case of any such alteration or combination, of rates of different amounts per pound within the areas affected by the alteration or combination or, in the case of any such dissolution, of rates of different amounts per pound within the area which formed the special district from the amount of the rates payable within the rest of the landward area of the county.

(4) Where a county council has upon consideration of a requisition resolved not to form a special district or to alter, combine or dissolve a special district as specified in the requisition, it shall not be competent for any district council or local government electors to make another requisition to the same effect until after the expiration of two years from the date of the requisition.

(5) The county council shall as soon as practicable cause notice of the resolution of the council and of the place within the county at which and the period during which the full terms of the resolution and, if appropriate, a map or plan showing the boundaries of the new or altered special district or districts may be inspected to be published in a newspaper circulating in the county and in the *Edinburgh Gazette*, and shall within ten days of the date of the meeting at which the resolution was disposed of transmit a copy of the resolution to the Secretary of State.

(6) Any person aggrieved may, within twenty-one days after the date of the publication of the notice of the resolution in a newspaper circulating in the district or the date of the publication in the *Edinburgh Gazette*, whichever is the later, appeal against the resolution to the sheriff, and the sheriff (not being a sheriff substitute resident in the district or the proposed district) may either approve or disapprove of the resolution or may approve subject to such alteration of boundaries or otherwise as he may determine.

The town council of a burgh may appeal under this subsection to the sheriff, if that council before the expiration of the time within which an appeal against the resolution is competent have presented a petition to the sheriff under Part VI of this Act or promoted private legislation within the meaning of Part XV of this Act to extend the boundaries of the burgh to include the whole or any part of the area proposed to be formed into or included within the special district.

(7) The deliverance of the sheriff shall, where necessary, define the boundaries of the special district and determine all questions regarding the payment of any debt affecting the special district and the right to impose and the obligation to pay any rate affected by the determination and any other matters necessary or proper for carrying the order into effect, and shall fix the date at which any such determination shall take effect.

(8) The sheriff may find any of the parties to an appeal under this section liable in expenses to the other party or parties.

(9) The county council shall as soon as practicable cause a notice of the deliverance of the sheriff, and of the place within the county at which and the period during which the full terms of the deliverance and, if appropriate, a plan or map showing the boundaries of the new or altered special district may be inspected, to be published in a newspaper circulating in the county and in the Edinburgh Gazette, and shall within ten days of the date of the deliverance transmit a copy thereof to the Secretary of State.

(10) Subject to the foregoing provisions, any expenses incurred by the county council in connection with the formation or alteration of boundaries of a special district or the combination of special districts into a special district shall be paid out of the rate leviable within the special district for the purposes thereof, and any expenses incurred by the county council in connection with the dissolution of any special district or in any case where a special district is not formed shall be defrayed as part of the expenses of the council under the Public Health Acts relating exclusively to the whole of the landward area of the county.

148. A county council may in accordance with the provisions of section one hundred and twenty-three of this Act appoint a district council to act as agents of the county council for carrying out all or any of the purposes for which a special district is formed or may appoint a local committee for carrying out all or any of the purposes for which a special district is formed, which local committee shall consist in whole or in part of district councillors for the district or districts in which the special district is situated, whether members of the county council or not.

Management  
of special  
districts.

149.—(1) A county council may by resolution adopt, subject to any necessary modifications and to any other modifications that may be approved by the Secretary of State, such provisions (including provisions relating to byelaws and penalties for non-compliance therewith) contained in the Burgh Police Acts and in any other public general Act relating

Power to  
apply burgh  
statutory  
provisions.

PART VII.  
—cont.

to any of the purposes for which a special district is formed and which apply or may by adoption be made to apply to a burgh as the council with the sanction of the Secretary of State may determine, and as from a date to be fixed by the council the provisions as so adopted shall have effect within and in relation to the special district.

(2) Without prejudice to the provisions of the preceding subsection, a county council may by resolution adopt within any special district formed for any of the purposes specified in paragraphs (a), (b), (c) and (d) of subsection (1) of section one hundred and forty-six of this Act, subject to any necessary modifications and to any other modifications that may be approved by the Secretary of State, the provisions of sections one hundred and forty-four, one hundred and forty-five, one hundred and fifty-eight and one hundred and ninety-one to two hundred of the Burgh Police (Scotland) Act, 1892, or any one or more of the said sections, and as from a date to be fixed by the council the provisions as so adopted shall have effect within and in relation to the special district.

(3) The provisions of any Act adopted under any enactment repealed by this Act and applying to a special district immediately prior to the commencement of this Act shall continue to apply to that district as if adopted under this section.

(4) Any adoption by a county council of enactments under this section (including any such adoption prior to the commencement of this Act to which the immediately preceding subsection applies) may be altered or revoked by the county council with the approval of the Secretary of State.

Inclusion of whole or part of special district within a burgh.

**150.**—(1) A special district shall be dissolved on the district being wholly included within the boundaries of a burgh under this Act or by virtue of any other enactment, and where a part only of a special district is so included within the boundaries of a burgh, the part so included shall cease to form part of the special district.

(2) Where part of a special district is so included within the boundaries of a burgh, arrangements shall be made by the county council and town council concerned and, failing agreement between the councils, by the Secretary of State, with respect to the provision of the service for which the special district was formed within the whole area which prior to the inclusion of part thereof within the burgh comprised the special district, the apportionment and payment so far as necessary of the expenses thereof, the adjustment between the councils concerned of the property and liabilities relating to the said special district, and the management of the special district so far as remaining.

151.—(1) A county council shall, if so required by the Secretary of State, combine two or more special water supply districts or two or more special drainage districts within the county, and in connection with such combination provision may be made—

PART VII.  
—cont  
Combination of special water and drainage districts when required by Secretary of State.

- (a) for payment during such period not exceeding ten years as the council may determine of special district rates of different amounts per pound within the several districts forming the combined district; and
- (b) with respect to such other matters as may be considered necessary or proper for carrying the combination into effect.

(2) The resolution of the county council combining the districts shall determine all matters relating to the combination and shall fix the date at which the combination shall take effect.

(3) The county council shall as soon as practicable cause notice of the resolution of the council combining the special districts, and of the place within the county at which and the period during which the full terms of the resolution may be inspected, to be published in a newspaper circulating in the county and in the Edinburgh Gazette, and shall within ten days of the date of the meeting at which the resolution was passed transmit a copy of the resolution to the Secretary of State.

(4) Any person aggrieved by any determination of the county council contained in a resolution under this section may, within twenty-one days after the date of the publication of notice of the resolution in a newspaper circulating in the district or the date of the publication in the Edinburgh Gazette, whichever is the later, appeal against the determination to the Secretary of State, who may approve or disapprove of such determination or may approve the same subject to such alteration as may appear proper to him, and the decision of the Secretary of State shall be final.

152.—(1) A county council may, whenever they think it desirable, and shall, if so required by the Secretary of State and within such period not being less than twelve months as he may specify, prepare and submit to the Secretary of State for approval a scheme providing for the dissolution of all the special water supply districts or all the special drainage districts within the county, and such scheme may make provision—

Schemes for dissolution of special water and drainage districts.

- (a) for different dates for the dissolution of different special districts;
- (b) with respect to the property and liabilities relating to the special districts so dissolved;

PART VII.  
—cont.

- (c) for payment, during such period not exceeding ten years as the scheme may provide, of rates of different amounts per pound within the areas which formed the special districts so dissolved or any of them from the amount of the rates payable within the rest of the landward area of the county;
- (d) for the protection of the interests of officers employed for the purposes of the special districts so dissolved, by applying such of the provisions of Part XVII of this Act as are considered necessary or proper; and
- (e) with respect to such other matters as may be considered necessary or proper for winding up the special districts.

The Secretary of State before requiring a county council to prepare and submit a scheme under this subsection may cause a local inquiry to be held.

(2) Before making any such scheme, the county council shall publish in a newspaper circulating in the county and in the *Edinburgh Gazette* a notice stating their intention to make such a scheme, that a copy of the draft scheme is open to inspection at a specified place and during a specified period within the county and that representations thereon in writing may be made to the council within twenty-eight days after the date of the publication of the notice in the said newspaper or the date of the publication in the *Edinburgh Gazette*, whichever is the later, and shall consider any representations in writing which may be submitted to them within that period.

(3) The county council shall send to the Secretary of State when submitting the scheme for approval the representations received by them on the draft scheme, and the Secretary of State may before approving a scheme cause a local inquiry to be held.

(4) The Secretary of State may approve the scheme either as submitted or with such modifications and amendments as he thinks proper, and upon approval of the scheme the county council shall as soon as practicable take all steps necessary to carry the scheme as approved into effect.

(5) If a county council fail to submit to the Secretary of State by the date specified in the notice by the Secretary of State under subsection (1) of this section a scheme in accordance with the provisions of this section, which he is prepared to approve, the Secretary of State may himself after such consultation as he considers necessary make a scheme for the purpose, but before making such a scheme he shall publish in a newspaper circulating in the county and

in the Edinburgh Gazette a notice stating his intention to make such a scheme, that a copy of the draft scheme is open to inspection at a specified place and during a specified period and that representations thereon in writing may be made to him within twenty-eight days after the publication of the notice in the said newspaper or in the Edinburgh Gazette, whichever is the later, and he shall consider any representations in writing which may be submitted to him within that period, and any scheme so made shall have effect as if it were a scheme made by the county council and approved by the Secretary of State; and the county council shall as soon as practicable take all steps necessary to carry the scheme into effect.

PART VII.  
—cont.

(6) Any scheme made under this section may be altered at any time before it has been fully carried into effect by a supplementary scheme made by the county council and approved by the Secretary of State, and the provisions of this section with respect to the original scheme shall subject to the necessary modifications apply to any such supplementary scheme.

(7) A county council in making, and the Secretary of State in making or approving, a scheme under this section, shall have regard to the desirability of securing that the service for which the special districts were formed is made available as far as reasonably practicable throughout the landward area of the county.

153.—(1) Subject to the provisions of the immediately succeeding section, all expenses incurred in carrying out the purposes for which a special district has been formed shall be defrayed out of a special district rate to be levied annually on all lands and heritages within the special district in accordance with the provisions of Part XI of this Act.

Expenses  
of special  
districts.

(2) Subject to the provisions of the immediately succeeding section, where a special district is formed, no part of the expenses incurred in providing in any other part of the county the service for which the special district is formed shall be included in the expenses defrayed out of any rate so far as leviable within the special district.

154.—(1) A county council may, where it appears to the council that the financial burden imposed or likely to be imposed upon a special district within the county is more than it can reasonably be expected to bear unaided, agree to make a contribution towards the expenses of the special district of such sum as appears to the council to be equitable, and such contribution shall be defrayed as if it were expenditure incurred by the council under the Public Health Acts in relation to the whole of the landward area of the county.

Contributions  
by county  
council to  
expenses  
of special  
districts.

PART VII.  
—cont.

The county council in determining whether any contribution should be made in the case of any special district and the amount, if any, of the contribution, shall have regard to the total amount per pound of the rates levied in the different parts of the landward area of the county.

(2) A county council may pay or contribute towards the expenses of cleansing and scavenging the highways and footpaths under their management and control within a special scavenging district and charge such payment or contribution as expenses under the Roads and Bridges Acts.

Savings.  
59 & 60 Vict.  
c. 32.  
1 Edw. 8 &  
1 Geo. 6.  
c. 28.

155. Nothing in this Part of this Act shall affect the provisions of the Orkney and Zetland Small Piers and Harbours Act, 1896, or the Harbours Piers and Ferries (Scotland) Act, 1937, relating to the formation of special districts for any of the purposes specified in the said Acts or any special district formed for any such purpose.

## PART VIII.

ACQUISITION OF AND DEALINGS IN LAND BY LOCAL  
AUTHORITIES.*Acquisition of Land by Agreement.*

Acquisition  
of land by  
agreement.

156. Subject to the provisions of this Part of this Act, a local authority may, for the purpose of any of their functions under this or any other enactment, by agreement acquire whether by way of purchase, feu, lease or excambion any land whether situated within or without the area of the authority.

Acquisition  
of land in  
advance of  
requirements.

157.—(1) A local authority may, with the consent of the Minister concerned, by agreement acquire whether by way of purchase, feu, lease or excambion any land whether situated within or without the area of the authority for any purpose for which the authority are authorised by this or any other public general Act to acquire land, notwithstanding that the land is not immediately required for that purpose.

(2) Any land acquired under this section may, until it is required for the purpose for which it was acquired, be held and used for the purpose of any of the functions of the local authority, subject to the authority making such adjustments, if any, in their accounts as seem to them equitable and proper, having regard to the purposes for which the land was acquired and is being used.



158. Where under this Part of this Act a local authority are authorised to acquire land by agreement, the Lands Clauses Acts except—

- (a) the provisions relating to the acquisition of land otherwise than by agreement;
- (b) sections one hundred and twenty to one hundred and twenty-five of the Lands Clauses Consolidation (Scotland) Act, 1845 (which relate to the sale of superfluous land); and
- (c) sections one hundred and forty-two and one hundred and forty-three of the said Act of 1845 (which relate to access to the special Act);

and sections six and seventy of the Railways Clauses Consolidation (Scotland) Act, 1845, and sections seventy-one to seventy-eight of that Act as originally enacted and not as amended for certain purposes by section fifteen of the Mines (Working Facilities and Support) Act, 1923, shall be incorporated with this Act, and in construing those provisions for the purposes of this section, this Act shall be deemed to be the special Act and the local authority to be the promoters of the undertaking, or company, as the case may require.

PART VIII.  
—cont.  
Application of  
Lands Clauses  
Acts and other  
enactments  
to acquisition  
of land by  
agreement.  
8 & 9 Vict.  
c. 19.

8 & 9 Vict.  
c. 33.  
13 & 14 Geo. 5.  
c. 20.

#### *Compulsory Acquisition of Land.*

159. The provisions of the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, other than section two thereof shall apply in relation to the compulsory purchase of land under the immediately succeeding section of this Act as if that section had been in force immediately before the commencement of the said Act of 1947.

Application of  
Acquisition  
of Land  
(Authorisation  
Procedure)  
(Scotland)  
Act, 1947.  
10 & 11 Geo. 6.  
c. 42.

160.—(1) The town council of a burgh may be authorised by the Secretary of State to purchase land compulsorily for the purposes of section two hundred and seventy-eight of the Burgh Police (Scotland) Act, 1892, which relates *inter alia* to the provision of slaughter houses.

Compulsory  
purchase of  
land for  
particular  
purposes.

(2) A local authority may be authorised by the Secretary of State to purchase land compulsorily for the purposes of section seventy-four of this Act.

161.—(1) The reasonable expenses incurred by a local authority in relation to a compulsory purchase order, including any inquiry held in connection therewith, shall be deemed to be expenses properly incurred by the authority and shall be defrayed as part of such branch or branches of expenditure as the authority may determine, having regard to the purpose for which the land proposed to be purchased is required.

Expenses  
relating to  
compulsory  
purchase  
order.

PART VIII.  
—cont.

(2) The powers of a local authority to borrow under Part XII of this Act shall apply for the purpose of defraying expenses incurred by the authority in connection with any compulsory purchase order under the said section, so however that any sum so borrowed shall be repaid within such period as the authority determine, being a period not exceeding five years from the date of the order.

*Title to Land.*

Title to land.

**162.** The title to all land acquired by a local authority shall be taken in the corporate name of the authority.

*Appropriation of Land.*

Power to appropriate land.

**163.** A local authority may with consent of the Secretary of State appropriate for the purpose of any function, whether statutory or otherwise, land vested in them for the purpose of any other function, subject to proper adjustments in respect thereof being made in the accounts of the authority.

*Erection of Buildings, &c.*

Power to erect buildings, &amp;c.

**164.** A local authority may for the purpose of any of their functions erect buildings or execute any other works on any land belonging to the authority or, where they are satisfied that the terms of the lease of the land are such as to make it prudent for them to do so, on land leased by the authority, or convert, alter, enlarge or improve any existing building or other works belonging to the authority or, where they consider it prudent, any existing building or other works let to them:

Provided that this section shall not of itself authorise a local authority to do anything contrary to the conditions contained in the title to or lease of any such land or building or other works or authorise lands held for one purpose to be used for another purpose.

*Disposal of Land.*

Power to let land.

**165.** A local authority may let any land belonging to them—

- (a) without any consent, for a term not exceeding seven years; or
- (b) by public roup or with consent of the Minister concerned, for a term exceeding seven years.

Power to sell land.

**166.—(1)** A local authority may sell or feu any land belonging to them and not required for the purpose for which it is held by the authority—

- (a) by public roup; or
- (b) with the consent of the Minister concerned, by private bargain.

(2) For the purposes of this and the immediately preceding sections notice shall be given of any exposure of land to public roup by advertisement published once weekly for at least three weeks immediately preceding the day of the roup in a newspaper circulating in the area of the local authority, and a certificate by the publishers of the newspaper of the appearing of the advertisement shall be sufficient evidence of the publication and of the date thereof.

PART VIII.  
—cont.

167. A local authority may with consent of the Minister concerned exchang any land belonging to the authority for other land, either with or without paying or receiving any money for equality of exchange.

Power to  
exchang land.

168.—(1) Land belonging to a local authority let, sold or feued under the provisions of this Part of this Act shall, except with the sanction of the Minister concerned, be let, sold or feued for the best rent or at the best price or for the best feuduty that can be reasonably obtained, and any capital money received in respect of any such transaction or any excambion shall be applied towards the discharge of capital debt of the authority or otherwise for any purpose for which capital money may be properly applied:

Land to be  
sold for best  
price and  
application of  
capital  
moneys.

Provided that where capital money is applied under this section for a purpose other than that for which the land which was the subject of the transaction was held, such adjustment as the Minister or Ministers concerned may approve shall be made in the accounts of the local authority.

(2) A purchaser of or other person acquiring right to land from a local authority shall not be concerned to see that the provisions of this section are complied with in the case of his purchase or acquisition.

169. Any purchase money or compensation payable in pursuance of this Part of this Act by a local authority in respect of land acquired from another local authority which would but for this section be required to be paid into court in manner provided by the Lands Clauses Acts may, if the Minister concerned with the purpose for which the land was held by the last mentioned authority consents, instead of being paid into court, be paid and applied as that Minister may determine, and the decision of that Minister shall be final.

Payment of  
purchase or  
compensation  
money by  
one local  
authority to  
another:

#### General.

170. Where an heir of entail in possession of land sells or feus land to a local authority for the purpose of public recreation under the provisions of this Act or any other enactment (not being land within a quarter of a mile of the mansion house in the natural possession of the heir of entail or part of

Special  
provisions as  
to land  
acquired for  
public  
recreation

PART VIII.  
—cont.  
from heir of  
entail.

any garden, orchard or enclosure adjacent to the mansion house which has usually been in the natural possession of the proprietor) and such land does not exceed in all twenty acres, and where the persons in right of heritable securities or other charges affecting such land refuse to consent to such sale or feu, such lands shall be disburdened of the said heritable securities and charges if the sheriff, upon the application of the heir of entail in possession duly intimated to the said persons who shall be entitled to appear and object, finds that the lands comprised in the heritable securities or charges other than the land being acquired by the local authority afford adequate security.

Provisions as  
to sale, &c. of  
land to apply  
to land  
forming part  
of common  
good.

171.—(1) The provisions of this Part of this Act with respect to the appropriation, letting, selling, feuing or exchanging of land belonging to a local authority and the application of capital moneys received in respect of land shall, notwithstanding any law or practice to the contrary, apply in the case of land forming part of the common good of a burgh with respect to which land no question arises as to the right of the town council to alienate.

For the purposes of this subsection the Minister concerned shall be the Secretary of State.

(2) A town council may, with consent of and subject to such conditions as may be imposed by the Secretary of State, sell or feu land forming part of the common good of the burgh where such land or the buildings thereon have at some time been used as a town hall or offices or buildings for the transaction of the business of the burgh and have ceased or are about to cease to be so used, notwithstanding any question as to the right of the council to alienate such land or buildings.

(3) Where the town council of a burgh desire to sell or feu land forming part of the common good (other than lands to which the preceding subsections of this section apply), they may, notwithstanding any question as to the right of the council to alienate the same, make application to the Court of Session or the sheriff to authorise them to sell or feu the land, and the Court or the sheriff, if they or he thinks fit to do so after such inquiry as is considered necessary, may, notwithstanding any law or practice to the contrary and subject to such conditions, if any, as they or he may impose, authorise the council to sell or feu the land and do otherwise in the petition as appears to be just, and the council shall be entitled to sell or feu the land in accordance with the authority so obtained.

(4) Conditions imposed by the Secretary of State under subsection (2) of this section or by the Court of Session or the sheriff under subsection (3) of this section may, if it is thought proper, require that the town council shall provide in substitution for the land proposed to be sold or feued other land belonging to or proposed to be purchased by the council, which land shall be used for the purpose for which the land proposed to be sold or feued was used.

PART VIII.  
—cont.

**172.** For the purposes of this Part of this Act the functions of a local authority shall be deemed to include the provision of accommodation for any committee or court or other body which the authority may be required or are authorised to provide, notwithstanding that the committee, court or body may exercise functions not vested in the authority. Interpretation.

**173.** Nothing in this Part of this Act—

Savings.

- (a) (except so far as relating to the compulsory purchase of land) shall affect the provisions of the Ancient Monuments Acts, 1913 and 1931, or empower a local authority to acquire or to dispose of whether by lease, sale, feu or excambion or to appropriate any ancient monument within the meaning of those Acts; or
- (b) shall authorise the disposal of land by a local authority whether by lease, sale, feu or excambion in breach of any trust, undertaking or agreement binding on the authority; or
- (c) shall affect any provisions relating to the acquisition by agreement, appropriation, letting or disposal of land, the erection of buildings or the execution of works by a local authority contained in any of the enactments set out in the Fourth Schedule to this Act or in any statutory order made thereunder, or the application of any capital money arising from such disposal, or, in so far as any of those enactments or orders contain provisions relating to the acquisition by agreement, appropriation, letting or disposal of land or the erection of buildings or the execution of works or the application of capital money arising from land, empower a local authority to effect any transaction or do anything which might be effected or done under those provisions otherwise than under those provisions and in accordance therewith; or
- (d) shall authorise a local authority to acquire by agreement, or appropriate land or erect buildings on land or execute other works for the purpose of any

PART VIII.  
—cont.

function of the authority or to appropriate, let or dispose of land held for the purpose of any such function where any enactment or statutory order relating to the function (not being an enactment set out in the said Fourth Schedule) requires that a consent be obtained or some provision, limitation or condition be complied with in the case of such a transaction under that enactment or order except subject to such consent or subject to compliance with such provision, limitation or condition.

## PART IX.

ACCOUNTS, FUNDS AND EXPENSES OF LOCAL  
AUTHORITIES.*Financial Year.*Financial  
year of local  
authorities.

174. The financial year of every local authority shall be the year commencing on the sixteenth day of May and ending on the fifteenth day of May in the year immediately following or, in the case of a local authority with respect to which special provision is made in a local Act, such other year as may be fixed by the local Act.

*Accounts.*

Accounts.

175.—(1) Every local authority shall cause to be kept such accounts as shall secure that sums raised by rates or requisition or other sums received by the authority are not applied to purposes to which such sums are not properly applicable, and, in particular without prejudice to the said generality, that all sums required by the authority for the repayment of any sum borrowed for a specific purpose by the authority and to meet interest on the sum so borrowed are debited to the account to which the expenditure for that purpose is chargeable, and that capital moneys are not applied to any purpose other than a purpose to which capital moneys are properly applicable.

(2) Every local authority shall cause the accounts of the authority (including those relating to funds or property held by the authority in trust) to be kept in such manner as to show in respect of the financial year to which the accounts relate—

- (a) all receipts and payments of the authority during that year;
- (b) any revenue and expenditure relating to revenue in respect of that year not received or paid in that year; and

(c) any capital moneys due but not paid to or by the authority in that year.

PART IX.  
—cont.

All such receipts and revenue of, and capital moneys due to, a local authority are in this Part of this Act in relation to the authority referred to as receipts and sums receivable, and all such payments and expenditure relating to revenue of and capital moneys due by a local authority are in this Part of this Act in relation to the authority referred to as expenditure.

(3) Every local authority shall cause the accounts of the authority to be kept in such a manner as to comply with any provision relating thereto contained in any enactment or statutory order.

*County Fund and Expenses of County Council.*

176. All receipts of and sums receivable by a county council from whatever source shall be credited to and form part of the county fund, and all expenditure of the council shall be defrayed out of that fund: County fund.

Provided that, unless the council by resolution otherwise determine, this section shall not apply in the case of receipts and sums receivable and expenditure relating to any funds or property held by the council as trustees for any purpose under any deed of trust or other document.

177.—(1) Before or as soon as may be after the commencement of each financial year every county council shall cause to be prepared— Annual budget  
of county  
council.

- (a) estimates in respect of that year of receipts and sums receivable and of expenditure relating to the several accounts of the council (showing separately capital expenditure) whether on account of property, contributions, rates, loans, public utility undertakings or otherwise; and
- (b) estimates of the sums required to be raised to meet the deficiency on the several accounts of the council in respect of annual expenditure; and
- (c) a report on the said estimates by the finance committee of the council for submission to the council.

(2) The county council shall consider as early as practicable in each financial year the estimates for that year and the report on the said estimates by the finance committee of the council, and shall revise such estimates, approve the estimates as so revised, authorise the expenditure included therein, and fix for that year—

- (a) the amount required to be requisitioned in accordance with the provisions of this Act by the council

PART IX.  
—cont.

from the town council of each burgh within the county for any purpose;

- (b) the amount estimated to be required to be raised by the council by levying in accordance with the provisions of this Act the county rate and any other rates within the landward area of the county for the purpose of meeting expenditure payable out of the same, the amount in respect of each rate being stated separately;
- (c) in the case of a county council carrying on a public utility undertaking, the amount estimated to be required to be defrayed out of the annual revenue of each such undertaking; and
- (d) the estimated amount of the capital expenditure of the council for each purpose:

Provided that—

- (i) the council, at any time after they have revised the estimates and before they have determined the amount per pound of the rates for the year, may, if they find it necessary, again revise any estimate and alter the amount included therein;
  - (ii) the council shall fix the amounts under paragraph (a) of this subsection in time to enable them to comply with the provisions of subsection (4) of section two hundred and fourteen of this Act.
- (3) No expenditure shall be incurred by or on behalf of a county council unless—
- (a) previously authorised in accordance with the estimates approved by the council; or
  - (b) otherwise previously authorised by the council; or
  - (c) if not so authorised, necessarily incurred in circumstances of emergency:

Provided that—

- (i) any expenditure on salaries, wages and other recurring annual expenditure prior to the approval of estimates by the council may be authorised in accordance with standing orders or by resolution of the council, but any other expenditure under paragraph (b) of this subsection shall not be authorised by the council except on consideration of a report thereon by the finance committee of the council; and
- (ii) any expenditure under paragraph (c) of this subsection shall forthwith be reported to the appropriate



committee and to the finance committee of the council and as soon as practicable thereafter reported by the finance committee to the council with a view to being approved by the council.

PART IX.  
—cont.

(4) A county council may make standing orders for the purpose of carrying the provisions of this section into effect, so however that such orders shall not be inconsistent with the provisions of any enactment with respect to matters to which this section relates.

178.—(1) It shall be the duty of the county treasurer to see that all receipts of and sums receivable by the county council falling to be credited to the county fund are duly credited to and form part of that fund and that all expenditure of the council falling to be defrayed out of the county fund is so defrayed: Payments to  
and out of  
county fund.

Provided that nothing in this subsection shall be deemed to prevent the county council or any duly authorised committee of the council giving directions with respect to the payment or recovery of sums claimed to be due to the council or with respect to the payment of sums claimed to be due by the council.

(2) The county council shall cause to be kept in the books of any one or more incorporated or joint stock banks such bank accounts in name of the council, not being more in number than are necessary, as the council may determine, and, save as otherwise provided in any regulations that may be made by the Secretary of State, there shall be paid into the said bank accounts all sums received by the council, and out of the said bank accounts all payments due to be made by the council.

(3) The county council may give directions with respect to keeping, paying moneys into, and operating on, the several bank accounts.

(4) No payment shall be made out of the county fund if the expenditure in respect of which it is made has been incurred contrary to the provisions of subsection (3) of the immediately preceding section, except where it is made in pursuance of the specific requirement of any enactment or statutory order, or of a decree of a competent court.

(5) Save as otherwise provided in any regulations that may be made by the Secretary of State, all payments due to be made out of the county fund shall be made in pursuance of an order of the finance committee of the county council signed

PART IX.  
—cont.

by two members of that committee present at the meeting of the committee at which the order is made, and countersigned by the county clerk, and the same order may include several payments, and all cheques for payment of moneys issued in pursuance of such an order shall be signed by the county treasurer or by such other officer of the county council as the council or the finance committee may appoint for the purpose.

(6) Regulations made under this section shall be laid before each House of Parliament as soon as may be after they are made.

Payments by  
county council  
in respect of  
salaries of  
procurators  
fiscal, &c.

**179.** Every county council shall in each year make payment of the following salaries, fees, outlays and expenses so far as the same were immediately before the commencement of this Act by law or usage payable by the council:—

- (1) the salaries, fees and necessary outlays of procurators fiscal in the sheriff court;
- (2) the expenses of searching for, apprehending, subsisting, prosecuting or punishing criminals;
- (3) the expenses connected with upholding, repairing enlarging, renting, furnishing, insuring, lighting, cleaning or warming any courthouse, and all taxes and rates legally chargeable thereon;
- (4) the expenses connected with the holding of the court for striking the fiars prices for the county;
- (5) all expenses occasioned by damage done to property within the county by tumultuous or riotous assemblies and all expenses properly incurred in the prevention of riots;
- (6) any other expenses or payments directed by any Act to be defrayed out of the county general assessment.

*Burgh Fund and Expenses of Town Council.*

Burgh fund.

**180.** All receipts of and sums receivable by the town council of a burgh from whatever source shall be credited to and form part of the burgh fund, and all expenditure of the council shall be defrayed out of that fund:

Provided that, unless the council by resolution otherwise determine, this section shall not apply—

- (a) in the case of the receipts and sums receivable and expenditure relating to the common good of the burgh; or

- (b) in the case of receipts and sums receivable and expenditure relating to any funds or property held by the council as trustees for any purpose under any deed of trust or other document.

PART IX.  
—cont.

181.—(1) Before or as soon as may be after the commencement of each financial year every town council shall cause to be prepared— Annual budget  
of town  
council.

- (a) estimates in respect of that year of the receipts and sums receivable and of expenditure relating to the several accounts of the council, including the common good, (showing separately capital expenditure) whether on account of property, contributions, rates, loans, public utility undertakings or otherwise; and
- (b) estimates of the sums required to be raised to meet the deficiency on the several accounts of the council in respect of annual expenditure; and
- (c) a report on the said estimates by the finance committee of the council for submission to the council.

(2) The town council shall consider as early as practicable in each financial year the estimates for that year and the report on the said estimates by the finance committee of the council, and shall revise such estimates, approve the estimates as so revised, authorise the expenditure included therein and fix for that year—

- (a) the amount estimated to be required to be raised by the council by levying in accordance with the provisions of this Act the burgh rate and any other rate within the burgh for the purpose of meeting expenditure payable out of that rate, the amount in respect of each rate being stated separately and the respective amounts to be raised by the burgh rate so far as payable by owners only, or by occupiers only, or by owners and occupiers otherwise than in equal proportions, being shown separately from the remainder of the amount to be raised by that rate;
- (b) in the case of a town council carrying on a public utility undertaking, the amount estimated to be required to be defrayed out of the annual revenue of each such undertaking; and
- (c) the estimated amount of the capital expenditure of the council for each purpose:

Provided that the council, at any time after they have revised the estimates and before they have determined the amount per pound of the rates for the year, may, if they find it necessary, again revise any estimate and alter the amount included therein

PART IX.  
—cont.

(3) No expenditure shall be incurred by or on behalf of a town council unless—

- (a) previously authorised in accordance with the estimates approved by the council; or
- (b) otherwise previously authorised by the council; or
- (c) if not so authorised, necessarily incurred in circumstances of emergency:

Provided that—

- (i) any expenditure on salaries, wages and other recurring annual expenditure prior to the approval of estimates by the council may be authorised in accordance with standing orders or by resolution of the council, but any other expenditure under paragraph (b) of this subsection shall not be authorised except on consideration of a report thereon by the finance committee of the council;
- (ii) any expenditure under paragraph (c) of this subsection shall forthwith be reported to the appropriate committee and to the finance committee of the council and as soon as practicable thereafter reported by the finance committee to the council with a view to being approved by the council.

(4) A town council may make standing orders for the purpose of carrying the provisions of this section into effect, so however that such orders shall not be inconsistent with the provisions of any enactment with respect to matters to which this section relates.

Payments to  
and by town  
council.

**182.—(1)** It shall be the duty of the town chamberlain to see that all receipts of and sums receivable by the town council falling to be credited to the burgh fund are duly credited to and form part of that fund, and that all expenditure of the council falling to be defrayed out of the burgh fund is so defrayed, and where the burgh fund does not include the common good that all receipts and sums receivable relating thereto are duly paid to the common good and all expenditure relating thereto is defrayed out of the common good:

Provided that nothing in this subsection shall be deemed to prevent the town council or any duly authorised committee of the council giving directions with respect to the payment or recovery of sums claimed to be due to the council or with respect to the payment of sums claimed to be due by the council.

(2) The town council shall cause to be kept in the books of an incorporated or joint stock bank one bank account or

where necessary two bank accounts in name of the council or where additional accounts are considered necessary such additional accounts in name of the council as the Secretary of State may authorise, and, save as otherwise provided in any regulations that may be made by the Secretary of State, there shall be paid into the said bank account or accounts all sums received by the council and out of the said bank account or accounts there shall be paid all payments due to be made by the council.

(3) The town council may give directions with respect to keeping, paying moneys into, and operating on, the bank account or the several bank accounts.

(4) No payment shall be made by a town council if the expenditure in respect of which it is made has been incurred contrary to the provisions of subsection (3) of the immediately preceding section, except where it is made in pursuance of the specific requirement of any enactment or statutory order or of a decree of a competent court.

(5) Save as otherwise provided in regulations that may be made by the Secretary of State, all payments due to be made by the town council shall be made in pursuance of an order of the finance committee of the council signed by two members of that committee present at the meeting of the committee at which the order is made, and countersigned by the town clerk, and the same order may include several payments, and all cheques for payment of moneys issued in pursuance of such an order shall be signed by the town chamberlain or by such other officer of the town council as the council or the finance committee may appoint for the purpose.

(6) Regulations made under this section shall be laid before each House of Parliament as soon as may be after they are made.

183.—(1) The town council of a burgh possessed of any free income arising from the common good of the burgh may out of that free income make such contribution towards the expenditure on any of the functions of the council under this Act or under any other enactment or any statutory order as the council may determine having due regard to the extinction of any capital debt affecting the common good:

Town council  
may  
contribute out  
of common  
good towards  
expenditure  
on statutory  
functions.

Provided that nothing herein contained shall prejudice the rights of the creditors of any burgh secured by local Act or otherwise or relieve the common good of any burgh from payment of any sum which the burgh is bound by any local Act to contribute towards any specific expenses of the burgh.

PART IX.  
—cont.

(2) This section shall not apply in the case of the city of Edinburgh, the city of Glasgow, the city of Dundee, the city of Aberdeen or the burgh of Greenock unless the town council of the city or burgh pass a resolution declaring that the section shall apply.

*District Council Fund and Expenses of  
District Council.*District  
council fund.

184. All receipts of and sums receivable by a district council from whatever source shall be credited to and form part of the district council fund, and all expenditure of the council shall be defrayed out of that fund. Receipts and sums receivable and expenditure for the purposes of this section shall include those relating to any funds or property held by the council as trustees for any purpose under any deed of trust or other document.

Annual budget  
of district  
council.

185.—(1) Before or as soon as may be after the commencement of each financial year every district council shall cause to be prepared—

- (a) estimates in respect of that year of the receipts and sums receivable and of expenditure relating to the several accounts of the council (showing separately capital expenditure) whether on account of property, contributions, rates, loans or otherwise; and
- (b) estimates of the sums required to be raised to meet the deficiency on the several accounts of the council in respect of annual expenditure; and
- (c) a report on the said estimates by the finance committee of the council for submission to the council.

(2) The district council shall consider in or before the month of June the estimates for the current financial year and the report on the said estimates by the finance committee of the council, and shall revise such estimates, approve the estimates as so revised, authorise the expenditure included therein and fix for that year—

- (a) the amount required to be requisitioned by the council from the county council in accordance with the provisions of this Act; and
- (b) the estimated amount of the capital expenditure of the council for each purpose.

(3) No expenditure shall be incurred by or on behalf of a district council unless—

- (a) previously authorised in accordance with the estimates approved by the council; or

- (b) otherwise previously authorised by the council; or  
 (c) if not so authorised necessarily incurred in circumstances of emergency:

Provided that—

- (i) any expenditure on salaries, wages and other recurring annual expenditure prior to the approval of estimates by the council may be authorised in accordance with standing orders or by resolution of the council, but any other expenditure under paragraph (b) of this subsection shall not be authorised except on consideration of a report thereon by the finance committee of the council;
- (ii) any expenditure under paragraph (c) of this subsection shall forthwith be reported to the appropriate committee and to the finance committee of the council and as soon as practicable thereafter reported by the finance committee to the council with a view to being approved by the council.

(4) A district council may make standing orders for the purpose of carrying the provisions of this section into effect, so however that such orders shall not be inconsistent with the provisions of any enactment with respect to matters to which this section relates.

186.—(1) It shall be the duty of the treasurer of the district council to see that all receipts of and sums receivable by the council falling to be credited to the district council fund are duly credited to and form part of that fund and that all expenditure of the council falling to be defrayed out of the district council fund is so defrayed: Payments to and out of district council fund.

Provided that nothing in this subsection shall be deemed to prevent the district council or any duly authorised committee of the council giving instructions with respect to the payment or recovery of sums claimed to be due to the council or with respect to the payment of sums claimed to be due by the council.

(2) The district council shall cause one bank account to be kept in the books of an incorporated or joint stock bank in name of the council, and, save as otherwise provided in any regulations that may be made by the Secretary of State, there shall be paid into the said bank account all sums received by the council and out of the said bank account there shall be paid all payments due to be made by the council.

PART IX.  
—cont.

(3) The district council may give directions with respect to keeping, paying moneys into, and operating on, the bank account.

(4) No payment shall be made out of the district council fund if the expenditure in respect of which it is made has been incurred contrary to the provisions of subsection (3) of the immediately preceding section, except where it is made in pursuance of the specific requirement of any enactment or statutory order or of a decree of a competent court.

(5) All payments due to be made out of the district council fund shall be made by means of a cheque signed by two members of the council and by the clerk or treasurer of the council, and one cheque may be used for the purpose of making several payments.

(6) Regulations made under this section shall be laid before each House of Parliament as soon as may be after they are made.

*Expenses of Justices of the Peace.*Expenses of  
justices of  
the peace.

187. Every county council and the town council of every county of a city shall provide accommodation with furniture, books and other things required for the transaction of the business of quarter sessions and of the justices of the peace for the county or the county of the city, as the case may be, so far as the same is not provided otherwise, and shall make payment of the salaries, fees and necessary outlays of the clerks of, and the procurator fiscal in, the justices of peace court in the county or the county of the city, as the case may be.

*Fee Fund of Local Authority.*Fee fund of  
local  
authorities.

188.—(1) All fees, commissions, discounts allowed on payment of accounts and expenses payable to or recovered by any officer of a local authority in respect of any business relating to the authority whether by reason of his office or otherwise (except personal outlays incurred by the officer and such fees, commissions, discounts and expenses as the officer is in pursuance of an express provision of his agreement with the authority entitled to retain for himself) shall be accounted for and paid to the county fund, the burgh fund or the district council fund, as the case may be, and—

(a) such part as may be approved by the Secretary of State of all the said fees and commissions so



accounted for and paid shall form a fund to be known as the "fee fund" of the authority which may be applied for any purpose relating to the authority or the area of the authority for which, in the case of a burgh having a common good, the common good may be applied; and

PART IX  
—cont.

- (b) all such fees and commissions (except the part thereof carried to the fee fund) and all such discounts and expenses so accounted for and paid shall be carried to the credit of the respective accounts of the authority to which they relate.

(2) Where at the commencement of this Act a local authority or an officer of the authority on behalf of the authority holds moneys derived from any such fees, commissions, discounts and expenses as aforesaid, such moneys shall be paid to the county fund, the burgh fund or the district council fund, as the case may be, and form part of the fee fund of the authority.

*Accounts to be made up Yearly and laid before Local Authority for Approval.*

189.—(1) Immediately after the end of each financial year the local authority shall cause the accounts of the authority for that year to be brought to a balance and a balance sheet prepared with respect thereto. Accounts to be made up yearly.

(2) The accounts and balance sheet shall be made up so as to exhibit a complete statement showing with regard to each account—

- (a) the assets and liabilities;
- (b) the amount set aside by the authority during the year for the repayment of debt by way of periodical contributions to any sinking fund, to a loans fund as hereinafter provided for or otherwise;
- (c) the amount of the sums borrowed and the sums received from the sale or alienation of property;
- (d) the amount of annual revenue, the amount of rates collected and the amount of all sums in arrear or remaining unpaid at the close of the accounts; and
- (e) the amount of all sums paid and sums remaining unpaid in respect of any expense incurred during the year, distinguishing capital expenditure from expenditure out of annual revenue.

PART IX.  
—cont.

(3) The accounts of each local authority shall be completed and signed by such person or officer of the authority and before such date as the Secretary of State may prescribe.

Audited accounts to be laid before local authority for approval.

190: Every local authority shall cause the abstract (prepared in accordance with the provisions of section two hundred of this Act) of the accounts of the authority for each financial year as audited in accordance with the provisions of Part X of this Act together with the auditor's report thereon to be laid before a meeting of the authority to be held not later than the thirty-first day of December first occurring after the end of the financial year to which the said accounts relate or such later date as the Secretary of State may in any particular case approve, and the said accounts shall, if and as approved by the authority, be signed by the chairman of the meeting and by the clerk of the authority and shall be deposited with the clerk of the authority or such other officer as the authority may designate for the purpose.

*Limitation of Annual Expenditure in certain cases.*

Limitation of certain annual expenditure defrayed out of county rate or burgh rate.

191.—(1) In addition to the limitation of expenditure under section three hundred and thirty-nine of this Act, the expenditure incurred or payable by a county council (so far as falling to be defrayed in any year out of the county rate under Part XI of this Act and grants under Part III of the Local Government (Scotland) Act, 1929), in this subsection referred to as "net expenditure", shall in the case of the expenditure hereinafter mentioned, be limited to an amount equal to the produce of a rate of the amount per pound hereinafter mentioned calculated on the gross annual valuation of the landward area of the county according to the valuation roll for the year corresponding as nearly as may be to the financial year immediately preceding that to which the expenditure relates, that is to say:—

- (a) the net expenditure for and in connection with public libraries shall be restricted to the produce of a rate of three pence per pound calculated as aforesaid;
- (b) the net expenditure under section five of the Electricity (Supply) Act, 1922, shall, in the case where the council are not authorised undertakers, be restricted to the produce of a rate of one penny per pound calculated as aforesaid.

12 & 13 Geo. 5.  
c. 46.

(2) The expenditure of a county council under the Small Holdings Act, 1892, so far as such expenditure falls to be defrayed in any year out of the county rate under Part XI of this Act and grants under Part III of the Local Government (Scotland) Act, 1929, shall be such as in the opinion of the council may reasonably be expected not to exceed an amount equal to the produce of a rate of one penny per pound calculated on the gross annual valuation of the landward area of the county according to the valuation roll for the year corresponding as nearly as may be to the financial year immediately preceding that to which the expenditure relates.

PART IX.  
—cont.

55 & 56  
Vict. c. 31.

(3) In addition to the limitation of expenditure under section three hundred and thirty-nine of this Act, the expenditure incurred or payable by the town council of a burgh (so far as falling to be defrayed in any year out of the burgh rate under Part XI of this Act and grants under Part III of the Local Government (Scotland) Act, 1929), in this subsection referred to as "net expenditure," shall, in the case of the expenditure hereinafter mentioned, be limited to an amount equal to the produce of a rate of the amount per pound hereinafter mentioned calculated on the gross annual valuation of the burgh according to the valuation roll for the year corresponding as nearly as may be to the financial year immediately preceding that to which the expenditure relates, that is to say:—

- (a) the net expenditure in the case of the expenditure set out in paragraphs 1 and 2 of the Fifth Schedule to this Act (other than expenditure incurred for or in connection with public libraries, the Explosives Act, 1875, and the Temperance (Scotland) Act, 1913) shall be restricted to the produce of a rate of three shillings per pound calculated as aforesaid;
- (b) the net expenditure for and in connection with public libraries shall be restricted to the produce of a rate of three pence per pound calculated as aforesaid;
- (c) the net expenditure in the case of the expenditure set out in paragraph 3 of the Fifth Schedule to this Act shall be restricted to the produce of a rate of three pence per pound calculated as aforesaid;
- (d) the net expenditure under section three hundred and fifteen of the Burgh Police (Scotland) Act, 1892 (so far as unrepealed) and on the provision of halls and

PART IX.  
—cont.

other buildings for public meetings and assemblies under section seventy-four of this Act, so far as such expenditure is not directed by the town council to be defrayed as expenditure on police, shall be restricted to the produce of a rate of three pence per pound calculated as aforesaid;

- (e) the net expenditure under section five of the Electricity (Supply) Act, 1922, shall, in the case where the council are not authorised undertakers, be restricted to the produce of a rate of one penny per pound calculated as aforesaid;
- (f) the net expenditure under the Local Authorities (Publicity) Act, 1931, shall be restricted to the produce of a rate of one halfpenny per pound calculated as aforesaid;
- (g) the net expenditure under the Health Resorts and Watering Places Act, 1936, shall be restricted to the produce of a rate of one penny and one-third of a penny per pound calculated as aforesaid:

21 & 22  
Geo. 5. c. 17.

26 Geo. 5 &  
1 Edw. 8.  
c. 48.

Provided that—

- (i) the provisions of this subsection shall not apply in the case of any council or area so far as inconsistent with the provisions of a local Act relating to a limitation of expenditure or rate in the case of that council or area;
- (ii) any limitation imposed by this section shall not apply in the case of any council where there was no corresponding limitation in force immediately prior to the commencement of this Act in the case of that council.

12 & 13  
Geo. 5. c. 52.  
21 & 22  
Geo. 5. c. 41.

(4) The expenditure incurred or payable by the town council of a burgh referred to in section sixteen of the Allotments (Scotland) Act, 1922, (other than expenditure incurred in accordance with proposals and estimates approved by the Secretary of State under the Agricultural Land (Utilisation) Act, 1931), so far as such expenditure falls to be defrayed in any year out of the burgh rate under Part XI of this Act and grants under Part III of the Local Government (Scotland) Act, 1929, shall be such as in the opinion of the council may reasonably be expected not to exceed an amount equal to the produce of a rate of one penny per pound calculated on the gross annual valuation of the burgh according to the valuation roll for the year corresponding as nearly as may be to the financial year immediately preceding that to which the expenditure relates.

(5) Where under the provisions of any enactment passed before the sixteenth day of May, nineteen hundred and thirty, a limit is imposed on the amount of any rate leviable in any year to defray expenditure which under the provisions of this Act falls to be defrayed out of the county rate or the burgh rate, as the case may be, such expenditure (so far as falling to be defrayed in any year out of the said rate and grants under Part III of the Local Government (Scotland) Act, 1929) shall be limited to an amount equal to the produce of the rate specified in the enactment calculated on the gross annual valuation of the county or burgh, as the case may be, according to the valuation roll for the year corresponding as nearly as may be to the financial year immediately preceding that to which the expenditure relates.

PART IX.  
—cont.

(6) In this section the expression " valuation roll " includes any supplementary valuation roll made up under section sixty of the Burgh Police (Scotland) Act, 1903, or any local Act.

3 Edw. 7.  
c. 33.

192. The expenditure incurred or payable by a district council referred to in section sixteen of the Allotments (Scotland) Act, 1922, (other than expenditure incurred in accordance with proposals and estimates approved by the Secretary of State under the Agricultural Land (Utilisation) Act, 1931), so far as such expenditure falls to be defrayed in any year out of the district council rate or any grant under Part III of the Local Government (Scotland) Act, 1929 so far as applicable thereto, shall be such as in the opinion of the council may reasonably be expected not to exceed an amount equal to the produce of a rate of one penny per pound calculated on the gross annual valuation of the district according to the valuation roll for the year corresponding as nearly as may be to the financial year immediately preceding that to which the expenditure relates.

Limitation of  
expenditure  
in other case.

#### General.

193. In determining the amount of the expenses for any particular purpose including the expenses of administering any trust under the control of a local authority, such proper proportion as the local authority determine of the cost of officers, buildings and establishment and any other expenses which are treated by the authority as, or are directed to be defrayed as, general expenses of the authority shall be added to and treated as part of the expenses directly incurred for that purpose.

Apportion-  
ment of  
general  
expenses.

194.—(1) The Secretary of State may, if at any time after consultation with associations representing the different classes of local authorities concerned he considers it practicable for the said local authorities to comply, make regulations

Regulations  
under Part IX  
of Act.

PART IX.  
—cont.

prescribing a date early in the financial year by which the local authorities concerned shall approve their estimates for that year and fix the amounts to be raised by each rate and the amount to be defrayed out of the annual revenue of each public utility undertaking, and prescribing earlier dates by which requisitions are to be sent by requisitioning authorities to rating authorities, and such regulations may contain such incidental, supplemental and consequential provisions as appear necessary for the purpose of giving full effect thereto, and on such regulations being made the provisions of this Act so far as relating to the matters dealt with in the regulations shall have effect subject to the provisions of the regulations and be modified accordingly:

Provided that nothing in these regulations shall be deemed to prevent a county council or a town council if they find it necessary from again revising any estimate and altering the amount included therein at any time before they have determined the amount per pound of the rates for the year.

Regulations made under this subsection may apply to all local authorities generally or to any particular class of authority.

(2) The Secretary of State may make regulations—

(a) for requiring local authorities to take steps periodically to satisfy themselves as to the balances on bank account and in the hands of officers of the authorities; and

(b) generally for carrying this Part of this Act into effect.

(3) Regulations made under this section shall be laid before each House of Parliament as soon as may be after they are made.

## Savings.

195. Nothing in this Part of this Act shall—

(a) be deemed to require or authorise a local authority to apply or dispose of the surplus annual revenue arising from any undertaking carried on by them otherwise than in accordance with the provisions of any enactment or statutory order relating to the undertaking; or

(b) affect the operation of section one of the Roads Act, 1920, or of any Order in Council made thereunder; or

(c) affect the provision of any enactment or statutory order with respect to the keeping of accounts by a local authority for the purpose of that enactment or order so far as inconsistent herewith.

## PART X.

## AUDIT OF ACCOUNTS OF LOCAL AUTHORITIES.

*Accounts subject to Audit, Appointment of Auditors and  
Production of Books and Documents.*

196.—(1) The accounts of every local authority for the financial year commencing on the sixteenth day of May nineteen hundred and forty-seven or, in the case of a local authority whose financial year commences on some other day in the month of May or June, for the financial year commencing on that day in the year nineteen hundred and forty-seven and for every financial year thereafter shall be subject to audit in accordance with the provisions of this Part of this Act. Accounts of local authorities to be audited.

(2) References in this Part of this Act to the accounts of a local authority shall include references to the accounts of—

- (a) any committee all the members of which, other than any *ex officio* members, are appointed by the authority; and
- (b) the trustees for any charity, foundation, mortification or other purpose, where the authority or some members of the authority as such or, in the case of the town council of a burgh, the magistrates of the burgh or some of them are the sole trustees for the charity, foundation, mortification or other purpose, and any provision of the trust deed or other document regulating the charity, foundation, mortification or other purpose relating to audit of accounts shall cease to have effect.

197.—(1) The Secretary of State shall from time to time and for such period as he may determine appoint a fit person (in this Act referred to as "the auditor") to audit the accounts of each local authority, and may remove any auditor, and shall cause intimation of the appointment of the auditor to be given to the local authority concerned and to the auditor as soon as may be after he is appointed: Appointment of auditors.

Provided that the auditors of the accounts in the case of the city of Glasgow shall not be fewer than twenty except with the consent of the town council, and the tenure of office of such auditors shall be not less than five years from the date of appointment unless otherwise agreed with the council.

(2) The local authority shall pay to the auditor for his services such salary and allowances as shall be agreed upon between the authority and the auditor and approved by the Secretary of State or, failing such agreement or approval, as shall be fixed by the Secretary of State.

PART X.  
—cont.  
Production  
of books and  
documents.

198.—(1) Every local authority shall make available for inspection by the auditor all books and documents which he may deem necessary, and shall give the auditor every reasonable facility for carrying out the audit, and the auditor on giving not less than seven days' previous notice in writing may require any person holding any such books or documents or accountable therefor to appear before him and to produce the same and to make and sign a statutory declaration as to the correctness or identity of such books and documents.

(2) Any such person who neglects or refuses so to appear or to produce any such books or documents or to make or sign any such declaration shall be liable on summary conviction to a fine not exceeding two pounds in respect of each refusal or neglect.

*Intimation of Audit and Right of Inspection of  
Abstract of Accounts by Ratepayers.*

Intimation  
of audit.

199.—(1) Before each audit is completed the clerk of the local authority shall, after receiving from the auditor intimation of the times and places in this section mentioned, give at least fourteen days' notice in a newspaper circulating in the area of the authority or in such other manner as the Secretary of State may approve—

- (a) of the deposit of the abstract of accounts required by the immediately succeeding section;
- (b) of the name and address of the auditor;
- (c) of the right of any ratepayer within the area of the authority to inspect the abstract of accounts during a period of seven days specified in the notice;
- (d) of the time (being not less than two days after the expiration of the said period of seven days) by which objections may be lodged with the auditor; and
- (e) of the time (being not less than two days after the time specified under paragraph (d) hereof) and the place (which shall be reasonably convenient to the ratepayers) at which the auditor will attend for the purpose of hearing objections with respect to the accounts.

(2) If the clerk of a local authority fails to give notice in accordance with the provisions of the preceding subsection, the auditor, after fixing other times for the purposes mentioned in the said subsection, may himself give the notice required by the said subsection, and the authority shall reimburse the auditor for the expenses incurred by him in giving such notice.



**200.**—(1) An abstract in duplicate of the accounts of the local authority which shall be in such form and shall be made up, balanced and signed in such manner as the Secretary of State may prescribe shall be deposited in the office of the authority and be open between the hours of eleven forenoon and three afternoon on any week day other than Saturday and between the hours of eleven forenoon and one afternoon on Saturday to the inspection of all ratepayers within the area of the authority for the period of seven days specified in the notice mentioned in the immediately preceding section, and all such ratepayers shall be at liberty to take copies of or extracts from the same without payment of any fee, and any officer of the authority duly appointed in that behalf refusing to allow inspection thereof shall be liable on summary conviction to a fine not exceeding five pounds.

PART X.  
—cont.  
Deposit of  
abstract of  
accounts for  
inspection by  
ratepayers.

(2) Any such ratepayer may make any objection to such accounts or any part thereof and shall transmit the same and the grounds thereof in writing to the auditor and a copy thereof to the officer concerned and to the clerk of the local authority by the time specified for the purpose in the notice mentioned in the immediately preceding section, and any such ratepayer may be present at the time and place specified in the said notice as the time and place for the auditor hearing objections and may support any objection made by him as hereinbefore provided either by himself or by any other ratepayer, and the auditor if so requested shall at the same time hear any representation which may be made to him on behalf of the authority or officer concerned in regard to such objection.

*Reports by Auditor and Surcharge, &c.*

**201.**—(1) If it shall appear to any auditor acting in pursuance of this Part of this Act—

Power of  
Secretary of  
State to  
disallow illegal  
payments and  
surcharge on  
interim report  
of auditor.

- (a) that any payment is in his opinion contrary to law; or
- (b) that any sum which in his opinion ought to have been is not brought into account by any person; or
- (c) that any loss or deficiency has been incurred owing to the negligence or misconduct of any person,

whether such payment or failure to bring into account or loss or deficiency has been made matter of objection or not, he shall by an interim report under his hand report thereon to the Secretary of State setting forth the grounds of his opinion as aforesaid, and the Secretary of State shall cause such interim report to be intimated to the objector, if any, to the officer or other person affected thereby and to the local authority concerned, and shall consider any statement in writing which may

PART X.  
—cont.

be made to him thereon within fourteen days of the date of such intimation by or on behalf of any person to whom such intimation has been given, and after such further inquiry, if any, as he may think fit the Secretary of State shall decide all questions raised by such interim report and shall—

- (i) disallow any illegal payment and surcharge the amount thereof upon any person making the payment or authorising the payment to be made; or
- (ii) surcharge the amount of any sum which has not been duly brought into account upon any person by whom or by whose authority that sum has not been brought into account; or
- (iii) surcharge the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred:

Provided that—

- (a) before deciding any question raised by an interim report the Secretary of State may, on the application of the auditor or of any party to whom the interim report requires to be intimated as aforesaid, and shall, if so directed by the Court of Session, state a case on any question of law arising on the interim report for the opinion of the Court of Session;
- (b) a surcharge shall not be made under this section upon an officer of a local authority by reason only of his signing a cheque or order in respect of any illegal payment, if he satisfies the Secretary of State that before signing the cheque or order he advised the authority in writing that in his opinion the payment was illegal;
- (c) a surcharge shall not be made under this section upon a member of a county council or town council by reason only of his signing a cheque or order in respect of any illegal payment, if he satisfies the Secretary of State that the payment was made in pursuance of an order of the finance committee of the council in accordance with the provisions of Part IX of this Act, and that before he signed the cheque or order the council had not been advised by any officer of the council that in the opinion of the officer the payment was illegal;
- (d) before making any surcharge in respect of a loss or deficiency due to negligence, the Secretary of State may, and shall, if requested by the auditor or by any of the parties to whom the interim report has been intimated, direct a local inquiry to be held and shall consider the report of the person holding the inquiry;

(e) if the Secretary of State is satisfied that any person against whom a surcharge might be made under this subsection acted reasonably or in the belief that his action was authorised by law, or that the act or omission which might have involved such a surcharge took place in such circumstances as to make it fair and equitable that a disallowance or surcharge should not be made, the Secretary of State shall abstain from making a disallowance or surcharge.

PART X.  
—cont.

(2) The Secretary of State shall cause intimation to be given to the auditor of his decision under this section and of the date on which the decision has been intimated to the persons concerned.

(3) Every sum determined by the Secretary of State under this section to be due from any person shall be paid by such person to the local authority within fourteen days after the decision of the Secretary of State has been intimated to him, and if such sum is not so paid it shall be the duty of the auditor by whom the interim report was made or such other person as the Secretary of State may appoint for the purpose to recover such sum and if need be to institute proceedings for payment of the same to himself on behalf of the authority, and the authority shall reimburse the auditor or other person for his expenses (including a reasonable allowance for his trouble) in so far as not recovered from the person surcharged.

202.—(1) If it shall appear to any auditor acting in pursuance of this Part of this Act that any sum which in his opinion ought to have been credited or debited to one account of the local authority has been credited or, as the case may be, debited to another account of the authority, he shall, by an interim report under his hand, report thereon to the Secretary of State setting forth the grounds of his opinion as aforesaid, and the Secretary of State shall cause such interim report to be intimated to the authority, and shall consider any statement in writing by the authority which may be made to him thereon within fourteen days of the date of such intimation, and after such further inquiry, if any, as he may think fit, the Secretary of State shall decide all questions raised by such interim report and shall give directions to the authority to make such rectification of their accounts as seems necessary, and the authority shall forthwith give effect to such directions.

Power of  
Secretary of  
State to  
require  
rectification  
of accounts.

(2) The Secretary of State shall cause intimation to be given to the auditor of his decision under this section.

203.—(1) Within fourteen days after the completion of the audit the auditor shall, subject in a case where he has made an interim report to a reservation as to the question raised

Auditor's  
report on  
accounts.

**PART X.**  
*—cont.*

thereunder, report on the accounts audited and on the matters prescribed by the Secretary of State under section two hundred and seven of this Act, and shall certify on each duplicate abstract of the accounts the amount in words at length of the expenditure so audited and allowed and whether all the provisions under any enactment or statutory order with respect to the accounts have been complied with and whether he has ascertained by the audit the correctness of the accounts.

(2) The auditor shall forthwith send one duplicate abstract of the accounts to the local authority and the other duplicate abstract to the Secretary of State.

(3) In the case of a county council and of a town council of a county of a city, the auditor shall also forthwith send to the accountant within the meaning of the Education (Scotland) Act, 1946, a copy of the abstract of the accounts relating to education with a report and certificate thereon as aforesaid.

Abstract of audited accounts and auditor's report to be open to public inspection.

**204.** The local authority shall, within fourteen days of receiving from the auditor the certified duplicate abstract of accounts, cause the same together with the auditor's report on the accounts or a copy thereof to be deposited in their office for inspection free of charge by ratepayers within the area of the authority for at least fourteen days and a notice to be published once weekly for at least two successive weeks in a newspaper circulating in the area of the authority of the place at which and the time during which the said abstract and report shall be open to the inspection of all such ratepayers. The first notice shall be published before the commencement of the said period of at least fourteen days.

Notice of surcharge, of rectification of accounts or of auditor's report on accounts.

**205.** The Secretary of State may require a local authority to cause such public notice as he may direct to be given of any surcharge made by him or any rectification of accounts required by him or of any report by the auditor (other than an interim report) under this Act, and in case of default in such publication the Secretary of State may cause such notice to be given, and the cost of such notice to the amount certified by the Secretary of State shall be a debt due from the authority to the Crown, and the clerk of the authority shall in case of such default in such publication be liable on summary conviction to a fine not exceeding twenty pounds.

*General.*

Audit of accounts of joint committees and joint boards.

**206.** The provisions of this Part of this Act shall, subject to the necessary modifications, apply to the accounts of a joint committee and of a joint board in like manner as they apply to the accounts of a local authority, and any provisions relating to audit (so far as inconsistent herewith) contained in

any enactment or statutory order with respect to such joint committee or joint board passed or made before the commencement of this Act shall cease to have effect.

PART X.  
—*cont.*

207. The Secretary of State may make regulations pre- Regulations  
scribing the manner in which the audit of the accounts of a as to audit.  
local authority shall be conducted by the auditor and the  
matters with respect to the accounts, the accounting arrange-  
ments of the authority and the repayment of moneys borrowed  
by the authority upon which the auditor shall report, and any  
such regulations may, in the case of a particular local  
authority or class of local authority where it appears to the  
Secretary of State expedient so to do, vary the procedure  
and the times and periods specified in this Part of this Act.

208.—(1) Nothing in this Part of this Act shall affect the Saving and  
provisions of section seventy-four of the Education (Scotland) interpretation.  
Act, 1946 (which relates to the examination of accounts re-  
lating to education).

(2) For the purposes of this Part of this Act a ratepayer within a burgh shall be deemed to be a ratepayer within the county, as respects the accounts of a county council relating to a function which the county council are entitled to exercise or a service which they provide within the burgh.

(3) In this Part of this Act the expression “ books and documents ” shall include all books, deeds, contracts, vouchers, accounts, receipts and other documents and papers.

## PART XI.

### LEVY AND COLLECTION OF RATES BY RATING AUTHORITIES AND REQUISITIONS FOR PAYMENT BY OTHER LOCAL AUTHORITIES.

#### *Rating Authorities and Requisitioning Authorities and General Duties.*

209. The local authority for the purpose of levying rates Rating  
to meet expenditure on the functions of the authority or of authorities.  
any other local authority under any public general Act shall  
be—

(a) in the case of the landward area of a county, the  
county council; and

(b) in the case of a burgh, the town council thereof;

and the county council and town council as regards the  
respective areas aforesaid are in this Part of this Act referred  
to as “ rating authorities.”

PART XI.  
—cont.Requisitioning  
authorities.

**210.** A local authority, not being the rating authority for the area, exercising any function under any public general Act within that area shall not levy rates within that area to meet expenditure on any such function but shall issue to the rating authority of that area a requisition for payment and shall receive payment from that authority in accordance with the provisions of this Part of this Act. Such an authority issuing a requisition is in this Part of this Act referred to as a "requisitioning authority."

Expenses of  
local  
authority  
under public  
general Acts  
to be defrayed  
out of rates  
or sums  
requisitioned.

**211.** The expenses of a local authority in exercising functions under any public general Act, so far as not met otherwise, shall if and so far as the authority are a rating authority, be defrayed out of rates levied under this Part of this Act, and if and so far as the authority are a requisitioning authority, be defrayed out of sums requisitioned under this Part of this Act:

Provided that in the case of functions relating to public utility undertakings this section shall apply so far only as any enactment or statutory order relating to such undertakings so provides.

Duty of local  
authority to  
levy sufficient  
rates or issue  
sufficient  
requisition.

**212.—(1)** It shall be the duty of every rating authority to levy such rates as will provide sufficient funds to meet such part of the total estimated expenditure to be incurred by the authority during the financial year in respect of which the rate is levied (after taking account of any balance or estimated balance at the end of the last financial year) as is to be met out of moneys raised by rates (including in that expenditure any sums payable to any other local authority under requisitions issued by that authority), together with such additional amount as is in the opinion of the rating authority required to cover expenditure previously incurred or to meet contingencies so far as the same fall to be met out of rates.

(2) It shall be the duty of every requisitioning authority to issue to the rating authority a requisition for payment of such sum as will provide sufficient funds to meet such part of the total estimated expenditure to be incurred by the requisitioning authority during the financial year in respect of which the requisition is issued (after taking account of any balance or estimated balance at the end of the last financial year) as is to be met out of moneys raised by rates levied by the rating authority and out of grants payable to the rating authority under Part III of the Local Government (Scotland) Act, 1929, so far as such grants, if any, are properly applicable to such expenditure, together with such additional amount as is in the opinion of the requisitioning authority required to cover expenditure previously incurred or to meet contingencies so far as the same fall to be met out of rates and out of such grants.

(3) In levying a rate or issuing a requisition for the purposes of this section, account shall be taken only of expenditure to which such rate or the sum in such requisition is properly applicable, and in taking account of any balance or any expenditure previously incurred for the purposes of this section, due regard shall be had to the incidence of the rate to which such balance or expenditure properly relates.

PART XI.  
—cont.

213. Such sums as are required to be raised by rates, whether by the local authority incurring the expenditure or by some other local authority on the requisition of that authority, for the purpose of defraying expenditure on a function of the authority shall be ascertained by reference to the expenditure of the authority in discharging the function throughout the area to which the function relates.

Sums to be raised by rates to be ascertained by reference to expenditure on functions within area to which functions relate.

### Requisitions.

214.—(1) For the purpose of ascertaining the sums payable by the town councils of burghs within a county in respect of the expenditure by the county council on functions for which the burghs are included within the county and securing payment of such sums, the provisions of this section shall have effect subject to the provisions of section two hundred and eighteen of this Act.

Requisitions by county council to town councils of burghs.

(2) The expenditure of a county council for each purpose for which a burgh is included within the county after taking account of all sums due to be received by the county council in respect thereof (other than sums raised by rate or by requisition) shall be apportioned and allocated as between each burgh and the landward area of the county according to the rateable valuation in the valuation roll of the respective areas.

(3) In ascertaining the expenditure to be apportioned in the case of a large burgh, no account shall be taken of any grants payable to the county council under Part III of the Local Government (Scotland) Act, 1929, but in ascertaining the expenditure to be apportioned in the case of a small burgh account shall be taken of such grants so far as those grants are properly applicable to such expenditure.

(4) The county council shall annually and not later than the fifteenth day of July in each year cause a requisition in respect of the financial year then current to be sent to the town council of each burgh within the county requiring them to pay the sum apportioned and allocated to the burgh as aforesaid, subject to any adjustment required by subsection (6) of this section, and the town council shall, at such intervals

PART XI.  
—cont.

and by such instalments as they and the county council agree and failing agreement as the Secretary of State may determine, pay over to the county council the sum so requisitioned without any deduction whatever, so however that the last instalment shall be payable not later than the first day of May first occurring after the date of the requisition.

(5) The contribution payable in respect of a burgh ascertained as aforesaid shall, except in so far as provided out of the common good or other revenues of the burgh including grants under Part III of the said Act of 1929, be defrayed by the town council as part of such branch or branches of expenditure as the council determine, being a branch or branches of expenditure defrayed out of the burgh rate so far as payable by owners and occupiers in equal proportions:

Provided that such contribution so far as relating to the expenditure of the county council on police shall, where the same was, in accordance with the provisions of section twenty-two of the said Act of 1929, payable out of a rate payable by occupiers only, be defrayed as part of such branch or branches of expenditure as the council determine, being a branch or branches of expenditure defrayed out of the burgh rate so far as payable by occupiers only.

(6) A county council in making a requisition for a financial year shall take account of any adjustment that may be required with respect to the requisition for the immediately preceding financial year.

(7) A requisition for the purposes of this section shall be in such form as may be prescribed.

Requisition  
by district  
council to  
county council.

**215.—(1)** For the purpose of defraying the expenses of a district council on the functions vested in the council by this Act or any other enactment or any statutory order so far as not met otherwise, the council shall annually and not later than the first day of July in each year cause a requisition to be sent to the county council requiring that council to pay to the district council the sum specified in the requisition, so however that the county council shall not in any year be required to pay over to the district council any sum in excess of the produce of the maximum amount per pound of the district council rate according to the limit imposed by section two hundred and twenty-six of this Act together with any grant under Part III of the Local Government (Scotland) Act, 1929, that may be properly applicable and after account has been taken of any balance in the hands of the county council in respect of the district council rate levied in a previous year or any overpayment to the district council in a previous year.



(2) Subject to the provisions of the preceding subsection, the county council shall, from time to time as they collect the rate and at such intervals as they and the district council agree and failing agreement as the Secretary of State may determine, pay over to the district council the sum requisitioned as aforesaid without any deduction whatever, so however that the last instalment shall be payable not later than the first day of May first occurring after the date of the requisition.

PART XI.  
—cont.

**216.** Every joint committee or joint board the expenses of which are defrayed in whole or in part by the local authorities concerned shall, notwithstanding anything in any enactment, order or agreement, as early in the financial year as may be agreed upon between the authorities concerned and in any case not later than the first day of July, cause a requisition to be sent to each of the authorities concerned requiring the authority to pay to the joint committee or joint board the sum specified in the requisition, being the authority's proportion of the expenses of the joint committee or joint board; and the authority shall, at such intervals and by such instalments as the authorities concerned agree and, failing agreement, as the Secretary of State may determine, pay over to the joint committee or joint board the sum so requisitioned, so far as payable by the authority, without any deduction whatever, so however that the last instalment shall be payable not later than the first day of May in the year first occurring after the date of the requisition, and any provisions contained in any enactment or statutory order inconsistent with this subsection shall cease to have effect.

Requisitions  
by joint  
committees  
and joint  
boards.

**217.—(1)** For the purpose of enabling a county council to apportion and allocate expenditure under section two hundred and fourteen of this Act, the town clerk of every large burgh within the county shall as soon as the valuation roll of the burgh has been authenticated under the Valuation Acts, furnish free of charge to the county clerk a certificate of the rateable valuation of the burgh.

Certification of  
valuation for  
apportionment  
of expenditure  
for rating  
purposes.

(2) For the purpose of enabling any local authority or any joint committee or joint board or other authority to apportion and allocate expenditure under the provisions of any enactment, agreement, order or otherwise among two or more local authorities according to the rateable valuation or the gross annual valuation of the respective areas of the authorities, the clerk of the local authority responsible for the making up of the valuation roll relating to the areas of the said local authorities or any part thereof shall on request and free of charge furnish to the clerk of any such local authority or joint committee or joint board or other authority concerned a certificate of the rateable valuation or the gross annual valuation, as the case may be, of each of the areas so far as included in the valuation roll.

PART XI.  
—*cont.*  
Apportionment of expenditure for rating purposes to be on basis of valuation roll for previous year.

218.—(1) For the purpose of allocating and apportioning expenditure in respect of a year under section two hundred and fourteen of this Act according to the rateable valuation in the valuation roll of each of the areas of the local authorities concerned, the valuation roll shall be the valuation roll for the year corresponding to or as nearly as may be to the preceding financial year of the rating authorities, with such adjustments on the basis of the valuation roll for that year as may be necessary to take account of any alteration in the boundaries of the area of any of the authorities concerned to which effect has been given or is being given in the valuation roll for the year current.

For the purposes of this subsection the valuation roll shall not include a supplementary valuation roll made up under section sixty of the Burgh Police (Scotland) Act, 1903, or the corresponding provision of any local Act.

(2) The provisions of the foregoing subsection shall, subject to any necessary modifications, apply with respect to the apportionment under any other enactment or any statutory order or any agreement of annual expenditure between two or more local authorities according to the rateable valuations or the gross annual valuations of the areas of the local authorities in the valuation roll, unless such enactment, order or agreement specifically provides otherwise.

Provisions for securing payment of sums in requisition.

219.—(1) Where in pursuance of a requisition issued after the commencement of this Act by a local authority or a joint committee or a joint board, whether under this Act or any other enactment or any statutory order, an amount is payable by a rating authority to the authority, committee or board issuing the requisition and the Secretary of State is satisfied, on an application by the authority, committee or board issuing the requisition made after twenty-one days' notice to the rating authority and after giving the rating authority an opportunity to submit to him representations, that the rating authority have refused or have through wilful neglect or wilful default failed to raise that amount by rate, or that having raised the amount by rate the rating authority have refused or have through wilful neglect or wilful default failed to pay the amount due under the requisition, the Secretary of State may issue a certificate to that effect, and thereupon the authority, committee or board issuing the requisition may present a petition to the Court of Session for the appointment of a judicial factor, and the Court may, if they think fit, appoint a judicial factor.

(2) Subject to the directions of the Court, the judicial factor shall have all the powers competent to the rating authority or any officer of that authority in connection with levying

PART XI.  
—cont.

rates and collecting and recovering sums due to that authority in respect of rates and any other sums whatsoever due to that authority and such other powers and duties as the Court think fit, and shall apply all moneys so collected and received by him, after payment of expenses and costs including a proper remuneration for his trouble, in satisfying the amount payable under the requisition, and shall account to the rating authority for the balance, if any, remaining after making the said payments.

(3) The judicial factor shall have such access to and use of the books and documents of the rating authority as he may require.

(4) The powers of this section shall be in addition to and not in derogation of any other powers for enforcing compliance with a requisition issued to a rating authority.

*General Provisions as to Rates.*

220. Subject to the provisions of any local Act, every rate levied by a rating authority shall be levied for the financial year of the authority, and for this purpose the valuation roll for the year commencing on the sixteenth day of May and ending on the fifteenth day of May in the year immediately following shall be applicable to the financial year corresponding thereto or as nearly as may be thereto as if the rate were levied for the year for which the valuation roll is made up.

Rates to be levied for financial year of rating authority.

221. Subject to the provisions of this Act or any other enactment relating to total or partial exemption from any rate, and subject also to the provisions of this Part of this Act relating to rates in respect of lands and heritages included in a supplementary valuation roll, every rate levied by a rating authority shall be levied in respect of all lands and heritages within the area to which the rate relates according to the rateable value of the lands and heritages as appearing in the valuation roll for the year corresponding to or as nearly as may be to the year for which the rate is levied.

Rates to be levied on lands and heritages according to rateable value in valuation roll.

222. Save as otherwise provided with respect to any rate in this Act or any other enactment, every rate levied shall be payable by owners and occupiers in equal proportions.

Incidence of rates between owners and occupiers.

223. Save as otherwise provided in this Act or any other enactment, every rate levied upon owners of lands and heritages within the area to which the rate relates shall be at a uniform amount per pound, and every rate levied upon occupiers of lands and heritages within the area to which the rate relates shall be at a uniform amount per pound:

Uniform rates.

PART XI.  
—cont.

Provided that where in any burgh under any enactment in force on the fifteenth day of May eighteen hundred and ninety-three a rate of a higher amount per pound was then in use to be levied in respect of lands and heritages above a certain fixed rent or gross annual value than in respect of other lands and heritages, such enactment shall continue to have effect, but that only so long as the town council think proper.

*Levy of Rates.*County rate  
and burgh  
rate.

224.—(1) Every rating authority shall—

- (a) for the purpose of defraying, so far as not met otherwise, all expenditure of the authority on functions (other than functions with respect to public utility undertakings) under this Act or any other enactment or any statutory order relating to the whole area of the authority (including any sum required to be raised from rates relating to the whole area of the authority to meet a requisition); and
- (b) for the purpose of defraying, so far as properly payable out of rates relating to the whole area of the authority, expenditure of the authority on functions with respect to public utility undertakings;

levy a rate which shall be known, in the case of a county council, as the county rate, and, in the case of a town council, as the burgh rate, and separate rates shall not be levied in respect of expenditure on separate functions of the rating authority or any other local authority relating to the whole area of the rating authority:

Provided that—

- (i) except so far as the Secretary of State may by order so direct or as is provided in a local Act, this subsection shall not apply with respect to expenditure falling to be defrayed out of water rates leviable under the provisions of a local Act, which water rates shall be leviable as separate rates;
- (ii) where by any enactment passed before the sixteenth day of May, nineteen hundred and thirty, provision is made in the case of lands and heritages for a total or partial exemption from any rate then in use to be levied for the purpose of defraying such expenditure as is included in the rate under this subsection, the Secretary of State may, on the application of the rating authority or of any person interested, by order provide that in lieu of such exemption such portion only of the rate under this subsection as is specified in the order shall be leviable in respect of the said lands and heritages, and such enactment shall have effect subject to the provisions of any such order;

- (iii) where an order has been made by the Secretary of State under subsection (1) of section nineteen of the Local Government (Scotland) Act, 1929, providing that such portion only of the consolidated rate under that subsection as is specified in the order shall be leviable in respect of the lands and heritages therein mentioned, that portion only of the rate under this subsection shall be leviable in respect of the said lands and heritages; and
- (iv) where any enactment passed on or after the sixteenth day of May, nineteen hundred and thirty, provides that such portion only of the consolidated rate under subsection (1) of section nineteen of the said Act of 1929, or under any corresponding provision of a local Act as is specified in the enactment, shall be leviable in respect of the lands and heritages therein mentioned, that portion only of the rate under this subsection shall be leviable in respect of the said lands and heritages.

(2) Such portion of the burgh rate as is levied to defray the expenditure (so far as not met otherwise) set out in the Fifth Schedule to this Act shall be payable by occupiers only, except as otherwise provided in a local Act and except where immediately before the commencement of this Act the said portion of the burgh rate was payable otherwise than by occupiers only by virtue of a resolution passed by the town council under subsection (4) of section three hundred and seventy-three of the Burgh Police (Scotland) Act, 1892, in which case the resolution shall continue to have effect for the period to which it relates, and such resolution may thereafter be renewed from time to time by the town council for a definite period, not exceeding at any one time five years, if passed by a majority of not less than two-thirds of the members of the council present and voting at a meeting specially called for the purpose.

Where immediately before the commencement of this Act a rate leviable under a local Act formed part of the consolidated rate of a burgh by virtue of an order under subsection (1) of section nineteen of the Local Government (Scotland) Act, 1929, or of a local Act, and such rate was in accordance with the provisions of the local Act payable by owners only, or by occupiers only, or by owners and occupiers otherwise than in equal proportions, the burgh rate, so far as relating to the expenditure corresponding to that in respect of which the rate under the local Act was leviable, shall be payable, as the case may be, by owners only, or by occupiers only, or by owners and occupiers in the same proportions as in the case of the said rate.

(3) Subject to the provisions of this section, any reference in any enactment or document passed or dated before the

PART XI.  
—*cont.*

commencement of this Act to a rate levied to meet expenditure which under this section is to be defrayed out of the rate levied under this section shall be construed as a reference to the rate under this section so far as the same relates to such expenditure.

Special  
district rates.

225.—(1) For the purpose of defraying, so far as not met otherwise, the expenditure incurred in carrying out the purposes for which a special district has been formed under Part VII of this Act or under any enactment repealed by this Act, the county council shall levy a rate on all lands and heritages within the special district, which rate shall be called the special district water rate or special district sewer rate or other special district rate as the case may require:

Provided that the special district rates for purposes other than water supply and sewerage and sewage disposal shall not together exceed in any special district ninepence per pound, so however that if the produce of such rates is not sufficient to meet the expenditure for the said purposes bona fide incurred or contemplated in the district, the rates may be increased to such extent as may be approved by the Secretary of State.

(2) Subsection (4) of section two of the Orkney and Zetland Small Piers and Harbours Act, 1896, relating to the levying of a special district (pier and harbour) rate shall have effect as if the following proviso were substituted for the provisos to that subsection:

“ Provided that such special district (pier and harbour) rate shall not exceed fifteen pence per pound.”

District  
council rate.

226. For the purpose of meeting a requisition sent to a county council by a district council, the county council shall subject to the provisions of this Part of this Act levy within the district of the district council a rate called the “ district council rate ”:

Provided that the district council rate in any district shall not in any year exceed the sum of one shilling per pound together with such sum per pound in addition to the said sum of one shilling as may be required to defray any expenditure which by virtue of any enactment is not to be taken account of in calculating the said limit of one shilling per pound.

Other rates  
required to  
be levied.

227. Every rating authority shall, for the purpose of defraying, so far as not met otherwise, any expenditure of the authority under any enactment or statutory order (including any sum required to be raised from rates to meet a requisition), not being expenditure to which any of the three immediately preceding sections applies, levy within the area to which the expenditure relates a rate for the purpose of meeting such expenditure:

Provided that a rate shall be levied under this section in respect of expenditure for the purposes of any public utility undertaking only so far as such expenditure is properly payable out of rates.

PART XI.  
—cont.

228. If, at the time when any rates for the financial year then current are payable, an appeal under the Valuation Acts is then pending with respect to any lands and heritages, the rating authority may, notwithstanding anything in this Part of this Act, levy and recover such rates in respect of the said lands and heritages according to the rateable value thereof as appearing in the valuation roll for the year immediately preceding, so however that on the determination of the appeal the difference, if any, between the amount paid and the amount which would have been payable on the rateable value as so determined shall if an overpayment has been made be repaid by the rating authority, and if an underpayment has been made shall be collected and recovered by the rating authority as if it were arrears of rates due and payable to the rating authority.

Rates to be levied notwithstanding appeal under Valuation Acts.

229.—(1) Where a town council have caused to be prepared a supplementary valuation roll for the burgh under section sixty of the Burgh Police (Scotland) Act, 1903, the council shall be entitled to levy rates for all purposes in respect of lands and heritages included in the supplementary valuation roll in like manner as in respect of lands and heritages included in the principal valuation roll and shall fix the dates—

Rates on lands and heritages in supplementary valuation roll.

- (a) for payment of the said rates;
- (b) for lodging appeals against the said rates; and
- (c) for hearing the said appeals.

(2) The provisions of the preceding subsection shall apply subject to any necessary modifications in the case of any rating authority having power to prepare a supplementary valuation roll for their area under the provisions of any local Act.

(3) In determining the amount of any valuation of lands and heritages included in any such supplementary valuation roll, account shall be taken of the period between the date specified in the roll as the date when the lands and heritages came into existence or occupancy and the term of Whitsunday next following, and section sixty of the Burgh Police (Scotland) Act, 1903, (so far as unrepealed) and any corresponding provision of a local Act shall have effect accordingly.

230. Every rating authority shall on or before the thirty-first day of October in each year determine the amount per pound in the case of the county rate or the burgh rate, as the case may be, and of each of any other rates required to be levied by the authority for the financial year then current.

Amount per pound of rates to be determined by 31st October.

## PART XI.

*Payment of Rates.*

—cont.  
Date and place  
of payment  
of rates.

231. Save as otherwise provided in this Part of this Act with respect to the payment of rates by instalments and to the levying of rates in respect of lands and heritages included in a supplementary valuation roll and save as otherwise provided in any local Act, all rates levied by a rating authority shall be payable at the office of the collector of the authority or at such other office as the authority may determine on such date not earlier than the first day of November in the financial year to which the rates relate as the authority may determine.

Payment  
of rates by  
instalments.

232.—(1) Notwithstanding anything in this Act or in any other enactment, a rating authority may on passing a resolution to that effect levy, collect and recover all or any of the rates leviable by the authority by instalments (not being more than four in number) of such amounts and payable on such dates as the authority shall fix at the time of determining the amount per pound of the rate, and the demand note shall in addition to the other particulars required state the date appointed for the payment of each instalment, and all powers, rights and remedies competent to the authority or to their officers for levying, collecting and recovering the rate shall apply to each of the instalments of the rate as if it were a separate rate:

Provided that—

- (a) any person may elect to pay in one sum instead of by instalments;
- (b) any person failing to make payment of the first instalment by the date on which that instalment is due shall forfeit the right to pay by instalments, and in the case of that person the rate shall be payable as if no such resolution as aforesaid had been passed by the authority; and
- (c) nothing in this section shall affect the powers of a rating authority under the provisions of any local Act with respect to the levying, collecting or recovering of rates by instalments, and any such provision of any local Act shall apply to the rates levied by the rating authority under this Act.

(2) The rating authority may at any time revoke or alter any resolution under this section.

(3) Nothing in this section shall be deemed to prevent a rating authority from making arrangements with any ratepayer to make payments to the authority to account of rates at such times as may be agreed between the authority and the ratepayer.

*Assessment Roll.*

Assessment  
roll.

233.—(1) Every rating authority shall for the purpose of collecting any rate levied by the authority cause to be made



up a roll called the "assessment roll" showing the persons liable in the rate, the lands and heritages in respect of which the rate is payable by each such person, the rateable value of the lands and heritages and also the gross annual value thereof where it differs from the rateable value, in the case of each such person, and the amount payable by that person.

(2) The assessment roll may be made, to apply to more than one rate.

(3) The assessment roll shall at all reasonable times during the period between the date on which the roll has been made up and the date appointed for the payment of the rate be open to inspection by any person interested in or liable to pay the rate to which the roll relates and by any officer of Inland Revenue, and any such person or officer may take extracts therefrom without payment of any fee, and any collector or other officer of the authority having custody of the roll who without reasonable cause refuses to allow such inspection to be made or extracts to be taken shall for every such offence be liable on summary conviction to a penalty not exceeding five pounds.

(4) The rating authority shall have power at any time before the expiration of one year after the end of the year in respect of which the rate is levied to amend the assessment roll by inserting therein the name of any person who ought to have been entered therein as liable in the rate or who since the making of the roll has become so liable, or by striking out the name of any person who according to a written certificate by the assessor under the Valuation Acts ought not to have been so entered, or by correcting the amount of any value or rate which may have been inaccurately entered, and any such amendment shall not vitiate the rate or render it less operative.

(5) The production of the assessment roll shall alone and without any other evidence whatsoever be received as prima facie evidence of the making and validity of the rates therein mentioned.

234. The assessor under the Valuation Acts or other person for the time being in the actual possession of the valuation roll for the area to which any rate levied by a rating authority relates shall, for the purpose of enabling the assessment roll to be made up from the valuation roll and without making any charge, exhibit or give access to the valuation roll to the rating authority and the officers thereof.

Valuation roll to be made available for preparation of assessment roll.

For the purposes of this section the expression "valuation roll" includes a supplementary valuation roll made up under section sixty of the Burgh Police (Scotland) Act, 1903, or under any local Act.

PART XI.  
—cont.

Rating authority may require owner to furnish statement of lets.  
1 & 2 Geo. 5.  
c. 53.

**235.**—(1) Without prejudice to the provisions of subsections (4) and (5) of section seven of the House Letting and Rating (Scotland) Act, 1911, a rating authority may require an owner of lands and heritages within the area of the authority to furnish a written statement of the periods for which the lands and heritages are let to the respective tenants or occupiers thereof and of the rents for which the same are let, which statement the owner shall be bound to furnish within seven days of being required in writing so to do.

(2) Any owner of lands and heritages who fails without reasonable excuse to furnish such statement within the period aforesaid shall be liable on summary conviction to a penalty not exceeding ten pounds, and any such owner who furnishes or causes to be furnished any false statement as to the period of let or the rent for any of the said lands and heritages knowing the same to be false shall be liable on summary conviction to a penalty of twenty pounds.

Fractions of a penny of rates.

**236.** In calculating and collecting the amount payable by a ratepayer in respect of rates levied by a rating authority, any fractional part of a penny less than one halfpenny shall not be reckoned as part of the amount of such rates, and any fractional part of a penny amounting to or exceeding a halfpenny shall be reckoned in the amount of such rates as one penny.

*Demand Note.*

Demand note for rates.

**237.**—(1) Every rating authority shall as soon as practicable cause to be issued demand notes for payment of rates payable to the authority to every person liable in payment thereof.

(2) Every such demand note (other than a demand note issued in respect only of a second or later instalment of rates) shall contain information with respect to the following matters, that is to say—

- (a) the situation of the lands and heritages in respect of which the demand note is issued and such description thereof as is reasonably necessary for the purpose of identification; and
- (b) the rateable value of the lands and heritages and also the gross annual value thereof where it differs from the rateable value; and
- (c) the date on which the rates are payable; and
- (d) the period in respect of which the rates are levied; and
- (e) the amount per pound in the case of each of the rates; and

- (f) in the case of the county rate or the burgh rate, the amount of the expenditure under each of the branches prescribed by the Secretary of State which is being defrayed out of that rate and grants under Part III of the Local Government (Scotland) Act, 1929, showing separately the expenditure of the rating authority and the expenditure of any other authority issuing a requisition to the rating authority; and
- (g) the manner in which and the time within which appeals may be made against the rates.

(3) The Secretary of State may prescribe the form of demand note for rates.

(4) So far as practicable every rating authority shall include in one demand note all the rates levied by the authority in respect of the same lands and heritages and payable by the person named in the demand note.

#### *Appeals against Rates.*

238.—(1) Every rating authority shall fix a date on or before which any person may lodge with the officer of the authority designated for the purpose an appeal against the rates claimed from him on the ground that he is being improperly charged, and another date on which the appeals shall be heard by the rating authority or a committee thereof.

(2) The demand note shall contain a notice of the date by which appeals may be lodged and state the name or designation and the address of the officer with whom appeals may be lodged, and if the date for the hearing of appeals is not notified in the demand note, notice in writing thereof shall be given on behalf of the authority to the persons appealing.

(3) Every rating authority may if they think fit make rules with respect to the lodging and hearing of appeals under this section, so however that such rules shall not be inconsistent with the provisions of this Part of this Act.

(4) Nothing in this section shall be deemed to affect any right of appeal against rates competent to a person under a local Act.

#### *Levy of Occupiers' Rates on Owner in Certain Cases.*

239.—(1) The town council as rating authority of a burgh shall levy upon the owner of lands and heritages within the burgh let at the annual rent of or under four pounds (not being lands and heritages to which the House Letting and Rating (Scotland) Acts, 1911 and 1920, apply) in place of the occupiers thereof the occupiers' rates in respect of such lands and heritages, but shall allow to the owner a deduction from the occupiers' rates equal to two and one-half per centum thereof, and such rates shall be recoverable from the owner along with any penalty which may become exigible thereon

Owner of subjects of or under £4 annual value in burghs to pay occupiers' rates.

PART XI.  
—cont.

in the same way as in the case of recovery from occupiers, and every such owner charged with and paying the occupiers' rates shall have relief against the occupiers of such lands and heritages for the full amount thereof without deduction so far as the rates are properly chargeable upon such occupier, and so far as the owner fails to recover the amount payable by the occupier he shall be entitled to repayment (under deduction of two and one-half per centum as aforesaid) from the authority upon lodging a claim on or before such date as may be fixed by the authority, without prejudice to the right of the authority to make adjustments with the owner in respect of any sum subsequently recovered by him in respect of such occupiers' rates.

(2) For the purposes of this and the next two succeeding sections, any sum recovered by an owner from an occupier in respect of rent or occupiers' rates shall be treated as relating proportionately to the sum due for rent and to the sum due for occupiers' rates.

Owner may be charged with occupiers' rates where subjects let for less than a year.

240. Without prejudice to the provisions of the House Letting and Rating (Scotland) Acts, 1911 and 1920, a rating authority may if they think fit levy upon the owner any occupiers' rate in respect of lands and heritages separately let for a shorter period than one year, but the authority shall allow to such owner a deduction from the occupiers' rate equal to two and one-half per centum thereof, and such occupiers' rate shall be recoverable from the owner along with any penalty which may become exigible thereon in the same way as in the case of recovery from occupiers, and every such owner charged with and paying occupiers' rates shall have relief against the occupiers of the lands and heritages for the full amount of the occupiers' rates without deduction corresponding to the period of occupancy, and so far as he fails to recover the amount payable by any such occupier, the owner shall be entitled to repayment (under deduction of two and one-half per centum as aforesaid) from the authority upon lodging a claim on or before a date fixed for the purpose by the authority, without prejudice to the right of the authority to make adjustments with the owner in respect of any sum subsequently recovered by him in respect of such occupiers' rates.

Rates on subjects not occupied by same occupier for whole year.

241. Without prejudice to the provisions of the House Letting and Rating (Scotland) Acts, 1911 and 1920, a rating authority may if they think fit, in the case of any lands and heritages (not being lands and heritages usually let for a period shorter than one year) which are not occupied by the same occupier for the whole year from the term of Whitsunday in one year to the term of Whitsunday in the year following, but are occupied for part of such year by a new occupier, levy upon the new occupier who occupies the lands and heritages for any part of the year, whether his name appears in the

valuation roll or not a proportion of the rate for that year corresponding to the period of his occupancy, and may if they think fit levy upon the owner of the lands and heritages the proportion of the rate, if any, corresponding to the period during which the lands and heritages were occupied during the said year by any other occupier, but the authority shall allow to such owner a deduction from the occupiers' rates equal to two and one-half per centum thereof, and such occupiers' rates shall be recoverable from the owner along with any penalty which may become exigible thereon in the same way as in the case of recovery from occupiers, and every such owner charged and paying occupiers' rates shall have relief against any such other occupiers for the full amount of the rates without deduction corresponding to the period of occupancy, and so far as he fails to recover the amount payable by any such other occupiers he shall be entitled to repayment (under deduction of two and one-half per centum as aforesaid) from the authority upon lodging a claim on or before a date to be fixed for the purpose by the authority, without prejudice to the right of the authority to make adjustments with the owner in respect of any sum subsequently recovered by him in respect of such occupiers' rates.

*Relief of Rates as between Occupiers.*

242. An outgoing occupier removing from any lands and heritages during the currency of a year for which he has paid the occupiers' rates in respect of the said lands and heritages levied by the rating authority shall have a right of relief against the incoming occupier for the proportion of the said rates applicable to the period of the year remaining unexpired at the entry of the incoming occupier.

Outgoing occupier to have right of relief for rates against incoming occupier.

*Exemptions from Payment of Rates.*

243.—(1) Save as otherwise provided in a local Act, the occupiers' portion of any rate levied by the rating authority shall not be payable in respect of lands and heritages if the lands and heritages are unlet, unoccupied and unfurnished throughout the whole of the year from Whitsunday to Whitsunday corresponding to or as nearly as may be to the period for which the rate is levied or, in the case of lands and heritages included in a supplementary valuation roll, throughout the whole of the period mentioned in subsection (3) of section two hundred and twenty-nine of this Act.

Occupiers' rates not to be levied in respect of unlet and unoccupied subjects.

(2) Where lands and heritages are unlet, unoccupied and unfurnished for a continuous period of not less than three months in a year from Whitsunday to Whitsunday corresponding to or as nearly as may be to the financial year, the rating authority may if they think fit grant a remission of

**PART XI.**  
*—cont.*

the occupiers' rates in respect of such lands and heritages for that year to an extent corresponding to the proportion which the period during which the lands and heritages are unlet, unoccupied and unfurnished bears to the whole year.

Remission of rates on account of poverty.

**244.** Every rating authority may, on the application of any person liable in payment of any rate levied by the authority, relieve in whole or in part that person from payment of the rate on the ground of poverty or inability to pay.

Town council of burgh may exempt from rates for definite period lands newly included within burgh boundary.

**245.** It shall be lawful for the town council of a burgh, on passing a resolution to that effect at a meeting of the council after one month's previous notice of the resolution has been given, to grant a total or partial exemption for a definite period (not exceeding ten years) from any rates payable to the council in respect of lands and heritages on the ground that such lands and heritages have recently been or are about to be included within the boundaries of the burgh under this Act or under any enactment repealed by this Act.

*Expenses.*

Expenses of levying and collecting rates.

**246.** The expenses incurred by a rating authority in connection with levying, collecting and recovering and paying over all rates levied and collected by them shall be defrayed as part of such branch or branches of expenditure as the authority may determine, so however that in the case of a county council the branch or branches shall be a branch or branches of expenditure relating exclusively to the landward area, and in the case of a town council the branch or branches shall be a branch or branches of expenditure defrayed out of the burgh rate so far as payable by owners and occupiers in equal proportions.

*Recovery and Priority of Rates.*

Recovery of rates.

**247.—(1)** Without prejudice to any other remedies for the recovery of rates it shall be competent to a rating authority, whether or not a warrant has been obtained under the immediately succeeding subsection, to recover any rates in arrear according to the ordinary procedure for recovery of debts before any competent court:

Provided that where any such warrant has been obtained, proceedings under this subsection shall be competent only if the warrant has not been put in force as respects the person against whom proceedings under this subsection are being taken, and decree shall not be given in any proceedings under this subsection unless the summary warrant is abandoned as respects that person.

(2) Upon a petition by the collector of rates of a rating authority containing a certificate by the collector that he has given to each person who has not paid the rates due by him a notice requiring him to make payment of the amount due by him within fourteen days thereafter, that the said period has expired and that the said amount or a part thereof is still due and unpaid, the sheriff shall grant a summary warrant for recovery of the rates so far as due and unpaid, with the addition in each case of ten per centum of the sum due and unpaid, by pouncing and shall authorise—

- (a) officers of court to enter into the house, place of business or other premises in the occupancy of any such person in arrear and to pounce, seize, remove or secure any goods and effects therein belonging to or in the lawful possession of such person or so much thereof as shall satisfy the arrears of rates due by him with the said addition of ten per centum; and
- (b) officers of court or a licensed auctioneer after the lapse of four days, in the event of the non-payment of the said arrears and addition and the expenses incurred, to sell and dispose of the said goods and effects by public auction on three days' notice and pay over to the collector the price after defraying the expenses of and incidental to the sale and the expenses, if any, of preserving the goods and effects, including the maintenance of cattle or other animals until redemption or sale:

and the collector shall apply the sum so paid over in payment of the said arrears and the said addition of ten per centum and account for the balance, if any, to such person:

Provided that no such warrant shall be granted in the case of a person against whom the rating authority have previously obtained a decree for the rates unpaid in any other competent proceedings.

(3) Every such warrant shall also decern and ordain instant execution by arrestment.

(4) The collector shall for a period of three months after the date of every such sale preserve evidence of the amount of the proceeds and the disposal thereof.

(5) Where goods or effects sufficient for the payment of the rate cannot be found to be pounced, it shall be lawful for the sheriff, subject to the provisions of section five of the Civil Imprisonment (Scotland) Act, 1882, by warrant to commit the defaulter to prison, there to be kept without bail until payment is made or security for payment is given. <sup>45 & 46 Vict. c. 42.</sup>

PART XI.  
—*cont.*

(6) In any proceedings for the recovery of rates no person shall be entitled to found upon failure of the rating authority or any other authority to comply with any provision of this Act relating to the date by which something shall be done.

Priority of  
claim for  
rates over  
other claims.

248.—(1) No moveable goods and effects belonging to any person at the time any rates levied by a rating authority became in arrear or were payable by him shall be liable to be taken by virtue of poinding, sequestration or diligence or by any assignation, unless the person proceeding to take the goods and effects pays to the rating authority the rates in arrear or payable or so much thereof as represent the rates for one whole year.

(2) If the rates in arrear or the rates for one whole year, as the case may be, are not so paid, such rates shall, notwithstanding that the goods and effects have been so taken as aforesaid, be recoverable as provided in the immediately preceding section.

Appeal against  
proceedings  
under  
warrant.

249.—(1) The owner of any goods and effects which have been poinded or sold under a warrant granted under this Part of this Act who feels aggrieved by the proceedings in connection with such poinding and sale may present an application to the sheriff who shall hear and determine summarily the dispute or claim of damages raised by the application.

(2) Save as aforesaid, any warrant granted under this Part of this Act or any proceedings under such a warrant shall not be questioned in any legal proceedings whatsoever.

Recovery of  
rates from  
persons  
removing.

250.—(a) If at any time before the amount per pound of the rates for the financial year then current has been determined by the rating authority a person liable in payment of rates to the authority removes or is about to remove from any lands and heritages, the collector of the rating authority may by written demand require such person to pay such a sum as may be specified in the demand in respect of the rates for the year then current, not exceeding a sum equal to the amount of rates levied by the rating authority in respect of the lands and heritages for the immediately preceding year, and if such person fails to pay the sum in accordance with the demand; or

(b) if at any time after the amount per pound of the rates for the financial year has been determined and the rates levied by the rating authority, whether before or after the date on which the rates are payable, a person liable in payment of rates to the authority removes or is about to remove from any lands and heritages and has not paid the rates in respect thereof on a demand therefor in writing by the collector of the rating authority;



the sheriff, on the application of the collector of the authority and without any previous notice to such person shall, if satisfied of the removal or intended removal or that there is reason to suspect such removal, grant warrant to officers of court to poind the goods and effects found on the said lands and heritages and sell the same and pay over to the collector of the authority the proceeds after deducting the reasonable expenses attending such poinding and sale, the collector applying the sum so paid over in payment—

- (i) in the case of a person to whom paragraph (a) hereof applies, of the sum specified in the demand; and
- (ii) in the case of a person to whom paragraph (b) hereof applies, of the rates specified in the demand;

together with the reasonable expenses of the proceedings, and accounting for the balance, if any, to the owner of the goods and effects:

Provided that nothing in this section shall be deemed to affect the right of the rating authority to recover from any other person who may be liable any rates in respect of the said lands and heritages after taking account of any sums recovered under this section.

251. If any person liable in payment of any rates removes to any place beyond the area of the rating authority, it shall nevertheless be lawful for the rating authority and their collector or other officers to put into execution any decree and warrant granted for the recovery of such rates in manner before mentioned in this Part of this Act within or beyond the area of the authority in the same manner as if such person had continued to reside within that area, such decree or warrant being first endorsed by the sheriff of the county within which such decree or warrant is to be put into execution.

Rates recoverable beyond area of rating authority.

252. The provisions of this Part of this Act relating to the recovery and priority of rates shall apply to private improvement expenses under the Burgh Police Acts or under the corresponding provisions of any local Act, whether such expenses are recoverable by a town council or as respects a classified road within a small burgh by a county council, but subject to any necessary modifications and so far as not inconsistent with the provisions of the said Acts.

Application of recovery provisions of Act to private improvement expenses.

253.—(1) No misnomer or inaccurate description of any person or place, or mistake or informality in any roll, demand note or other document in relation to the levying or collecting of rates or any charge or expenses under the Burgh Police Acts or under the corresponding provisions of any local Act or in any proceedings for the recovery of such rates, charges

Misnomers, &c. not to affect proceedings for recovery of rates.

PART XI.  
—cont.

**PART XI.**  
*—cont.*

or expenses shall prejudice the recovery thereof; nor shall any proceedings for or in connection with the recovery of any such rates, charges or expenses or in the execution of a warrant relating thereto be questioned in any legal proceedings by reason of any such misnomer, inaccurate description, mistake or informality.

(2) No proceedings for the recovery of any such rates, charges or expenses shall lapse or abate by the death, resignation or removal from office of the collector instituting the same, but it shall be lawful for the collector of the rating or other local authority for the time to prosecute and follow forth proceedings commenced and carried on in the name of any previous collector in all respects as if such proceedings had been taken by himself.

*Miscellaneous.*

Application of Part XI of Act to all rates levied by rating authority.

254. The provisions of this Part of this Act shall, save as otherwise expressly provided, apply to all rates levied by a rating authority whether under this Part of this Act or any other enactment, but subject always, as respects rates levied under any other enactment, to any provisions of that enactment inconsistent with the provisions hereof.

Application of certain provisions to other authorities having power to levy rates.

255. Without prejudice to any other provisions of this Act, sections two hundred and thirty-one to two hundred and forty-four of this Act shall apply in the case of an authority (other than a rating authority) having power to levy a rate under any local Act in like manner as they apply in the case of a rating authority subject to the necessary modifications and so far as not inconsistent with the provisions of such local Act.

Collection by rating authority of rates levied by other authority.

256.—(1) Any rating authority and any other authority having power to levy a rate under a local Act within the area of the rating authority or any part thereof may make arrangements, on such terms and conditions as may be agreed between the authorities, for the collection by the rating authority of the rates levied by the other authority.

(2) Where any such arrangements as are mentioned in the preceding subsection are in force, the demand note issued by the rating authority in respect of the rates levied by them may include as a separate item the rate levied by the other authority.

Savings for local Acts.

257. Nothing in this Part of this Act shall affect—

- (a) the provisions of any local Act with respect to the payment of an additional rate per pound by way of penalty in the case of rates not being paid by a specified date; or

- (b) any other provision of a local Act with respect to the collection and recovery of rates so far as such provision is not inconsistent with the provisions of this Part of this Act;

PART XI.  
—cont.

and the provisions of this Part of this Act shall apply, subject to any necessary modifications, to the recovery of such additional rate or any other penalty provided for in the local Act as they apply to the recovery of the rate itself.

## PART XII.

### BORROWING BY LOCAL AUTHORITIES.

*Purposes for which, Restrictions subject to which, and Modes in which, Money may be Borrowed by Local Authorities and Security for Money so Borrowed.*

- 258.—(1) A local authority may borrow such sums as may be required for any of the following purposes, that is to say:—
- Purposes for which money may be borrowed.
- (a) for acquiring any land which the authority have power to acquire;
  - (b) for erecting any building which the authority have power to erect;
  - (c) for the execution of any permanent work or the provision of any plant or the doing of any other thing which the authority have power to execute, provide or do and which involves expenditure of a capital nature or for the payment of any sum of a capital nature;
  - (d) in the case of a local authority being the county council of a county, for the purpose of lending to the town council of any small burgh within the county or the district council of any district within the county any money which the town council or the district council, as the case may be, are authorised to borrow;
  - (e) in the case of the joint county council of the counties of Perth and Kinross, or of the counties of Moray and Nairn, for the purpose of lending to a constituent county council of the joint county council any money which that council are authorised to borrow;
  - (f) for the purpose of lending to any joint board the members of which include persons appointed by the authority any money which the joint board are authorised to borrow;

**PART XII.**  
—*cont.*

- (g) in the case of a local authority being a county council or a town council, for the purpose of lending to any other local authority any money which that other authority are authorised to borrow and which is required for the purpose of meeting expenditure incurred by the borrowing authority in connection with a combination of local authorities to which combination both the lending authority and the borrowing authority are parties; and
- (h) for any other purpose for which the authority are authorised under this Act or any other enactment or any statutory order to borrow.

(2) A local authority may borrow such sums as are necessary for the purpose of providing temporarily for current expenditure of an annual nature (except any such expenditure relating to a public utility undertaking) in connection with any of the functions of the authority, including in the case of a rating authority sums required to meet instalments due in respect of sums requisitioned from that authority by another authority:

Provided that all sums so borrowed shall be repaid before the expiration of the financial year in which such sums have been borrowed.

(3) A local authority may borrow such sums as are required to meet expenditure (other than expenditure to which either of the preceding subsections relates) which the authority have power to incur in the exercise of any of their functions (excluding functions relating to a public utility undertaking) where by reason of its nature the Minister concerned is satisfied that the expenditure should be met by borrowing and repayment spread over a term of years and gives his consent thereto, and such sums shall be repaid within such period as the Minister concerned may fix.

(4) A local authority may borrow such sums as are necessary in order to provide working capital or meet any other expenditure (not being expenditure of a capital nature) required for the purposes of any public utility undertaking carried on by the authority:

Provided that—

- (i) the total sums borrowed under this subsection and for the time being outstanding shall not, except with the consent of the Minister concerned, exceed an amount representing one half of the gross revenue of the undertaking for the immediately preceding financial year;

- (ii) any sum borrowed under this subsection to defray expenditure shall be repaid as soon as reasonably practicable and in any case before the expiration of the period within which money borrowed to meet such expenditure is ordinarily repaid in the case of such an undertaking, so however that any sum borrowed under this subsection shall be repaid before the expiration of two years from the date of borrowing, unless the consent of the Minister concerned is obtained to repayment thereof being spread over a longer period, and such consent may be given subject to such conditions as the Minister may determine.

PART XII.  
—cont.

(5) In this section the expression “ public utility undertaking ” does not include a water undertaking.

259.—(1) Notwithstanding any other provision of this Act, a local authority shall not borrow money to meet any expenditure of a capital nature—

Restrictions  
on power  
to borrow.

- (a) for any of the purposes of any enactment or statutory order relating to the supply of electricity, except with the consent of the Electricity Commissioners;
- (b) for any of the purposes of any enactment or statutory order relating to gas undertakings, tramways or light railways or for the purposes of Part V of the Road Traffic Act, 1930, except with the consent of the Secretary of State; and
- (c) for any of the purposes of any other enactment or any statutory order which requires the consent of a Minister to borrowing by the authority, except with such consent:

20 & 21 Geo. 5.  
c. 43.

Provided that, in any case where any money may be borrowed for any of the purposes specified in paragraphs (a) and (b) hereof under the provisions of a local Act without such consent as aforesaid, the provisions of this section shall not apply.

(2) A county council or a town council shall not without the consent of the Minister concerned borrow money to meet any expenditure of a capital nature for any purpose (other than money to the borrowing of which a consent is required under subsection (1) of this section) unless the resolution to borrow has been agreed to by two-thirds of the members of the council present and voting at the meeting at which the resolution is passed; and every enactment or statutory order passed or made before the commencement of this Act authorising a county council or a town council to borrow for any such purpose shall have effect as if the foregoing provisions of this subsection were enacted therein.

PART XII.  
—cont.

(3) A district council shall not borrow money to meet expenditure of a capital nature except with the consent of the Secretary of State.

(4) A local authority shall not borrow money for the purposes of any function of the authority where any enactment relating to that function imposes a condition or limitation with respect to such borrowing, except subject to such condition or limitation.

(5) No money shall be borrowed by a local authority unless the expenditure to meet which the money is being borrowed has been authorised by the authority and a resolution to borrow the money has been passed by the authority.

Modes of  
borrowing.8 & 9 Geo. 6.  
c. 18.

260.—(1) Where a local authority are authorised to borrow money under any statutory borrowing power, the authority may, subject to the provisions of this Part of this Act, raise the money by any of the following methods, or by the use, in accordance with the provisions of section eight of the Local Authorities Loans Act, 1945, of any moneys forming part of any capital fund established by the authority or by any other method provided in a local Act, but not otherwise, that is to say—

- (a) by mortgage, that is to say, by deed containing an assignation by way of security of the funds, rates and revenues of the authority which under the provisions of the immediately succeeding section of this Act are to form the security for loans to the authority; or
- (b) by overdraft from any bank; or
- (c) by means of a cash credit account with any bank; or
- (d) by temporary loan or deposit receipt; or
- (e) in the case of a county council or town council, by stock:

Provided that—

- (i) the total amount of money borrowed under paragraphs (b), (c) and (d) of this subsection to meet expenditure of a capital nature and for the time being outstanding shall not exceed fifteen per centum of the total amount of moneys borrowed by the authority to meet capital expenditure and for the time being outstanding;
- (ii) a local authority having power under a local Act to borrow money by any of the methods hereinbefore specified shall exercise that power in accordance with the provisions of this Act and not in accordance with the provisions of the local Act.

(2) The joint committee of any two or more local authorities, being administering authorities within the meaning of the Local Government Superannuation (Scotland) Act, 1937, and combined for the purposes of that Act, may from the joint superannuation fund lend to any of the constituent authorities any money which that authority are authorised to borrow.

261.—(1) Subject to the provisions of this section and notwithstanding anything in any other enactment, all money borrowed under any statutory borrowing power by a county council or a town council on or after the sixteenth day of May nineteen hundred and thirty and by a district council after the commencement of this Act shall be secured upon the whole funds, rates and revenues of the council and not otherwise, and all money borrowed under any enactment or statutory order by a county council or town council before the said sixteenth day of May and by a district council before the commencement of this Act shall be deemed to be so secured, and money so borrowed by whatever method of borrowing in accordance with the enactment or statutory order relating thereto in force at the time of borrowing, whether before or after the commencement of this Act, shall be deemed to have the same charge and security and shall rank *pari passu*.

Security for  
money  
borrowed  
and ranking  
thereof.

References in this subsection to sums borrowed by a council shall be deemed to include references to any sum which was borrowed by some other authority and which the council in consequence of a transfer of functions or otherwise are liable to repay to the creditors.

(2) The interest and dividends for the time being payable in respect of moneys so borrowed by a local authority shall be the first charge on the rates and revenues comprising the security for the said moneys.

(3) Except as respects money borrowed for common good purposes in pursuance of a statutory borrowing power, the provisions of the preceding subsections of this section shall not apply in the case of money borrowed for the purposes of the common good by the town council of a burgh having a common good, nor shall the security created by the said subsections include the common good of the burgh or the revenues thereof.

(4) The provisions of subsections (1) and (2) of this section shall not apply in the case of money borrowed by a local authority for the purposes of any trust under any deed of trust or other document, nor shall the security created by the said subsections include the funds held under any such trust.

(5) Nothing in subsections (1) and (2) of this section or in 15 & 16 Geo. 5. section seventy-one of, or the Fourth Schedule to, the Housing c. 16.

PART XII.  
—cont.

(Scotland) Act, 1925, shall affect any power of a local authority to sell, feu, lease or otherwise dispose of any lands and heritages belonging to the authority or to sell or realise any funds belonging to the authority or to apply any purchase money or other capital money arising thereby in redemption of any charge thereon to which capital moneys are properly applicable, and such lands and heritages or funds shall in the hands of the purchaser or other person acquiring the same as aforesaid be absolutely freed from any charge created by this section.

*Repayment of Money Borrowed by Local Authorities.*

Period for  
repayment of  
borrowed  
money.

**262.—(1)** Subject to the provisions of this Part of this Act and save as otherwise provided in this Act, every sum borrowed by a local authority shall be repaid within such period not exceeding thirty years from the date of borrowing as the authority determine, or where under any enactment or statutory order relating to the purpose for which the sum is borrowed the consent of a Minister is required to a local authority borrowing, as the authority with the consent of the Minister determine:

Provided that the foregoing provisions of this subsection shall not apply—

- (a) in the case of a sum borrowed under paragraph (c) of subsection (1) of section two hundred and fifty-eight of this Act, and, save as otherwise provided in paragraph (c) of this proviso, any sum so borrowed for the purpose of meeting the cost of any work or plant shall be repaid within such period not exceeding thirty years as the authority determine to be the probable duration and continued utility of the work or plant, and any sum so borrowed for any other purpose shall be repaid within such period not exceeding ten years as the authority determine, or within such longer period as the authority with the consent of the Secretary of State determine;
- (b) in the case of a sum borrowed under paragraph (d), (e), (f) or (g) of subsection (1) of section two hundred and fifty-eight of this Act for the purpose of lending to any of the councils or authorities or a joint board as therein mentioned in order to meet expenditure of the council, authority or board to which subsection (2), (3) or (4) of that section relates, and any sum so borrowed shall be repaid within one month after the expiration of the period within which the borrowing council, authority or board are required to repay the loan in accordance with the provisions of this Part of this Act;



- (c) in the case of a sum borrowed for any of the purposes of the enactments specified in the first column of the Sixth Schedule to this Act, and the sum so borrowed shall be repaid within the period specified or referred to in relation thereto in the second column of that Schedule;
- (d) in the case of a sum borrowed for any of the purposes of a local Act, where that Act provides for a maximum period of repayment other than thirty years.

(2) Where any sum is borrowed by a local authority for the purpose of meeting expenditure on the construction of new or the extension of or alteration of existing works forming or to form part of a public utility undertaking, it shall be lawful, subject to the consent of the Minister concerned with the undertaking, for any annual provision required to be made by the authority for the repayment of the sum so borrowed to be suspended for such period (not being a period longer than the period during which the expenditure remains unremunerative or the period of five years from the commencement of the financial year next after that in which the expenditure commences to be incurred, whichever is the shorter) and subject to such conditions as the Minister may determine.

263.—(1) Subject to the provisions of this Part of this Act, all sums borrowed by a local authority under any statutory borrowing power shall be repaid by equal yearly or half-yearly instalments of principal, or where repayment is on the annuity system, by equal yearly or half-yearly instalments of principal and interest combined, or by means of a sinking fund, or partly by one of those methods and partly by another or others of them: Repayment of borrowed money.

Provided that in the case of a county council or a town council having a loans fund under this Part of this Act or under a local Act, the council shall in each financial year pay into the loans fund the sums required in that year for the repayment of money borrowed for the various purposes of the council in accordance with the provisions of the rules relating to the loans fund.

(2) Subject to the provisions of subsection (2) of the immediately preceding section, the payment of the first instalment or the first payment to the sinking fund or the first payment to the loans fund shall be made within twelve months, or where the money is repayable by half-yearly instalments or payments within six months, from the date of borrowing.

PART XII.  
—cont.  
Returns to  
Secretary of  
State as to  
outstanding  
loans.

**264.**—(1) Every local authority shall cause to be transmitted to the Secretary of State within three months after the expiration of each financial year and also at any other time within one month after being requested so to do by the Secretary of State a return showing the amount of moneys borrowed by the authority and outstanding and the provision made by the authority for the repayment thereof.

(2) The return shall show such particulars and shall be in such form as the Secretary of State may prescribe, shall be certified by the treasurer or other officer whose duty it is to keep the accounts of the authority and shall if so required by the Secretary of State be verified by a statutory declaration made by that officer.

(3) The return to be transmitted within three months after the expiration of the financial year shall be made up as at the expiration of that year, and any other return as at such other date as the Secretary of State may require.

(4) The duplicate abstract of accounts of a local authority which is required by section two hundred and three of this Act to be sent to the Secretary of State by the auditor of the accounts of the authority shall, if the Secretary of State so directs, be deemed to be a return made by the authority under this section as at the expiration of the financial year to which the accounts relate.

(5) If it appears to the Secretary of State from any return made under this section or otherwise that a local authority—

- (a) have failed to pay any instalment or annual payment required to be made; or
- (b) have failed to appropriate to the discharge of any loan any sum required to be so appropriated; or
- (c) have failed to set apart any sum required for a sinking fund; or
- (d) have applied any portion of a sinking fund to a purpose other than an authorised purpose;

the Secretary of State may by order direct that such sum as is specified in the order, not exceeding the amount in respect of which default has been made, shall be paid or applied in the manner and by the date set out in the order, and the authority shall notify the Secretary of State as soon as the order has been complied with.

(6) If a local authority with respect to whom an order has been made under the immediately preceding subsection fail to comply with any requirement thereof within the time specified in the order or if a return required to be made under this section is not made in accordance with the provisions of this

section, the Secretary of State may apply by petition to the Court of Session who are hereby authorised to do therein as to the Court appears to be just.

PART XII.  
—cont.

(7) The provisions of this section shall be in substitution for and not in addition to any requirement under any other enactment or statutory order to make a return as to the provision made by a local authority for the repayment of borrowed money.

265.—(1) If a local authority determine to repay by means of a sinking fund any sum borrowed by them, the sinking fund shall be formed and maintained either—

Sinking fund for repayment of borrowed money.

- (a) by payment to the fund throughout the period fixed for the repayment of the sum borrowed of such equal annual sums as will be sufficient to pay off within that period the sum for the repayment of which the fund is formed; or
- (b) by payment to the fund throughout the fixed period of such equal annual sums as with accumulations at a rate not exceeding the rate prescribed by the Secretary of State or such other rate as he may in any particular case approve will be sufficient to repay within that period the sum for the repayment of which the fund is formed.

In this Part of this Act a sinking fund formed under paragraph (a) of this subsection is referred to as a "non-accumulating sinking fund," and a sinking fund formed under paragraph (b) thereof as an "accumulating sinking fund."

(2) Every sum paid to a sinking fund shall, unless applied in repayment of the sum for the repayment of which the sinking fund is formed or in such other manner as may be authorised by this Act or any other enactment, be immediately invested in trustee securities and the authority may from time to time vary and transpose the investments.

(3) The interest received in any year from the investment of the sums paid into the sinking fund shall form part of the revenue for that year of the local authority, but in the case of an accumulating sinking fund the contribution to be made by the authority to the sinking fund shall in that year be increased by a sum equal to the interest which would have accrued to the sinking fund during that year if interest had been accumulated therein at the rate per centum per annum on which the annual payments to the sinking fund are based.

(4) A local authority may at any time apply the whole or any part of a sinking fund in or towards the discharge of the sum for the repayment of which the sinking fund was formed:

PART XII.  
—cont.

Provided that in the case of an accumulating sinking fund the authority shall continue to pay into the fund each year and accumulate during the remainder of the fixed period a sum equal to the interest which would have been produced by such sinking fund or part thereof so applied if invested at the rate per centum per annum on which the annual payments to the sinking fund are based.

(5) Any surplus of a sinking fund remaining after the discharge of the whole of the sum for the repayment of which it was formed shall be applied with the sanction of the Secretary of State in the repayment of debt or otherwise for any other purpose for which capital money may properly be applied.

(6) This section shall apply to a sinking fund established by a local authority under any other enactment or any statutory order for the repayment of money borrowed by them in like manner as it applies to a sinking fund established under this Part of this Act according as the sinking fund is a non-accumulating or an accumulating sinking fund.

Adjustment  
of sinking  
fund.

266.—(1) If at any time it appears to a local authority that the amount in a sinking fund, together with the sums which will be payable thereto in accordance with the provisions of this Part of this Act and, in the case of an accumulating sinking fund, with the accumulations thereon, will not be sufficient to repay within the fixed period the sum for the repayment of which the sinking fund is formed, the authority shall either temporarily or throughout the fixed period make such increased annual payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose, and if it appears to the Secretary of State on a report by the auditor of the accounts of the authority or otherwise that any such increase is necessary, the authority shall increase the payments to such extent as the Secretary of State may direct.

(2) If the local authority desire to accelerate the repayment of any sum borrowed by them, they may increase the amounts payable to the sinking fund.

(3) If the amount in any such sinking fund together with the sums which will be payable thereto in accordance with the provisions of this Part of this Act and, in the case of an accumulating sinking fund, with the accumulations thereon will in the opinion of the local authority be more than sufficient to repay within the fixed period the sum for the repayment of which the sinking fund is formed, the authority may with the consent of the Secretary of State reduce the payments to the sinking fund either temporarily or throughout the fixed period to such amounts as will be sufficient to repay within the fixed period the sum for the repayment of which the sinking fund is formed.

(4) If at any time the amount in a sinking fund together with the accumulations thereon in the case of an accumulating sinking fund will in the opinion of the local authority be sufficient to repay the sum for the repayment of which the sinking fund is formed within the fixed period, the authority may, subject to obtaining the consent of the Secretary of State, suspend the annual payments to the sinking fund for such period as the authority with the like consent may determine.

(5) This section shall apply to a sinking fund established by a local authority under any other enactment or any statutory order for the repayment of money borrowed by them in like manner as it applies to a sinking fund established under this Part of this Act.

*Provisions as to Mortgages.*

267.—(1) A mortgage created under this Part of this Act, a transfer thereof, a minute of renewal thereof and a discharge thereof shall each be in the appropriate form set out in the Seventh Schedule to this Act or in a form substantially to the like effect:

Forms of mortgage, transfer, renewal and discharge thereof.

Provided that—

- (i) nothing in this subsection or in the said Schedule shall require that a mortgage shall be transferred only by transfer endorsed on the mortgage;
- (ii) a form of a mortgage, a transfer thereof, a minute of renewal thereof or a discharge thereof prescribed in a local Act may be used in substitution for the appropriate form set out in the Seventh Schedule to this Act, so however that if the form of mortgage so prescribed does not contain an assignation by way of security of the funds, rates and revenues of the local authority as provided in the form set out in the said Schedule, it shall be modified to contain such an assignation;
- (iii) in the case of a loan made by the Public Works Loan Commissioners the mortgage shall be in such form as may be prescribed under the Public Works Loans Acts, 1875 to 1882.

(2) A mortgage shall be held to be validly executed on behalf of a local authority having a common seal if it is sealed with the common seal of the authority and subscribed on behalf of the authority by one member of the authority, and by the clerk without the necessity of witnesses, and a minute of renewal of a mortgage shall be held to be validly executed on behalf of a local authority, whether having a common seal or not, if it is signed on behalf of the authority by the clerk

PART XII.  
—*cont.*

without the necessity of witnesses, so however, that nothing in this subsection shall affect the provisions of any local Act with respect to the manner in which a mortgage or a minute of renewal thereof may be executed.

(3) Notwithstanding anything in this section, the Secretary of State may from time to time by regulations make modifications in any of the forms set out in the Seventh Schedule to this Act or prescribe other forms if it appears to him necessary or desirable to do so, and such regulations may apply generally or to any particular local authority or class of local authority.

Register of  
mortgages.

268.—(1) The clerk of a local authority or such other officer as the authority may designate for the purpose (in this section referred to as "the registrar") shall keep at the office of the authority a register of mortgages created by the authority under this Part of this Act.

(2) Before a mortgage is delivered to the mortgagee, the registrar shall enter or cause to be entered in the register of mortgages the following particulars, that is to say:—

- (a) the name and address of the mortgagee;
- (b) the principal sum due under the mortgage;
- (c) the number and date of the mortgage;
- (d) the term or date of repayment; and
- (e) the rate of interest payable;

and a certificate of registration shall be endorsed on the mortgage and signed by or on behalf of the registrar. Where the treasurer of the authority is not the registrar, there shall also be endorsed on the mortgage a receipt by the treasurer for the principal sum paid by the mortgagee.

(3) On production to the registrar of the mortgage and—

- (a) in the case of a transfer of the mortgage, of a duly executed transfer thereof;
- (b) in the case of a transmission of the mortgage by the death of the person entitled thereto, of confirmation in favour of the executors of the deceased, or probate of the will or letters of administration of the estate of the deceased duly resealed;
- (c) in the case of a transmission of a mortgage otherwise than as aforesaid, of satisfactory evidence of the transmission;

the registrar shall make or cause to be made an entry in the register of mortgages of the date of the transfer or transmission and of the name and address of the person becoming entitled thereunder to the mortgage.

(4) Any change of name or address on the part of a person entitled to a mortgage shall forthwith be notified to the local authority, and the registrar shall on being satisfied of the change alter the register of mortgages or cause the same to be altered accordingly.

(5) On the renewal of a mortgage the registrar shall enter or cause to be entered in the register the following particulars of the renewal, that is to say:—

- (a) the date as from which the mortgage is renewed;
- (b) the term or date of repayment of the principal sum under the renewal; and
- (c) the rate of interest for the period of the renewal.

(6) On the discharge of a mortgage the registrar shall forthwith make or cause to be made in the register an entry relating to the discharge and the date thereof.

(7) The Secretary of State may make regulations for enabling entries relating to mortgages or to transfers or transmissions of mortgages contained in any register of mortgages kept by or on behalf of a local authority under any enactment in force at the commencement of this Act to be transferred to the register of mortgages kept under this section, and for applying to the mortgages to which the entries relate the provisions of this section subject to any necessary modifications in place of the corresponding provisions of that enactment, and for terminating the obligation of the authority or of any officer of the authority to make entries in the register of mortgages kept under that enactment.

(8) Any person who satisfies the local authority or the registrar that he has an interest to inspect the register of mortgages shall be entitled to inspect the register so far as he has an interest to do so:

Provided that this subsection shall not apply in the case of a local authority if the authority are not required by any provision of a local Act relating to a register of mortgages kept by the authority under that Act to allow inspection of that register.

#### *Provisions as to Stock.*

269.—(1) A county council or a town council may from time to time in accordance with any regulations made under the next but one succeeding section by resolution create redeemable stock for the purpose of raising money which the council are authorised to borrow under any statutory borrowing power, and such stock may be issued from time to time

Creation of  
redeemable  
stock by  
county council  
or town  
council.

PART XII.  
—cont.

for such amount within the limit of the borrowing power at such price and to bear such half-yearly or other dividends as the council by resolution direct:

Provided that—

- (a) the town council of a small burgh shall not so create stock except with consent of the Secretary of State, and such consent may be given subject to such conditions as may be specified in an order made by the Secretary of State; and
- (b) except with the consent of the Secretary of State, stock shall not be issued at a price lower than ninety-five per centum.

(2) The resolution of a county council or town council for the first creation of a class of redeemable stock shall provide—

- (a) that such stock shall be redeemable at the option of the council at par, that is to say, at the rate of one hundred pounds sterling for every nominal amount of one hundred pounds stock issued, after such period as may be specified in the resolution;
- (b) that the stock shall be redeemed by the council at par at the expiration of a period to be fixed by the resolution, not exceeding sixty years from the first creation of that class of redeemable stock;

or shall indicate the procedure by which either of the matters aforesaid shall be determined.

(3) A county council or a town council may under this section create and issue stock of a different class from any stock previously issued by the council under this Part of this Act or any other enactment or any enactment repealed by this Act and on different terms and conditions, including the rate of dividend payable and the period after which the same shall become redeemable.

Creation of redeemable stock by authority other than local authority having power to raise money by rate or requisition.

**270.—(1)** Any statutory authority, commissioners or trustees (not being a local authority) having power to levy a rate within the meaning of this section or to issue a requisition for payment of money to be raised out of such a rate may from time to time in accordance with any regulations made under the immediately succeeding section by resolution create redeemable stock for the purpose of raising money which the authority, commissioners or trustees are authorised to borrow under any enactment or statutory order, and such stock may be issued from time to time for such amount within the limits of the borrowing power at such price and to bear such half-yearly or other dividends as the authority, commissioners or trustees by resolution direct:



Provided that—

PART XII.  
—cont.

- (a) the consent of the Secretary of State shall be obtained to the creation of such stock, and such consent may be given subject to such conditions as may be specified in an order made by the Secretary of State; and
  - (b) except with the consent of the Secretary of State, stock shall not be issued at a price lower than ninety-five per centum.
- (2) The resolution of any such authority, commissioners or trustees for the creation of a class of redeemable stock shall provide—
- (a) that the stock shall be redeemable at their option at par after such period as may be specified in the resolution;
  - (b) that the stock shall be redeemed by the authority, commissioners or trustees at par at the expiration of a period to be fixed by the resolution, not exceeding sixty years from the first creation of that class of redeemable stock;

or shall indicate the procedure by which either of the matters aforesaid shall be determined.

(3) Any such authority, commissioners or trustees may under this section create and issue stock of a different class from any other stock previously issued by them under this Part of this Act or any other enactment or any enactment repealed by this Act and on different terms and conditions, including the rate of dividend payable and the period after which the same shall be redeemable.

(4) For the purposes of this section the expression "rate" includes not only a rate as defined in section three hundred and seventy-nine of this Act but also water rates or rents, gas or electricity rates or rents and charges for the supply of water, gas or electricity or the hire of meters or fittings connected therewith.

271.—(1) The Secretary of State may make regulations <sup>Stock</sup> with respect to the creation and issue of stock under this Part <sup>regulations.</sup> of this Act by a county council or a town council or by any such authority, commissioners or trustees as are mentioned in the immediately preceding section, the redemption and extinction of such stock, the payment of dividends thereon, the manner in which such stock may be transferred and dealt with and generally for the purpose of regulating any matter relating to such stock (including without prejudice to the said

PART XII.  
—cont.

generality the investment of money raised by stock and not for the time being required), and such regulations may provide—

- (a) with a view to the consolidation of debt, for extending or varying the period of repayment of sums borrowed by a council; and
- (b) for the application of the enactments relating to stamp duties and to cheques.

(2) Regulations made under this section may apply to and in the case of any such authority, commissioners or trustees as aforesaid so far as respects stock issued under this Part of this Act, subject to such modifications and adaptations as may be prescribed, any of the provisions of sections two hundred and seventy-two to two hundred and seventy-four and sections two hundred and seventy-eight to two hundred and ninety-one of this Act, so however that any such application shall not be contrary to the express provisions of any enactment relating to the authority, commissioners or trustees.

(3) Regulations made under this section shall be laid before each House of Parliament as soon as may be after they are made.

Borrowing power to be exercisable for actual sum raisable by stock.

**272.** A county council or town council creating and issuing stock under this Part of this Act shall be deemed to have exercised their statutory borrowing power to the extent represented by the produce of the stock so issued according to the price of issue, or where securities are paid off or redeemed under the immediately succeeding section by the amount of the securities so paid off or redeemed.

Conversion of securities of county council or town council into stock.

**273.—(1)** Where any security created by a county council or town council under any statutory borrowing power is at the time outstanding or payable and the council have power with the consent of the holder of the security or otherwise to pay off the amount thereby secured or represented or to redeem the same, they may pay off or redeem the security accordingly with money raised by stock or they may with consent of the holder thereof issue stock in substitution for the security.

(2) The county council or town council may in every such case make such reasonable payment as they think fit to the holder of any security for his consent or for compensating him otherwise for the payment-off or redemption of or substitution for his security, and any such payment may be either in money or stock or partly in one and partly in the other.

(3) The county council or town council may, subject to and in accordance with the provisions of this Act, create and issue stock to such amount as may be requisite for the purposes of

this section, and that stock shall be deemed to be created and issued and any money raised thereby shall be deemed to be raised by virtue of the statutory borrowing power under which the security was granted or created, and any money so raised shall be applied in paying off or redeeming the security.

PART XII.  
—cont.

(4) Where the holder of the security is one of the persons described in section seven of the Lands Clauses Consolidation (Scotland) Act, 1845, and thereby enabled to sell land thereunder, that person may consent to the payment-off or redemption of or substitution for the money secured or represented by that security or may accept money for giving that consent as if he were the absolute owner of the security, and that person is hereby indemnified for so consenting and his receipt shall be a good discharge for the same.

(5) Money received by the holder of any security as authorised by this Act and stock issued to him in substitution for any security shall be subject to the same trusts, powers, testamentary and other dispositions, provisions and incumbrances to which the money secured or represented by the security was subject immediately before the payment-off, redemption or substitution, and any deed or other instrument or any testamentary or other disposition shall take effect with reference to the whole or part of the money or stock received or substituted, as the case may be, as though such money and stock were the security mentioned in the deed or other instrument or testamentary or other disposition.

274. Notwithstanding anything in this Part of this Act, a county council or a town council may revoke at any time in whole or in part any resolution for the creation of stock passed by the council under this Part of this Act if and as far as such resolution has not been acted on by the issue of stock thereunder:

Revocation  
of resolution  
to create  
stock.

Provided that any such revocation by the town council of a small burgh shall not have effect unless the Secretary of State consents thereto.

#### *Loans Fund.*

275.—(1) Subject to the provisions of this Part of this Act, a county council or a town council may, as from the commencement of a financial year on passing a resolution to that effect, establish under this Act a fund to be called the "loans fund," which shall be applicable to all money borrowed or to be borrowed by the council and the redemption or repayment thereof and the payment of interest or dividends thereon.

Establishment of  
loans fund by  
county council  
or town  
council.

(2) A loans fund established under this section shall be administered by the council in accordance with the rules set out in the Eighth Schedule to this Act.

PART XII.  
—cont.

(3) Any loans fund of a county council or town council established under or in pursuance of the provisions of a local Act shall, if the council pass a resolution to that effect and as from the date specified in the resolution, be deemed to be a loans fund established under this section, and the rules set out in the Eighth Schedule to this Act shall apply to the said loans fund in substitution for the provisions of the local Act (including any rules, regulations or scheme therein contained or made thereunder) subject to such modifications and adaptations as may be prescribed by regulations made by the Secretary of State with respect to the transition of the said loans fund from the provisions of the local Act to the provisions of this Act, and any such regulations may apply generally or in the case of any particular council.

(4) A loans fund established under this section by the town council of a burgh shall not apply to money borrowed or to be borrowed for the common good of the burgh except money borrowed or to be borrowed for common good purposes in pursuance of a statutory borrowing power.

*General Provisions as to Borrowing.*Loans to  
joint boards.

276.—(1) The powers of the Public Works Loan Commissioners to make loans to a local authority shall include power to make loans to a joint board for any purpose for which the board have power to borrow money.

(2) The provisions of this Part of this Act shall, subject to necessary modifications, apply to and in relation to a joint board having power to borrow money as they apply to and in relation to a local authority.

Power to  
re-borrow.

277.—(1) A local authority may without the consent of any Minister borrow for the purpose of replacing money previously borrowed by the authority which is intended to be repaid forthwith:

Provided that a local authority shall not have power to borrow under this section—

(a) for the purpose of making any payment to a sinking fund or for paying any instalment or making any annual payment which has or may become due in respect of borrowed money; or

(b) for the purpose of replacing any money previously borrowed which has been repaid—

(i) by instalments or annual payments; or

(ii) by means of a sinking fund; or

(iii) out of money derived from the sale of land;

or

(iv) out of any capital money properly applicable to the purpose of repayment other than money borrowed for that purpose.

(2) Any money borrowed under this section shall for the purposes of repayment be deemed to form part of the original loan and shall be repaid within that portion of the fixed period which remains unexpired, and the provisions which are for the time being applicable to the original loan shall apply to the money borrowed under this section :

Provided that the Minister concerned may, upon application made to him by the local authority for that purpose, extend the period for repayment of the money borrowed under this section so as to expire on such date as he thinks fit, not being later than the expiration of the maximum period which might have been permitted for the repayment of the original loan.

278. A person lending money to a local authority on any form of security or taking or holding any such security shall not be bound to inquire whether the borrowing of the money is or was legal or regular or whether the money raised was properly applied and shall not be prejudiced by any illegality or irregularity in the matters aforesaid or by the misapplication or non-application of any such money.

Protection  
to lenders.

279. The balance of any money borrowed by a local authority and not required for the purposes for which the money was borrowed may, with consent of the Secretary of State, be applied to any other purpose for which capital money may be applied by the authority :

Balance of  
unexpended  
borrowed  
money.

Provided that—

- (i) nothing in this section shall require the consent of the Secretary of State to be obtained in the case of a county council or town council having a loans fund or shall dispense with the necessity of the consent of the Public Works Loan Commissioners in any case in which such consent is required under section nine of the Public Works Loans Act, 1881;
- (ii) where money borrowed for any of the purposes of any enactment or statutory order relating to the supply of electricity is proposed to be applied for any other of the said purposes, the provisions of this section shall apply with the substitution of the consent of the Electricity Commissioners for that of the Secretary of State.

44 & 45 Vict.  
c. 38.

*General Provisions as to Securities.*

280.—(1) Every security created by a local authority shall be moveable or personal estate and shall on the death of the holder thereof be transmissible as such.

Security to  
be moveable  
estate and  
notice of trusts.

PART XII.  
—cont.

(2) No notice of any trust, express, implied or constructive, in respect of any security created by a local authority shall be entered in any register kept by the authority or be receivable by the authority, so however that a holder may be described as a trustee or as possessing an official character.

Transmission  
of security on  
death.

281.—(1) The interest in a security created by a local authority of a holder dying shall be transferable by his executors or administrators notwithstanding any specific bequest thereof.

(2) A local authority shall not be required to allow any executors or administrators to transfer any security created by the authority until the confirmation of the executors or until the probate of the will or the letters of administration of the estate of the deceased, duly resealed, shall have been left with the authority for registration.

Evidence on  
transfer of  
security.

282.—(1) A local authority before allowing any transfer of a security created by the authority may, if the circumstances of the case appear to them to make it expedient, require evidence of the title of any person claiming a right to make the transfer.

(2) That evidence shall be a statutory declaration of one or more competent persons or evidence of such other nature as the local authority may require.

Transmission  
of security  
otherwise than  
by transfer or  
on death.

283.—(1) If the interest in any security created by a local authority has been transmitted by any lawful means other than a transfer thereof or than the death of the holder thereof, that transmission shall be authenticated by a statutory declaration of one or more competent persons or in such other manner as the authority may require.

(2) The name of the person entitled under the transmission shall be entered in the appropriate register.

(3) Until the transmission has been so authenticated the local authority shall not be affected thereby, nor shall any person claiming by virtue thereof be entitled to receive any interest or dividend on the security.

(4) In this section the expression "transmission" includes any case of apparent transmission in consequence of the change of name of the holder although the actual ownership of the security may remain unaltered.

Title to  
security and  
rectification  
of register.

284.—(1) A local authority shall be entitled to treat as exclusively entitled to a security created by the authority in relation to which entries had been duly made in the appro-

appropriate register the person appearing by the latest of those entries to be entitled thereto.

PART XII.  
—cont.

(2) If the name of any person is without sufficient cause entered in or omitted from the register or default is made or unnecessary delay takes place in making any entry required to be made in the register, the sheriff may on application by the person aggrieved or by the local authority make an order for the rectification of the register.

(3) In any proceedings under this section the sheriff may decide any question relating to the title of any party thereto to have his name entered in or omitted from the register and generally any question which it may be necessary or expedient to decide for the purposes of the rectification of the register.

(4) An appeal shall lie to the Court of Session against any decision of the sheriff on any question relating to the title of any party to any security the nominal value of which exceeds fifty pounds, but save as aforesaid the decision of the sheriff shall be final.

285. Subject to the provisions of the immediately succeeding section, a local authority shall, on the repayment or discharge of any security created by the authority, obtain delivery of the document creating the security, or failing such delivery such indemnity as the authority may require. Security deed to be delivered to local authority on discharge.

286.—(1) If at the date on which a security created by a local authority is repayable or redeemable the authority, by reason of the holder of the security not being forthcoming or by reason of any doubt as to the ownership of the security or for any other reason which prevents the authority from getting a proper discharge, are unable to redeem, extinguish and cancel such security, the authority shall as soon as may be consign in bank by placing on deposit receipt with an incorporated or joint stock bank in name of the authority for behoof of the holder of the security as designed in the appropriate register of the authority a sum equal to the nominal value of the security which cannot be repaid or redeemed by reason as aforesaid, such sum to be dealt with as provided in this section, and thereupon such security shall be deemed to have been extinguished. Unclaimed security.

(2) Any sum consigned by a local authority as aforesaid shall, unless uplifted for the purpose of satisfying any claim in respect of the security represented by the same, be kept consigned for a period of ten years, after which time the authority may appropriate the said sum and any accumulations of interest thereon for such purpose as the Secretary of

PART XII.  
—*cont.*

State may approve, without prejudice nevertheless to the right of any person to the total sum so appropriated, but without any interest thereon after the date of appropriation.

Appointment  
of judicial  
factor in case  
of non-  
payment.

287.—(1) If at any time any principal money borrowed by a local authority by any form of security or any interest or dividend thereon is due and payable by the authority and is not paid within two months after a demand for payment thereof is made in writing to the authority, the person entitled thereto being the holder for the time being of a security by the authority to the amount of not less than one thousand pounds, or the persons entitled thereto being the holders for the time being of securities by the authority amounting together to not less than two thousand pounds, may present a petition to the Court of Session for the appointment of a judicial factor, and the Court may, if they think fit, appoint a judicial factor.

(2) Subject to the directions of the Court, the judicial factor shall have all the powers competent to the local authority or any officer of the authority in connection with levying rates, making requisitions on rating authorities and collecting and recovering sums due to the authority in respect of rates or requisitions and any other sums whatsoever due to the authority and such other powers and duties as the Court think fit, and shall apply all money so collected and received by him, after payment of expenses and costs including a proper remuneration for his trouble, as the Court direct for the purposes of this Part of this Act.

(3) The judicial factor shall have such access to and use of the books and documents of the local authority as he may require.

(4) The powers of this section shall be in addition to and not in derogation of any other powers competent to the holder of a security for enforcing payment of the sums due under the security.

Interest and  
dividends on  
security in  
case of  
death, &c.

288.—(1) A local authority shall not be required to pay any executors or administrators any interest or dividend on a security created by the authority until the confirmation of the executors or until probate of the will or the letters of administration, duly resealed, shall have been left with the authority for registration.

(2) A local authority before paying any interest or dividend on a security created by the authority may, if the circumstances of the case appear to them to make it expedient, require evidence of the title of any person claiming a right to receive the interest or dividend, and that evidence shall be a statutory declaration of one or more competent persons or of such other nature as the authority may require.



289.—(1) Where two or more persons are registered as joint holders of any security created by a local authority any one of those persons may give an effectual receipt for any interest or dividend payable in respect thereof unless notice in writing to the contrary has been given to the authority by any other of those persons.

PART XII.  
—cont.  
Interest and dividends on security held jointly.

(2) Where any security created by a local authority is standing in the name of a pupil or minor or person of unsound mind jointly with any person not under legal disability, a letter authorising the payment of interest or dividends on the security shall be sufficient authority to the local authority if given under the hand of the person not under disability attested by one or more witnesses, but the authority before acting on the letter may, if they think fit, require proof to their satisfaction of the alleged pupillarity, minority or unsoundness of mind by a statutory declaration of one or more competent persons.

290.—(1) Except where the holder of a security created by a local authority otherwise directs in writing, the warrants for interest or dividends in respect of his security shall be sent to him by post to the address given by him to the authority if such address is within the United Kingdom, the Channel Islands or the Isle of Man.

Warrants for interest and dividends by post.

(2) The posting by a local authority of a letter containing a warrant addressed to a holder or his nominee at any such address given by him shall, as respects the liability of the authority, be equivalent to the delivery of the warrant to the holder himself.

(3) Every warrant so sent by post shall be deemed a cheque and the local authority shall in relation thereto be deemed a banker within the Bills of Exchange Act, 1882.

45 & 46  
Vict. c. 61.

291.—(1) If at any time any interest or dividend on a security created by a local authority is unclaimed at the time for payment thereof, the interest or dividend shall nevertheless on demand at any subsequent time be paid to the person showing his right thereto, but without interest thereon in the meantime and subject to deduction of the expenses incurred by the authority in the publication of any notice under the immediately succeeding subsection.

Unclaimed interest and dividends.

(2) Where any interest or dividend remains unclaimed for five years from the time for payment thereof, the local authority shall cause notice thereof to be sent by post in a registered letter addressed to the holder of the security named in the appropriate register at the address therein appearing and shall also publish a notice in a newspaper circulating in the area of the authority that such interest or dividend remains unclaimed and similarly at the expiration of the next succeeding period of five years.

PART XII.  
—cont.

(3) Nothing in this section shall prevent an unclaimed security being deemed to be extinguished under the provisions of section two hundred and eighty-six of this Act.

*General.*

Period of repayment in case of money borrowed by county council or town council for housing employees.

**292.** For the purposes of the provisions of this Part of this Act relating to the period of repayment of borrowed money, the provision of dwelling-houses by a county council or a town council for persons in the employment of or paid by the council shall be deemed to be a purpose of the Housing (Scotland) Acts, 1925 to 1946.

Application of Part XII of Act to local housing bonds.

**293.—(1)** Regulations made under the Fourth Schedule to the Housing (Scotland) Act, 1925, may apply to local bonds, with or without modifications, any of the provisions of this Part of this Act relating to securities created by local authorities.

(2) Subject to the preceding subsection and save as otherwise provided, nothing in this Part of this Act shall apply to or affect the power of a county council or town council to issue local bonds under the said Act of 1925 or any local bond issued under that Act or under any enactment repealed by that Act.

Application of Part XII of Act to securities created under local Acts.

**294.** Save as otherwise expressly provided, the provisions of this Part of this Act in their application to money borrowed by a local authority under a local Act in force at the commencement of this Act shall be subject to the provisions of such local Act so far as inconsistent with the provisions hereof.

Saving for common good.

**295.** Nothing in this Part of this Act, except the provisions relating to the making of returns to the Secretary of State, shall apply to or affect the power of the town council of a burgh having a common good to borrow on the security of the common good or any loan secured thereon except in the case of money borrowed for common good purposes in pursuance of a statutory borrowing power.

Saving for Local Authorities Loans Act, 1945, &c. 9 & 10 Geo. 6. c. 10.

**296.** Nothing in this Part of this Act shall authorise the exercise of any power of borrowing money or the making of any issue of capital otherwise than in compliance with the provisions of the Local Authorities Loans Act, 1945, of any Defence Regulations within the meaning of the Supplies and Services (Transitional Powers) Act, 1945, for the time being having effect by virtue of that Act and of any orders for the time being in force made by the Treasury under section one of the Borrowing (Control and Guarantees) Act, 1946.

9 & 10 Geo. 6. c. 58.

## PART XIII.

## LOCAL FINANCIAL RETURNS.

297.—(1) Subject to the provisions of this section, a return shall be made to the Secretary of State for each year of all sums levied or received in respect of any compulsory rates, taxes, tolls or dues and of the expenditure of any such sums: Returns of local finance to be made to Secretary of State.

Provided that nothing in this subsection shall extend to—

- (i) rates, taxes, tolls or dues levied for the public revenue of the United Kingdom; or
- (ii) tolls or dues taken by any statutory undertakers carrying on business for profit or by any company within the meaning of the Companies Act, 1929, as revenues of their undertaking; or 19 & 20 Geo. 5. c. 23.
- (iii) tolls or dues taken by prescription or otherwise as private property.

(2) The returns required to be made under this section shall—

- (a) be in such form and contain such particulars as the Secretary of State may direct;
- (b) be for the year ending the fifteenth day of May or for such other period of twelve months as the accounts are in use to be made up for;
- (c) be sent to the Secretary of State in the month of July immediately after the end of the year to which the return relates;
- (d) be made—
  - (i) in the case of a return by a local authority, by the clerk of the authority;
  - (ii) in the case of any other return where the power to levy the rate, tax, toll or due is vested in a corporate body, by their clerk, or if there is no clerk by the treasurer or other person whose duty it is to keep the accounts of that body, and in any other case by the person or body of persons in whom that power is vested.

(3) Where under the immediately preceding subsection a return is required to be made by the clerk of an authority or by the clerk to a corporate body, the return shall be certified by the treasurer or other person whose duty it is to keep the accounts of the authority or corporate body.

PART XIII.  
—cont.

(4) Where under any enactment whether passed before or after the commencement of this Act, any annual return relating to any rate, tax, toll or due (other than such as are levied for the public revenue of the United Kingdom) is required to be made to a Minister, a return under this Part of this Act need not be made, so however that where such annual return is made to a Minister other than the Secretary of State a duplicate thereof shall in like manner be sent to the Secretary of State, and any person failing to send such duplicate shall be subject to the like penalty as a person failing to make a return under this Part of this Act.

(5) The duplicate abstract of accounts of a local authority or of a joint board to which this Part of this Act applies which is required by Part X of this Act to be sent to the Secretary of State by the auditor of the accounts of the authority or board shall, if the Secretary of State so directs, be deemed to be the return made by the clerk of the authority or board under this Part of this Act with respect to the sums levied or received and expenditure included in the accounts:

Provided that if for any reason the said duplicate abstract of accounts is not received by the Secretary of State by the thirtieth day of September in any year, the Secretary of State may, notwithstanding any such direction, require the clerk of the authority or board to furnish to him within one month after the date of the requirement a return under this Part of this Act, and the provisions of this Part of this Act shall, subject to any necessary modifications, apply with respect to the return so required.

Returns to be  
summarised.

298. The Secretary of State shall every year cause to be made a summary of the returns sent to him under this Part of this Act, and shall lay it before both Houses of Parliament.

## Penalties.

299.—(1) If any person fails to make a return which he is required to make under this Part of this Act, he shall be liable on summary conviction to a fine not exceeding twenty pounds.

(2) Where a return is required to be made under this Part of this Act by a body of persons unincorporate, each member of the body shall be liable in respect of such failure to make any such return.

(3) Notwithstanding the recovery of any penalty under this section, the making of the return under this Part of this Act may be enforced at the instance of the Secretary of State by decree of the Court of Session pronounced in a petition presented for that purpose.

## PART XIV.

## BYELAWS.

*Power of County Council and Town Council to make certain  
Byelaws.*

300.—(1) A county council may make byelaws—

- (a) for the good rule and government of the whole or any part of the county; and
- (b) for the prevention of vagrancy and the prevention and suppression of nuisances in the whole or any part of the landward area of the county:

Byelaws for  
good rule and  
government,  
&c.

Provided that a byelaw under paragraph (a) of this subsection shall not be of any force or effect within a burgh unless it has been made with the consent of the town council thereof.

(2) The town council of a burgh may make byelaws for the good rule and government of the burgh.

(3) A local authority may make byelaws regulating the fees to be paid to the authority or to their officers in connection with the inspection of plans, records or other documents in their possession under this Act or any other enactment or any statutory order and in connection with applications for their sanction or authority to the execution of work or for a licence or permit to do some thing under any enactment or statutory order, so however that such byelaws shall not apply where the enactment or statutory order provides for the inspection being allowed or for the sanction, authority, licence or permit being given without payment or makes provision with respect to the fees to be paid therefor.

(4) The confirming authority in relation to byelaws made under this section shall be the Secretary of State.

(5) Where under any enactment in force in any area provision is made for the prevention and suppression in a summary manner of any nuisance, power to make byelaws under subsection (1) of this section for that purpose shall not be exercisable as respects that area.

*Code of Procedure, Penalties, &c., in case of Byelaws under  
several Enactments.*

301.—(1) The following provisions of this section shall apply to byelaws to be made by a local authority by virtue of—

Procedure,  
&c. for making  
byelaws.

- (a) this Act; or
- (b) the Public Parks (Scotland) Act, 1878; or
- (c) the Burgh Police Acts; or
- (d) the Public Health Acts; or

41 & 42 Vict.  
c. 8.

PART XIV.  
—cont.60 & 61 Vict.  
c. 38.

- (e) any enactment in force at the date of the commencement of this Act and incorporating or applying section fifty-seven of the Local Government (Scotland) Act, 1889, or sections three hundred and seventeen to three hundred and twenty-three of the Burgh Police (Scotland) Act, 1892, or any of those sections, or sections one hundred and eighty-three to one hundred and eighty-seven of the Public Health (Scotland) Act, 1897, or any of those sections; or
- (f) any enactment or statutory order passed or made after the commencement of this Act and conferring on any local authority a power to make byelaws.

(2) Unless the enactment under which the byelaws are made specifically provides otherwise, any such byelaws may apply only to a part of the area of a local authority, and different byelaws may apply to different parts of the area.

(3) The byelaws shall be authenticated by being sealed with the common seal of the local authority and signed by the clerk of the authority or, in the case of a district council not having a seal, by the signatures of two members and the clerk of the district council, and shall not have effect until they are confirmed by the confirming authority.

(4) At least one month before application for confirmation of the byelaws is made, notice of the intention to apply for confirmation, of the place where a copy of the byelaws may be inspected and of the authority to whom objections may be notified shall be given in a newspaper circulating in the area to which the byelaws are to apply or in such other manner as the confirming authority on the application of the local authority may determine to be sufficient in the circumstances.

(5) For at least one month before application for confirmation is made, a copy of the byelaws shall be deposited at the offices of the local authority by whom the byelaws are made and shall at all reasonable hours be open to public inspection without payment.

(6) In the case of byelaws made by a county council or a district council, the clerk of the council shall, at least one month before application for confirmation is made, send a copy of the byelaws to the registrar of every registration district under the Registration of Births, Deaths and Marriages Acts within any part of which the byelaws are to apply, and, where in the case of a byelaw made by a county council, the byelaw will apply to any part of a burgh, to the town clerk of the burgh, and the registrar or town clerk, as the case may be, shall cause the copy to be open to public inspection without payment at his office at all reasonable hours for at least one month before application for confirmation is made.

It shall be sufficient compliance with the provisions of subsection (4) of this section so far as requiring notice of right to inspect byelaws at the offices of registrars if the notice under that subsection states that the byelaws may be inspected at the office of the registrar of every registration district specified in the notice or where the byelaws apply to the whole county or district, every registration district within or partly within the county or district, as the case may be, without the necessity of specifying the addresses of the individual registrars.

(7) The local authority by whom the byelaws are made shall on application furnish to any person a copy of the byelaws or of any part thereof on payment of such sum, not exceeding sixpence for every hundred words contained in the copy, as the authority may determine.

(8) Any person aggrieved by any byelaws may, within one month after notice has been published in accordance with the provisions of subsection (4) of this section, notify in writing his objection and the ground of his objection to the confirming authority.

(9) Before confirming byelaws, the confirming authority shall take into consideration any objections received by them and may if they consider it necessary or desirable cause a local inquiry to be held.

(10) Unless the Secretary of State shall otherwise direct, every inquiry with respect to byelaws made under any provision of this Act or of the Burgh Police Acts shall be held by the sheriff.

(11) The confirming authority may confirm with or without modification or refuse to confirm any byelaws submitted under this section for confirmation and may fix the date on which the byelaws are to come into operation, and if no date is so fixed the byelaws shall come into operation at the expiration of one month from the date of their confirmation.

(12) The local authority shall, as soon as practicable after receiving intimation of the confirmation of the byelaws by the confirming authority, cause a notice of such confirmation, of the date on which the byelaws are to come into operation, and of the place where a copy of the byelaws as confirmed may be inspected, to be given in a newspaper circulating in the area to which the byelaws are to apply or in such other manner as the confirming authority on the application of the local authority may determine to be sufficient in the circumstances.

(13) A copy of the byelaws when confirmed shall be printed and deposited at the offices of the local authority by whom the byelaws are made and shall at all reasonable

PART XIV.  
—cont.

hours be open to public inspection without payment, and a copy thereof shall on application be furnished to any person on payment of such sum not exceeding one shilling for every copy as the authority may determine.

(14) In the case of byelaws made by a county council, the county clerk shall send a copy of the byelaws as confirmed to the clerk of the district council of every district within any part of which the byelaws apply, and where the byelaws apply to any part of a burgh, to the town clerk of the burgh, and the district council clerk or town clerk, as the case may be, shall cause the copy to be open to public inspection without payment at his office at all reasonable hours.

(15) In this section the expression "the confirming authority" means—

- (a) in the case of byelaws made under the Public Parks (Scotland) Act, 1878, or under the Burgh Police Acts or under the Public Health Acts, or under any enactment incorporating or applying section fifty-seven of the Local Government (Scotland) Act, 1889, or section three hundred and eighteen of the Burgh Police (Scotland) Act, 1892, or section one hundred and eighty-five of the Public Health (Scotland) Act, 1897, the Secretary of State; and
- (b) in any other case, the authority or person, if any, specified in the enactment under which the byelaws are made or in any enactment incorporated therein or applied thereby as the authority or person by whom the byelaws are to be confirmed:

Provided that, where under or by virtue of any enactment the power of an authority or person specified as aforesaid to confirm byelaws has been transferred, the authority or person to whom that power has been transferred shall be deemed to be the authority or person specified as aforesaid.

(16) The provisions of this section shall apply in the case of byelaws made by the magistrates of a burgh in like manner as they apply in the case of byelaws made by the town council of the burgh.

(17) The Secretary of State on the application of a local authority may by order apply the provisions of this section to the confirmation of byelaws made by the authority under any local Act passed before the commencement of this Act in substitution for the provisions of the local Act relating thereto, and any such order shall as soon as may be after it is made be laid before each House of Parliament.

(18) The provisions of this section shall apply subject to the necessary modifications in the case of byelaws made by



any authority (other than a local authority) under any enactment passed before the commencement of this Act and incorporating or applying any of the sections mentioned in paragraph (e) of subsection (1) of this section.

PART XIV.  
—cont.

302. Byelaws to which the immediately preceding section applies may contain provisions for imposing on persons offending against the byelaws reasonable fines recoverable in a court of summary jurisdiction, not exceeding such sum as may be fixed by the enactment conferring the power to make the byelaws or if no sum is so fixed the sum of five pounds, and in the case of a continuing offence a further fine not exceeding such sum as may be fixed as aforesaid, or if no sum is so fixed the sum of forty shillings for each day during which the offence continues after written notice of the offence from the local authority or other authority.

Penalties for  
offences  
against  
byelaws.

303. The production of a copy of a byelaw purporting to be made by a local authority under any enactment whatever or by any other authority to whose byelaws the last but one preceding section applies upon which is endorsed a certificate purporting to be signed by the clerk of the authority stating—

Evidence of  
byelaws.

- (a) that the byelaw was made by the authority;
- (b) that the copy is a true copy of the byelaw;
- (c) that on a specified date the byelaw was confirmed by the authority named in the certificate or, as the case may require, was sent to the Secretary of State and has not been disallowed;
- (d) that the byelaw made by a county council has been made with the consent of the town council of a burgh named in the certificate;
- (e) the date, if any, fixed by the confirming authority for the coming into operation of the byelaw;

shall, until the contrary is proved, be evidence of the facts stated in the certificate and without proof of the handwriting or official position of any person purporting to sign a certificate in pursuance of this section.

## PART XV.

### PROMOTION OF AND OPPOSITION TO PRIVATE LEGISLATION BY LOCAL AUTHORITIES.

304. Subject to the provisions of this Part of this Act, where a county council or a town council are satisfied that it is expedient to promote or oppose any private legislation in Parliament, the county council or the town council may promote or oppose the same accordingly, and may defray the expenses incurred in relation thereto:

Power of  
county  
council and  
town council  
to promote or  
oppose  
private  
legislation.

PART XV.  
—cont.

Provided that nothing in this Part of this Act shall authorise the promotion of private legislation for the establishment of any gas or water works to compete with any gas or water company established under an Act of Parliament.

Power of district council to oppose private legislation.

305. Subject to the provisions of this Part of this Act, where a district council are satisfied that it is expedient to oppose any private legislation in Parliament, the council may oppose the same accordingly and may defray the expenses incurred in relation thereto.

Resolution of local authority to promote or oppose private legislation, and authority by Secretary of State.

306.—(1) A local authority shall not promote or oppose private legislation under the powers conferred by this Part of this Act unless a resolution to that effect is passed by a majority of the whole number of the members of the local authority at a meeting thereof held after ten clear days' notice of the meeting and of the purpose thereof has been given by advertisement in a newspaper circulating in the area of the authority, such notice being in addition to the ordinary notice required to be given for the convening of a meeting of the authority.

(2) In the case of the promotion of private legislation by a county council or a town council, the resolution shall be published in a newspaper circulating in the area of the council and shall forthwith be submitted to the Secretary of State for authority to proceed, and the council shall not proceed with the promotion until the Secretary of State notifies the council that authority is given.

(3) In the case of the opposition to private legislation by a district council, the resolution shall be published in a newspaper circulating in the area of the council and shall forthwith be submitted to the Secretary of State for authority to proceed, and the council shall not proceed with the opposition until the Secretary of State notifies the council that authority is given.

(4) The Secretary of State shall cause intimation to be given to the local authority of his decision under either of the two immediately preceding subsections within one month after the submission to him of the resolution, so however that authority shall not be given by him until after the expiration of seven days after the publication of the resolution, and in the meantime any local government elector for the area of the local authority may give notice in writing to the Secretary of State of his objection thereto.

(5) In the case of the promotion of private legislation by a county council or a town council, a further meeting of the council shall be held as soon as may be after the expiration

of fourteen days after the draft of the provisional order has been submitted to the Secretary of State in accordance with the provisions of the Act of 1936, and unless the propriety of the promotion is confirmed at that meeting by a majority of the whole number of members of the council, the council shall take all necessary steps to withdraw the same.

Not less than ten clear days before the date of a meeting to be held under this subsection, the like notice shall be given in relation thereto as is required to be given in relation to a meeting held under subsection (1) of this section.

(6) In ascertaining for the purpose of this section the whole number of members of a local authority, no account shall be taken of any vacancy which may at the time exist in the membership of the authority.

(7) Where under section two of the Act of 1936, the Chairman of Committees of the House of Lords and the Chairman of Ways and Means in the House of Commons are of opinion that provisions contained in a draft provisional order ought to be dealt with by private Bill and not by provisional order, the determination of the Chairmen shall forthwith be reported to the council or to any duly authorised committee of the council, and unless the council or the committee, as the case may be, resolve to proceed with the promotion of a private Bill dealing with the matters to which the said provisions relate or any of them, such a private Bill shall not be promoted. Save as aforesaid the proceedings of the council and the authority given by the Secretary of State with respect to the promotion of the provisional order under this section shall be deemed to apply to, and to be sufficient authority for the promotion of, such a private Bill.

307.—(1) All expenses incurred by a local authority in the promotion of or opposition to private legislation under this Part of this Act shall be taxed by the Auditor of the Court of Session or by such other person as may be appointed for the purpose by the Secretary of State. Taxation of expenses of local authority.

(2) No payment shall be made by a local authority to a member of the authority for acting as counsel or agent in promoting or opposing private legislation under this Part of this Act.

308.—(1) The expenses incurred by a county council or a town council under this Part of this Act in the promotion of or opposition to private legislation may be defrayed as part of such branch or branches of expenditure of the council as the council may determine, having regard to the purposes and objects of the private legislation. Defraying expenses of local authority.

PART XV.  
—cont.

(2) The powers of a local authority to borrow under Part XII of this Act shall apply for the purpose of defraying expenses under this Part of this Act, so however that any sum so borrowed shall be repaid within such period as the authority may determine, being a period not exceeding five years from the date of passing of the confirmation Act or the private Act, or where no such Act is passed, a period not exceeding five years from the date on which the draft of the provisional order is submitted to the Secretary of State.

Saving for existing powers of town council.

309. The provisions of this Part of this Act shall be deemed to be in addition to, and not in derogation of, any other powers competent to a town council with respect to the promotion of private legislation.

Right of local authority to make report to Commissioners under Private Legislation Procedure (Scotland) Act, 1936.

310. Nothing in this Part of this Act shall affect the right of any local authority connected with the locality to which any draft provisional order referred to Commissioners under the Act of 1936 relates to make a report to the Commissioners respecting the provisions of the draft order.

Interpretation.

311. In this Part of this Act unless the context otherwise requires—

26 Geo. 5. &  
1 Edw. 8. c. 52.

“ Act of 1936 ” means the Private Legislation Procedure (Scotland) Act, 1936;

“ provisional order ” means a provisional order under the Act of 1936; and

“ private legislation in Parliament ” and “ private legislation ” include a provisional order and the confirmation Bill relating thereto under the Act of 1936, and also any local or personal Bill.

## PART XVI.

## TRANSFER OF FUNCTIONS, &amp;C.

Transfer of functions of county road board to county council.

312. All the functions of the county road board for a county under the Roads and Bridges Acts shall be transferred to and vest in the county council of the county.

Transfer of functions relating to licensing of theatres, &c.

313.—(1) The functions of the justices of the peace of a county under the Theatres Act, 1843, so far as relating to the landward part of the county, shall be transferred to and vest in the county council of the county.

6 & 7 Vict.  
c. 68.

(2) The functions of the justices of the peace of a county under the Theatres Act, 1843, so far as relating to a burgh

within the county, and the functions of the magistrates of a burgh under sections three hundred and ninety-five to three hundred and ninety-seven, and sections three hundred and ninety-nine, four hundred and four hundred and two of the Burgh Police (Scotland) Act, 1892, relating to theatres and places of public resort, shall be transferred to and vest in the town council of the burgh.

PART XVI.  
—cont.

(3) A county council or town council to whom functions are transferred by this section may in any case where they think fit grant a licence without requiring the person to whom the licence is granted or any other person to become bound in a penal sum for the due observance of any rules or byelaws for the regulation of the theatre or other place of public resort or of the conditions of the licence and for securing payment of any penalty for breach of any statutory provision or of any rule or byelaw.

(4) The Secretary of State may make regulations with respect to the form of application for licence, the form of and the manner of signing the licence and the procedure with respect to granting the licence in the case of councils to whom functions are transferred by this section, and such regulations when made shall come in place of the provisions relating to the said matters contained in section five of the Theatres Act, 1843:

Provided that, where a town council have made byelaws under the Burgh Police Acts relating to any of the matters aforesaid, such byelaws shall to the extent to which they deal with the matters aforesaid apply in lieu of the said regulations.

(5) For the purposes of any enactment relating to theatres or other places of public entertainment, a licence issued by a county council or a town council to whom functions are transferred by this section or by a town council or the magistrates or a committee of the magistrates of a burgh under a local Act shall be deemed to be a licence issued by justices of the peace.

314. The functions of the magistrates of a burgh under the Cinematograph Act, 1909, shall be transferred to and vest in the town council of the burgh, except in the case<sup>1</sup> of the cities of Glasgow and Aberdeen.

Transfer of  
functions  
relating to  
cinemas.

9 Edw. 7. c. 30.

315. The functions of a county council as local authority for the purposes of the enactments set out in the Ninth Schedule to this Act, so far as relating to a large burgh within the county, shall be transferred to and vest in the town council of that burgh.

Transfer of  
functions under  
various Acts from  
county council to  
town councils of  
large burghs.

PART XVI.  
—*cont.*  
Functions of  
town council  
of large burgh  
under Wild  
Birds Pro-  
tection Acts.

316. The functions exercisable by a county council within the county under the Wild Birds Protection Acts, 1880 to 1908 shall be functions exercisable by the town council of a large burgh within the burgh.

## PART XVII.

### PROVISIONS CONSEQUENTIAL ON TRANSFER OF FUNCTIONS BY OR BY VIRTUE OF THIS ACT.

Transfer of  
property and  
liabilities and  
construction  
of Acts and  
documents in  
case of transfer  
of functions.

317.—(1) Where functions are transferred from one local authority to another local authority by this Act or by virtue of any provision of this Act, all property and liabilities so far as held or incurred by or on behalf of the transferor authority for the purposes of the functions so transferred shall, subject to the provisions of this Act, be transferred to and vest in the transferee authority and be held or treated as incurred by or on behalf of the transferee authority for the same purposes, and subject to the same trusts, and, in the case of property subject to the same debts and liabilities, as they were held or incurred by or on behalf of the transferor authority.

(2) The provisions set out in the Tenth Schedule to this Act (being provisions with respect to the construction of Acts and documents and other matters in case of transfer of functions) shall have effect for the purposes of functions so transferred.

Transfer and  
compensation  
of officers on  
transfer of  
functions.

318.—(1) The provisions of this section shall apply in relation to officers of local authorities affected by any transfer of functions by this Act or by virtue of any provision of this Act.

(2) Any existing officer who in consequence of the transfer of functions or of anything done following thereon suffers any direct pecuniary loss by reason of the determination of his appointment or the diminution of his emoluments and for whose compensation for that loss no other provision is made by any enactment or statutory order for the time being in force shall be entitled to payment, by the transferee authority or such other authority as the authorities concerned may agree or the Secretary of State may determine, of compensation:

Provided that, in the case of an officer of justices of the peace entitled to compensation in consequence of a transfer of functions under Part XVI of this Act, the compensation shall, as respects both the transfer of functions to the county

council and the transfer of functions to town councils of burghs within the county, be paid by the county council, but each of the said town councils shall pay to the county council such proportion of the compensation as may be agreed upon between the councils concerned, or, failing agreement, as may be determined by the Secretary of State.

(3) An existing officer who, at any time within five years after the date on which the transfer of functions takes effect, relinquishes office by reason of his having been required to perform duties which are not analogous to, or which are an unreasonable addition to, those which he was required to perform immediately before that date shall be deemed for the purposes of this section to have had his office determined in consequence of the transfer of functions and, unless the contrary is shown, to have suffered direct pecuniary loss in consequence thereof by reason of such determination.

(4) An existing officer whose appointment is determined or whose emoluments are reduced within five years after the date on which the transfer of functions takes effect because his services are not required or his duties are diminished (no misconduct being established) shall be deemed, unless the contrary is shown, to have suffered direct pecuniary loss in consequence of the transfer.

(5) The provisions set out in the Eleventh Schedule to this Act (being provisions as to the determination and payment of compensation to officers in case of transfer of functions) shall apply for the purposes of this section.

(6) The payment of compensation by way of a lump sum shall be a purpose for which a local authority may borrow, so however that any sum so borrowed shall be repaid within a period of five years from the date on which the payment of the lump sum is made.

319. Where officers of a local authority who are entitled as such to benefits of a superannuation enactment are transferred to the service of another local authority in consequence of a transfer of functions by or by virtue of this Act, provision shall be made by a scheme made by the Secretary of State, after consultation with the local authorities and officers concerned—

Provisions as to superannuation rights of transferred officers.

- (a) for securing that the superannuation enactment to the benefits of which such an officer was entitled immediately before his transfer shall continue to apply to him, subject to such modifications and adaptations as the Secretary of State may determine; or

PART XVII.  
—cont.

- (b) for applying to the officer, subject to such modifications and adaptations as the Secretary of State may determine, any superannuation enactment to the benefits of which officers of the authority to which the officer is transferred are entitled;

and any such scheme may contain such incidental, consequential and supplemental provisions as appear to the Secretary of State to be necessary or proper for giving full effect to the provisions of this section and of the scheme.

Interpretation and application of Part XVII of Act and the Tenth and Eleventh Schedules.

320.—(1) In this Part of this Act and in the Tenth and Eleventh Schedules to this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them—

“ existing officer ” means, in relation to a transfer of functions from one local authority to another authority, an officer of the transferor authority who holds office at the date on which the transfer of functions takes effect;

“ office ” means any place, situation or employment under a local authority, and includes the office of registrar of births, deaths and marriages, assistant registrar of births, deaths and marriages, clerk to the justices of the peace or procurator fiscal in the justices of the peace court, and the expression “ officer ” has a corresponding meaning;

“ superannuation enactment ” means an enactment, including a scheme made under an enactment, by virtue of which persons employed by a local authority become entitled to superannuation benefits on retirement;

“ transferred function ” includes a function deemed to have been transferred, and other expressions relating to transfer of functions shall be construed accordingly;

“ transferee authority ” means the authority to whom functions are transferred by this Act or by virtue of any provision of this Act;

“ transferor authority ” means the authority from whom functions are transferred by this Act or by virtue of any provision of this Act.

(2) For the purposes of this Part of this Act and of the Tenth and Eleventh Schedules to this Act, a function shall be deemed to be transferred where local authorities combine



or are combined for the purposes of that function, and any question as to which is the transferee authority shall be determined by the Secretary of State. PART XVII.  
—cont.

(3) The provisions of this Part of this Act and of the said Tenth and Eleventh Schedules shall, subject to any necessary modifications, apply to and as respects justices of the peace of a county, magistrates of a burgh or any other body or authority affected by any alteration of area under Part VI of this Act as they apply to and as respects a local authority and as if each of the said bodies or authorities were a local authority.

### PART XVIII.

#### DEAN OF GUILD COURT, DEAN OF GUILD, &c.

321.—(1) Subject to the provisions of this section, the dean of guild court for any burgh having such a court at the commencement of this Act shall continue to be constituted in accordance with the law and practice then existing relating thereto. Constitution  
of dean of  
guild court.

(2) The town council of any burgh having no dean of guild court at the commencement of this Act shall as soon as practicable thereafter establish a dean of guild court which shall consist of the dean of guild who shall be elected as provided in the immediately succeeding section of this Act, and not less than two nor more than four councillors who shall be elected annually as provided in the said section.

(3) As from the first Friday after the first annual election of town councillors held after the commencement of this Act, a dean of guild court established under section two hundred and two of the Burgh Police (Scotland) Act, 1892, shall cease to be constituted in accordance with the provisions of section two hundred and three of that Act and shall be constituted in accordance with the provisions of the immediately preceding subsection.

(4) Subject to the provisions of this Part of this Act, the town council of any burgh having a dean of guild court constituted otherwise than in accordance with the provisions of subsection (2) of this section and to which the immediately preceding subsection does not apply may on passing a resolution to that effect provide that, in lieu of the constitution of the court then existing, the court shall be constituted in accordance with the provisions of the said subsection (2), so however that nothing in or done under this subsection shall alter or affect the constitution, rights and privileges of any such court so far as regards members, lymers or assessors thereof

PART XVIII. who are appointed otherwise than exclusively by the town council.  
—*cont.*

(5) The quorum at a meeting of a dean of guild court shall be two members.

(6) If the dean of guild is absent from any meeting of the dean of guild court, the members present shall elect one of their number to preside at the meeting.

(7) The dean of guild or other member presiding shall have a casting vote as well as a deliberative vote.

(8) Interlocutors pronounced at a meeting of the dean of guild court shall be signed by the member presiding, but deliverances appointing service or intimation of any petition, motion or other step of procedure or fixing a diet for hearing parties may be pronounced and signed by the clerk or by any member of the court without the necessity of a meeting.

(9) No member of a dean of guild court shall sit as such when any matter in which he is personally interested is under consideration.

Election of dean of guild and members of dean of guild court by town council and casual vacancies.

**322.—(1)** Where in any burgh there is at the commencement of this Act a dean of guild who is elected otherwise than exclusively by the town council, the law and practice then existing relating to his election shall continue, and in any other case the town council of the burgh shall elect a councillor to be the dean of guild, and the whole provisions of this Act relating to the election, term of office, resignation and filling of vacancies applicable to a bailie shall be applicable to the councillor so elected, so however that a casual vacancy in the offices of dean of guild shall in every case be filled as soon as practicable.

(2) The members of the dean of guild court elected by the town council (other than the dean of guild where he is elected by the council) shall be elected by the council at the meeting held on the first Friday after the day of the annual election of councillors or at an adjournment of that meeting and shall, so long as they remain councillors, hold office until the first Friday after the next annual election of councillors.

(3) If the town council fail to elect any such member of the dean of guild court at the meeting mentioned in the immediately preceding subsection, they shall fill the vacancy as soon as practicable thereafter.

(4) If any member of the dean of guild court elected by the town council (other than the dean of guild) dies or resigns from office as a member of the court or ceases to be a

councillor, the council shall as soon as practicable after the vacancy arises elect a councillor in his place, and such councillor shall hold office during the remainder of the period during which the person in whose place he is elected would have held office. PART XVIII.  
—cont.

(5) The proceedings of a dean of guild court shall not be invalidated by any vacancy among their number or by any defect in the election or qualification of any member thereof.

323.—(1) The dean of guild court may appoint a committee consisting wholly of members of the court for the purpose of inspecting buildings or streets or disposing of incidental questions arising in any case before the court, and may for any such purpose delegate any of their powers to the committee. Committees  
of dean of  
guild court.

(2) The convener of any such committee shall be elected and the quorum fixed by the court, and the convener shall preside and shall have a casting vote as well as a deliberative vote.

324. A dean of guild court whether constituted under this Act or otherwise shall have all the rights, powers, privileges and jurisdictions possessed by virtue of statute or otherwise by dean of guild courts in royal burghs. Jurisdiction  
of dean of  
guild court.

325.—(1) The town council may appoint a master of works in connection with the dean of guild court and may pay to him such reasonable salary as the council may determine. Master of  
works for  
dean of guild  
court.

(2) The master of works shall hold office during the pleasure of the town council.

(3) It shall be the duty of the master of works to report to the dean of guild court upon all plans lodged with petitions to the court, to see that the orders made by the court are duly carried into execution, from time to time to inspect the works in progress in execution of plans for which warrant has been granted by the court and to report to the prosecutor in the court any deviation therefrom, and also to perform any other duties which he may be required to perform by the town council.

(4) The master of works shall not be connected directly or indirectly with or interested in any branch of the building trade in the locality or give any assistance or receive any fees in connection with plans to be submitted to the court.

326.—(1) Subject to the provisions of the succeeding subsection, the town clerk shall act as clerk of the dean of guild court and the burgh prosecutor shall act as prosecutor in the dean of guild court. Clerk and  
prosecutor of  
dean of guild  
court.

PART XVIII.  
—*cont.*

(2) Where the town clerk or a depute town clerk or a partner of or a person in the employment of the town clerk or a depute town clerk appears on behalf of any party in connection with any opposed proceedings before the dean of guild court, the court shall appoint an independent person to be legal assessor in connection with such proceedings, and where the town clerk so appears the court shall appoint either the legal assessor or some other person to be clerk of the court in connection with the proceedings, and the expenses incurred by the court in connection with any such appointments shall be defrayed by the town council.

Rules as to  
holding of  
courts.

327. The town council may make rules regulating the dates of meetings of the dean of guild court, so however that dean of guild courts shall be held from time to time and as often as may be necessary in some convenient place in the burgh.

Expenses of  
dean of guild  
court.

328. The town council shall provide such accommodation, with furniture, books and other things, as is required for the transaction of the business of the dean of guild court of the burgh, and shall make payment of the salaries and expenses of the officers of the court.

Saving for  
cities.

329. The foregoing provisions of this Part of this Act shall not apply in the case of the cities of Edinburgh, Glasgow, Dundee and Aberdeen.

Dean of  
guild, &c. of  
certain  
burghs to be  
members of  
town council.

330.—(1) Notwithstanding anything in this Act, the persons elected to the office of dean of guild by the several guildries of the cities of Aberdeen, Dundee and Perth shall by virtue of their said elections be constituent members of the town councils of the said cities respectively, and shall as such exercise all the functions exercised immediately before the commencement of this Act by the dean of guild in the said cities respectively.

(2) Notwithstanding anything in this Act, the persons elected to the offices of dean of guild and deacon convener or convener of trades by the guild brethren and conveyery respectively in the city of Edinburgh and to the offices of dean of guild and deacon convener by the merchants house and trades house respectively in the city of Glasgow shall by virtue of their said election be constituent members of the town councils of the said cities respectively and shall exercise all the functions exercised immediately before the commencement of this Act by such office bearers in these cities.

(3) The provisions of this Act relating to the qualification, retirement and election of town councillors shall not be applicable to such persons, and in computing the number of town councillors or the number to retire, the said persons shall not be reckoned as councillors.

331. A person shall be disqualified for being elected to or holding the office of dean of guild or deacon convener or convener of trades, if he is a person whose estate has been sequestrated by a competent court in Scotland or who has been adjudged bankrupt elsewhere than in Scotland:

PART XVIII.  
—cont.  
Disqualifications in case of dean of guild, etc.

Provided that—

- (a) the disqualification attaching to a person whose estate has been sequestrated shall cease if and when—
  - (i) the sequestration of his estate is recalled or reduced; or
  - (ii) he obtains his discharge from a competent court;
- (b) the disqualification attaching to a person by reason of his having been adjudged bankrupt shall cease if and when—
  - (i) the bankruptcy is annulled; or
  - (ii) he is discharged.

## PART XIX.

### BURGESSES.

332. Every local government elector of a burgh shall be a burghess of the burgh.

Qualification of burghesses.

333.—(1) The town council of a burgh may, by resolution passed by not less than two-thirds of the members voting thereon at a meeting of the council the notice of which specifies the proposed admission as an item of business, admit to be honorary burghesses of the burgh persons of distinction and any persons who have rendered eminent services to the burgh.

Admission of honorary burghesses.

(2) The town clerk of a burgh or such other officer as may be designated for the purpose by the town council shall keep a burghess roll containing the names of persons admitted to be burghesses under this section.

334. Nothing in this Part of this Act shall—

- (a) confer any right of membership or any right or interest in the properties, funds, revenues or privileges of any guild or incorporation of crafts; or
- (b) confer any right or interest in any burghess acres or any grazing rights connected therewith, or affect the law or practice existing at the commencement of this Act with reference to the use, enjoyment and administration of any such burghess acres or grazing rights.

Limitation of rights of persons burghesses by virtue of Part XIX of Act.

335. Nothing in this Part of this Act shall interfere with any law or practice existing at the commencement of this Act by which burghesses are created or admitted in any burgh.

Saving as to admission of burghesses.

## PART XX.

## GENERAL.

*Contracts and Obligations.*

Contracts and obligations of local authorities.

**336.**—(1) A local authority may enter into any contract necessary for the discharge of any of their functions.

(2) A local authority shall not grant any obligation, contract any debt, enter into any contract or agreement or execute any deed unless the same shall have been authorised by the authority or by a committee thereof or a person duly empowered by the authority, and in the case of contracts for the supply of goods or materials or for the execution of works, standing orders of the authority shall—

(a) require that, except as otherwise provided by or under the standing orders, notice of the intention of the authority or committee or person, as the case may be, to enter into the contract shall be published and tenders invited; and

(b) regulate the manner in which such notice shall be published and tenders invited:

Provided that a creditor in any such obligation or debt or a person entering into a contract or agreement with a local authority or a person transacting on the faith of a deed executed by a local authority shall not be bound to inquire whether the same has been duly authorised as aforesaid, and all such obligations, debts, contracts, agreements and deeds granted, contracted, entered into or executed by a local authority if otherwise valid shall have full force and effect, notwithstanding that the same have not been duly authorised in accordance with the provisions of this section.

Protection for members and officers of local authority in relation to obligations, etc.

**337.** No member or officer of a local authority shall be personally liable for the fulfilment of any obligation undertaken or contract or agreement made by the authority or for the repayment of any money borrowed by the authority whether under this Act or any other enactment or any statutory order or otherwise.

*Travelling Expenses, &c. of Members of County Council.*

Payment of travelling expenses, &c., of members of county council.

**338.**—(1) A county council may if they think fit pay allowances at such rates, not exceeding the rates set out in the Twelfth Schedule to this Act, as the council may fix in respect of travelling and other personal expenses necessarily incurred and time necessarily lost from ordinary employment by members of the council or of any committee or sub-committee thereof in attending meetings of such council, committee or sub-committee.

(2) Any such expenditure as aforesaid incurred in respect of meetings of the council shall be defrayed in like manner as general expenses of the council, and any expenditure incurred in respect of meetings of a committee or sub-committee shall be defrayed in like manner as expenditure on the functions for which the committee or sub-committee are appointed.

PART XX.  
—cont.

(3) For the purposes of this section—

- (a) any body of persons, whether members of the council or not, constituted by a county council to advise or assist them in the execution of any of their functions relating to education shall be deemed to be a committee of that council; and
- (b) a committee all the members of which, other than any ex officio members, are appointed by a county council shall, where the expenses of the committee are defrayed wholly or partly by the council, be deemed to be a committee of that council as respects the members of the committee appointed by the council.

*Expenditure by County Council and Town  
Council on Special Purposes.*

339.—(1) A county council or a town council may with the approval of the Secretary of State make any payment for any purpose which in the opinion of the council is in the interests of the council or of the area of the council or any part thereof or of the inhabitants thereof:

Expenditure by county council and town council on special purposes.

Provided that—

- (a) the total payments so made by a council in any one year shall not exceed the produce of a rate of two pence per pound on the rateable valuation of the area of the council; and
- (b) nothing in this subsection shall apply to any payment for any purpose in pursuance of any power otherwise competent to the council under any enactment or statutory order.

(2) The total payments which may be made in any year by a county council under this section shall be calculated by reference only to the landward area of the county.

(3) Any payment made under this section shall be defrayed as part of such branch or branches of expenditure as the council may determine, having regard to the purpose for which the payment is made, so however that a county council may not treat any such payment as part of a branch of expenditure for the purpose of which any burgh is included within the county.

## PART XX.

—cont.

Acceptance  
of gifts of  
property.*Acceptance of Gifts.*

340.—(1) A local authority may accept, hold and administer any gift of property whether heritable or moveable for any local public purpose or for the benefit of the inhabitants of the area of the authority or of some part thereof, and may execute any works (including works of maintenance or improvement) incidental to or consequential on the exercise of the powers conferred by this section.

(2) Where the purposes of the gift are purposes for which the local authority are empowered to expend money raised from a rate, they may, subject to any condition or restriction attaching to the exercise of that power, defray expenditure incurred in the exercise of the powers conferred by the preceding subsection out of money so raised.

*Transfer of Stock on Change of Name of Local Authority, &c.*Transfer of  
stock on  
change of  
name of local  
authority, &c.

341.—(1) Where any stock is standing in the books of a company in the name of a local authority in Scotland the following provisions shall have effect:—

- (a) if the name of the authority is changed, then on the request of the authority and on production of a statutory declaration by the clerk of the authority specifying the stock and verifying the change of name and identity of the authority, the company shall enter the stock in the new name of the authority in like manner as if the stock had been transferred to the authority under that name;
- (b) if by virtue of anything done under or in accordance with the provisions of this Act any other local authority in Scotland have become entitled to the stock or any dividends thereon, a certificate by the county clerk of the county in which the area of that other authority is situated or, where the county council is that other authority, a certificate by or on behalf of the Secretary of State, shall be a sufficient authority to the company to transfer the stock into the name of the local authority specified in that behalf in the certificate and to pay the dividends to that authority;
- (c) if in any other case any other local authority in Scotland have become entitled to the stock or any dividends thereon, the Court of Session may on the petition of that other authority make an order vesting in that other authority the right to transfer the stock or to receive the dividends.



(2) In this section the expression—

“ company ” includes the Bank of England and any company or person keeping books in which any stock is registered or inscribed;

“ stock ” includes any share, annuity or other security.

(3) This section shall extend to England and Wales as well as to Scotland.

PART XX.  
—cont.

### *Execution of Deeds and Use of Seal.*

342.—(1) Save as otherwise provided in this Act, a deed to which a county council or a town council are a party shall be held to be validly executed on behalf of the council if it is sealed with the common seal of the council and subscribed on behalf of the council by two members of the council and the clerk of the council, whether attested by witnesses or not, or if it is executed in such other manner as may be provided in a local Act.

Execution of  
deeds by local  
authority  
and use of seal.

(2) Save as otherwise provided in this Act, a deed to which a district council are a party shall be held to be validly executed on behalf of the council—

(a) where the council have a common seal, if it is sealed with the common seal of the council and subscribed on behalf of the council by two members of the council and the clerk of the council, whether attested by witnesses or not;

(b) in any other case, if it is subscribed on behalf of the council by two members of the council and the clerk of the council, and attested by witnesses.

(3) The seal of a county council or town council or, where a district council have a common seal, the seal of the district council may be affixed to a deed or other document if authority to affix the seal to the deed or other document has been given at a meeting of the council, or has been given otherwise in accordance with standing orders of the council:

Provided that a person entering into any transaction with any such council shall not be bound to inquire whether authority to affix the seal has been given in accordance with the provisions of this subsection, and all deeds executed by such a council if otherwise valid shall have full force and effect notwithstanding that such authority may not have been given.

PART XX.  
—cont.*Legal Proceedings, Notices, &c.*

Legal proceedings for protection of inhabitants of area.

343. A county council or a town council may institute or defend any legal proceedings for the promotion or protection of the interests of the inhabitants of their area or any part thereof.

Offences against byelaws may be prosecuted by local authority.

344. Any offence against any byelaw made by a local authority by virtue of section three hundred of this Act or the corresponding enactment repealed by this Act may be prosecuted and the expenses of the proceedings may be recovered at the instance of the authority under the Summary Jurisdiction (Scotland) Acts, and every fine or penalty recovered by a local authority in any such proceedings shall be applied as the authority shall determine.

Appearance on behalf of local authority in legal proceedings.

345. Subject to the provisions of subsection (4) of section eighty-four of this Act, it shall be lawful for the clerk of a local authority and also, if duly authorised by resolution of the authority either generally or in respect of any special proceeding, for any other officer of the authority or any other person to appear on behalf of the authority before a court of summary jurisdiction in any proceedings instituted by them, and the clerk or any other officer or other person so authorised shall be entitled to conduct any such proceedings on behalf of the authority although he is not a practising solicitor.

Service of legal proceedings and notices on local authority or officers.

346. Any legal proceedings against a local authority shall be deemed to have been duly served on the authority if served on the clerk of the authority and any notice, order, demand or other document required or authorised by this Act or any other enactment or any statutory order to be sent, delivered or served to or upon a local authority or upon the clerk or other officer of a local authority shall be addressed to the authority or to the clerk or other officer, as the case may be, and left or sent by post in a prepaid letter, in the case of the authority or the clerk, at or to the principal offices of the authority, and in the case of any other officer, at or to the principal offices of the authority or his place of residence.

Authentication of notices by local authority.

347.—(1) Any notice, order, demand, requisition or other such document by a local authority required or authorised by this Act or any other enactment or any statutory order or byelaw shall, except in so far as any such other enactment or statutory order specifically otherwise provides, be signed by the clerk of the authority or authenticated in such other

manner as the authority may by standing order or otherwise direct, and subject to the provisions of any such other enactment or statutory order, any such notice or other document may be withdrawn by a notice similarly authenticated.

(2) Any document purporting to bear the signature of the clerk of a local authority or of an officer expressed to be duly authorised by the authority to sign such a document or the particular document shall, for the purposes of any enactment or statutory order relating to any function of the authority, or any regulations, order or byelaws thereunder, be deemed, until the contrary is proved, to have been duly given, made or issued by authority of the local authority.

In this subsection the expression "signature" includes a facsimile of a signature by whatever process reproduced.

348. The clerk or treasurer of a local authority or any other officer authorised by the authority for the purpose may sign on behalf of the authority any claim in any sequestration, liquidation or other such proceedings in which the authority are entitled to make a claim, and may act on behalf of the authority in connection with that claim in all respects.

Claims in sequestrations and liquidations.

349.—(1) Without prejudice to the provisions of any local Act, any notice, order, demand, requisition or other such document by a local authority or by an officer of a local authority required or authorised by this Act or any other enactment or any statutory order or byelaw (other than a notice with respect to the compulsory purchase of land) may (except in so far as any such other enactment or statutory order otherwise specifically provides) be served—

Service of notices etc., by local authority or officer.

- (a) by being sent by post in a prepaid letter or delivered to or at the residence or place of business of the person to whom it is addressed:

Provided that in the case of a person employed on any ship or vessel it shall be delivered to some person on board thereof and connected therewith; or

- (b) in the case of an incorporated company or body by being sent by post in a prepaid letter addressed to the secretary or clerk of the company or body at their registered or principal office or by delivering it to him at that office; or
- (c) where the notice or other document relates to premises, and the owner thereof resides beyond the area of the authority, by being sent by post in a prepaid letter or delivered to or at the place of business of his known

PART XX.  
—cont.

factor or agent or the person drawing the rents of the premises; or

(d) where the notice or other document relates to premises and the authority are unable after reasonable inquiry to ascertain the address of the person upon whom it should be served, by addressing it to him—

(i) by name, if his name is known; or

(ii) if his name is not known, by the description of "owner" or "occupier" of the premises (naming them) to which it relates;

and by delivering it to some person on the premises, or if there is no person on the premises to whom it can be delivered, by affixing it or a copy thereof to some conspicuous part of the premises.

(2) Service of a copy of any such notice, order, demand, requisition or other document shall be deemed to be service of the principal document.

(3) Service of any such notice, order, demand, requisition or other document may be proved by a certificate under the hand of the person who posted or delivered or affixed the same attested by one witness who was present at such posting, delivery or affixing.

(4) Where any such notice, order, demand, requisition or other document authorised or required by this Act or any other enactment or any statutory order or byelaw relates to premises and the authority are unable after reasonable inquiry to ascertain the name and address of the owner of the premises, then if there is no known factor, agent or person drawing the rents, such notice or other document may be addressed to the occupier or any of the occupiers of the premises, and such occupier shall in all respects take burden for the owner, so however that he shall not be liable to make payment under this section of any sum in excess of the sum which he is liable to pay in respect of rent of the premises nor shall he be required to make payment of any sum before the sum in respect of rent is due and payable, and any sum so paid by the occupier shall be deemed to be a payment to account of rent.

Evidence of resolutions, &c. by local authority.

**350.—(1)** Save as otherwise provided in any other enactment or any statutory order relating to any particular function, production of a copy of or an extract from any minute of meeting of a local authority or a committee thereof or a copy of any resolution passed by a local authority or a committee thereof or of any rules or regulations (other than byelaws) made by a local authority under this Act or any other enactment or any statutory order upon which is endorsed a

certificate purporting to be signed by the clerk of the authority stating that the copy of or extract from the minute of meeting is a true copy or extract or that the resolution was passed at a specified meeting of the authority or committee, as the case may be, or that the rules and regulations were made by the authority in accordance with the provisions of this Act or any other enactment or any statutory order relating thereto shall, until the contrary is proved, be evidence of the facts stated in the certificate and that in the case of a resolution passed by a committee the committee had power to pass such a resolution, without proof of the handwriting or official position of any person purporting to sign a certificate in pursuance of this subsection.

PART XX.  
—cont.

(2) References in this section to a committee shall in the case of a town council be construed as including references to the magistrates of the burgh.

351. A public notice required to be given by a local authority under this Act or any other enactment or any statutory order shall, save as otherwise expressly provided therein, be given—

- (a) by displaying the notice conspicuously at or near the principal entrance to the offices of the authority; and
- (b) by posting the notice in some conspicuous place or places within the area of the authority or by inserting a copy of the notice in a newspaper circulating in the area of the authority; and
- (c) in such other manner, if any, as appears to the authority to be desirable for giving publicity to the notice.

352. No misnomer or inaccurate description of any person or place, omission, mistake or informality in any notice or other document under or for the purposes of this Act shall affect the full operation of the notice or other document if the person or place mentioned is so designated as to be commonly understood, and such omission, mistake or informality is not such as to defeat the object of the notice or other document or cause substantial injustice to any person affected thereby.

Misnomers,  
&c. not to  
affect validity  
of notices, &c.

#### *Custody of Records and Documents.*

353.—(1) Subject to any administrative scheme and to any general directions which the council may give, the county clerk, the town clerk of a burgh and the clerk of a district council, shall have the charge and custody of and be responsible for all charters, deeds, records and other documents belonging to the council or to the county, burgh or district, as the case may be.

Custody of  
records and  
documents.

(2) Nothing in this section shall affect the power of a local authority under section five of the Public Records (Scotland) Act, 1937, to transmit any of their records to the Keeper of the Registers and Records of Scotland for custody.

1 Edw. 8. &  
1 Geo. 6.  
c. 43.

## PART XX.

—*cont.*Reports and  
returns.*Reports and Returns.*

354. Every local authority and every joint committee or joint board shall make to the Minister concerned such reports and returns and give him such information with respect to their functions as the Minister may require, or as may be required by either House of Parliament.

*Local Inquiries.*Provisions as  
to local  
inquiries.

355.—(1) Where a Minister is authorised to determine any difference, to make or confirm any order, rules, regulations or byelaws, to make any adjustment, to frame any scheme or to give any consent, confirmation, sanction or approval to any matter or otherwise to act under this Act or any other enactment or any statutory order relating to the functions of a local authority or is authorised or required to inquire into any matter or hold an inquiry under this Act or any other enactment or any statutory order relating to the functions of a local authority, he may or shall, as the case may be, cause a local inquiry to be held, and the provisions of this section shall apply to such local inquiry.

(2) Save as otherwise provided in any enactment or any statutory order that may be applicable, the Minister may appoint an officer of his department or any other person to conduct the inquiry and to report thereon to him.

(3) The person appointed to hold the inquiry shall cause notice of the time and place of the inquiry to be given to the bodies and persons appearing to him to be interested.

(4) For the purpose of any such inquiry, the person appointed to hold the inquiry may by notice in writing—

- (a) require any person to attend at the time and place set forth in the notice to give evidence or to produce any books, documents and accounts in his custody or under his control which relate to any matter in question at the inquiry;
- (b) require any local authority or person to furnish within such reasonable period as is specified in the notice such returns and such information relating to the matter in question as the person appointed to hold the inquiry may think fit and as the authority or person is able to furnish:

Provided that—

- (i) no person shall be required in obedience to such a notice to go more than ten miles from his place of residence unless the necessary expenses of his attendance are paid or tendered to him; and

- (ii) nothing in this subsection shall empower the person appointed to hold the inquiry to require any person to produce any book or document or to answer any question which he would be entitled, on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.

PART XX.  
—cont.

(5) The person appointed to hold any such inquiry may administer oaths to witnesses and examine witnesses on oath and may accept, in lieu of evidence on oath by any person, a statement in writing by that person.

(6) Any person who refuses or wilfully neglects to attend in obedience to a notice under this section or to give evidence, or who wilfully alters, suppresses, conceals, destroys or refuses to produce any book, document or account which he may be required to produce for the purposes of this section, or who refuses or wilfully neglects to comply with any requirement under subsection (4) of this section of the person appointed to hold the inquiry shall be liable on summary conviction to a fine not exceeding five pounds and for the second and every subsequent offence to a fine not exceeding twenty pounds nor less than five pounds.

(7) The Minister causing the inquiry to be held may if he thinks fit pay such expenses of witnesses and such expenses of or concerning the production of any books, documents or accounts or the furnishing of returns or information as to him seems reasonable, and such expenses shall be deemed to be part of the expenses of the inquiry.

(8) The expenses incurred by a Minister in relation to any such inquiry (including such reasonable sum not exceeding five guineas a day as he may determine for the services of any officer of a government department engaged in the inquiry) shall, unless he is of opinion having regard to the object and result of the inquiry that the expenses should be defrayed in whole or in part by him, be paid by such local authority or party to the inquiry as he may direct, and the Minister may certify the amount of the expenses so incurred, and any sum so certified and directed by him to be paid to him by any authority or person shall be a debt due by that authority or person to the Crown and shall be recoverable accordingly.

(9) The Minister causing an inquiry to be held may make an award as to the expenses of the parties at the inquiry, and as to the parties by whom such expenses shall be paid.

(10) Provisions in any enactment applying with or without modifications the provisions of section ninety-three of the Local Government (Scotland) Act, 1889, relating to local inquiries shall cease to have effect, but, save as aforesaid,

PART XX.  
—cont.

the provisions of this section shall not apply in the case of a local inquiry held under any enactment or a statutory order where the enactment or order contains provisions with regard to such inquiries.

*Provision for Default of Local Authority.*

Provision  
for default of  
local  
authority.

356.—(1) If a complaint is made to the Minister concerned that a local authority have failed to do what is required of them by or under this Act or any other enactment or any statutory order or the Minister concerned is of opinion that an investigation should be made as to whether a local authority have so failed, he may cause a local inquiry to be held into the matter.

(2) If after such a local inquiry the Minister concerned is satisfied that there has been such a failure on the part of the authority in question, he may make an order declaring the authority to be in default and directing them for the purpose of remedying the default to take such steps and within such time or times as may be specified in the order.

(3) If the authority declared to be in default by such an order fail to comply with any requirement thereof within the time limited thereby for compliance with that requirement, the Court of Session may, on the application of the Lord Advocate on behalf of the Minister concerned, order specific performance of the functions in respect of which there has been default, and do otherwise as to the Court appears to be just.

(4) Nothing in this section shall affect the provisions of any other enactment relating to the enforcement of a statutory duty whether under that enactment or otherwise.

*Charitable Trusts, Parish Trusts, &c.*

Election of  
trustees under  
certain Acts,  
charters, &c.

357. Where any trust, management or direction of any charitable or other institution is by the terms of any enactment or any charter or deed of foundation or other deed conferred or imposed on any members of a town council under the denomination of old provost, old bailie, old dean of guild or of merchants or trades bailies or merchants or trades councillors or under some other denomination, the town council shall from time to time nominate and elect from their own body such a number of persons to be such trustees, managers or directors as are by such enactment, charter or deed appointed to those offices under any of the said denominations, and the whole functions belonging to the said offices of trustees, managers or directors shall belong to and be as fully vested in the persons so elected as if they had possessed the denominations used in the said enactment, charter or deed.

Trusts vested  
in deacons, &c.

358. Where any trust, management or direction of any charitable or other institution is vested in any number of



deacons or in a deacon convener or convener of trades or in any dean of guild or other office bearers elected by the several crafts, trades, guildries or merchants or trades houses, then and in all such cases the persons so elected as such deacons, conveners, deans of guild or other officers shall be and continue trustees and managers of such charities or institutions whether such persons are members of town council or not, and the town councils shall in no such case have power to elect from their own body any other trustees or managers in place of such deacons, conveners, deans of guild, or other officers:

Provided that in any burgh in which trades councillors or merchant councillors are or may be ex officio trustees or directors of any such institutions or charities, the convenery or trades house and the guildry or merchants house in such burghs shall elect an equal number from their own bodies respectively to be such trustees or directors notwithstanding anything in this Act to the contrary.

359.—(1) Where trustees hold any property wholly or mainly for the benefit of the inhabitants of any parish or two or more parishes within the area of a council concerned, or any of the inhabitants as such inhabitants or for any such purpose connected with any parish or two or more such parishes (other than for an ecclesiastical charity, or for the use or benefit of the poor of the parish within the meaning of section fifty-two of the Poor Law (Scotland) Act, 1845) they may transfer the property to the council concerned within the meaning of this section or to persons to be from time to time appointed by that council, and the council concerned, if they accept the transfer, or the persons whom they appoint shall hold the property on the trusts and subject to the conditions on which the trustees held the property immediately prior to the transfer.

(2) Any property vested in a council concerned or in trustees appointed by a council concerned by virtue of any enactment repealed by this Act corresponding to the foregoing subsection shall be held by the council or the trustees, as the case may be, on the trusts and subject to the conditions on which they held the property immediately prior to the commencement of this Act.

(3) In the event of any such property not being transferred to the council concerned under and subject to the provisions of subsection (1) of this section or the corresponding enactment repealed by this Act, the council concerned may from time to time appoint such number of additional persons to act along with the trustees of the said property as the trustees and the council may agree or in default of agreement as may be determined by the Secretary of State in each case:

PART XX.  
—cont.

Provided that where the trustees of any such property are elected by or include persons elected by the local government electors or inhabitants of the parish or parishes or are members of any local authority whose area includes the parish or parishes or any part thereof, the provisions of this subsection shall not apply unless the Secretary of State by order so determines.

(4) Where the trustees of any such property are the kirk session or the heritors and kirk session of any parish or the kirk session or deacons court or managers or vestry of a congregation belonging to any religious denomination to the number, whether alone or conjoined with others, of not less than six persons, the said trustees shall from time to time appoint certain of their own number not exceeding three, and the council concerned shall from time to time appoint such number of additional persons as the Secretary of State may in each case approve, to act together as a committee of management of the said property, and the management of the property shall be transferred to the committee accordingly.

(5) Where trustees hold any property for the benefit of the inhabitants of, or for any public purpose (other than as hereinbefore mentioned) connected with, two or more parishes and there are two or more councils concerned, the councils concerned may if the Secretary of State so decides from time to time appoint, in such manner or rotation and subject to such conditions as may be determined in any order of the Secretary of State, such number of additional persons to act as trustees of the said property as may be approved by the Secretary of State in each case.

(6) The term of office of a trustee appointed under this section shall not be longer than three years, but a trustee shall hold office until his successor is appointed and shall be eligible for re-appointment.

(7) The Secretary of State may by order make rules—

- (a) as to the form in which the accounts of any property to which this section applies shall be kept; and
- (b) as to the publication of such accounts.

(8) While a person is trustee of any property or revenues falling within the provisions of this section, neither he nor his spouse nor any of his children shall receive any benefit therefrom.

(9) The provisions of this section with respect to the appointment of trustees shall not apply to any charity until the expiration of forty years from the date of the foundation thereof.

(10) The expression " council concerned " means—

PART XX.  
—cont.

- (a) if the trust (not being a trust with respect to the poor or to churchyards or to burial grounds) relates to a landward parish, the district council of the district in which the parish is situated, or if such a trust relates to a parish containing a landward part, then, so far as the trust relates to the landward part, the district council of the district in which the landward part is situated;
- (b) if the trust relates to a churchyard or burial ground situated within a small burgh, the town council of the burgh;
- (c) in any other case, the county council of the county or the town council of the large burgh in which the parish is situated;

and where in any case under paragraph (a) or (c) hereof the parish is situated in the areas of two or more such councils, the expression includes the two or more councils.

(11) Nothing in this section shall apply to an educational endowment.

360. Nothing in this Act shall be held or construed to impair the right of any craft, trade, convenery of trades or guildry or merchants house or trades house or other such corporation severally to elect their own deacons or deacon convener or dean of guild or directors or other lawful officers for the management of the affairs of such craft, trade, convenery of trades, or guildry, merchants or trades house or other such corporation, but on the contrary the said several bodies shall be in all cases entitled to the free election in such form as shall be regulated by them of the said several office bearers and other necessary officers for the management of their affairs without any interference or control whatsoever on the part of the town council or any member thereof.

Saving as to election of deacon convener, &c.

#### *Miscellaneous Provisions.*

361. Where any order or deliverance or district council scheme made under this Act altering the boundaries of electoral divisions in a county or of wards in a burgh or in an electoral division or dividing a burgh into wards involves an alteration of the area of any registration unit within the meaning of the Representation of the People Acts, the Secretary of State may by order make such provision as may be necessary with regard to the register of electors to be used at

Provision as to alteration of register of electors in certain cases.

PART XX.  
—cont.

any election of county, town or district councillors for any division or burgh or ward affected by such alteration in the area of the registration unit.

Limitation of liability of certain owners.

**362.** Where a local authority claim to recover any sum in respect of rates or otherwise under or in pursuance of any provision of this Act from a person as being the owner of premises and that person proves that he—

- (a) is receiving the rent merely as trustee, tutor, curator, factor or agent for some other person; and
- (b) has not, and since the date of the service on him of the demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,

his liability should be limited to the total amount of the money which he has or has had in his hands as aforesaid.

Power to apply provisions of Act to joint boards, &c.

**363.**—(1) Where any enactment makes provision for the establishment by order or otherwise of a joint board or joint committee for the discharge of any of the functions of local authorities, the order or other document constituting or regulating the constitution of the joint board or joint committee may, without prejudice to any provisions of this Act, apply to the joint board or joint committee, subject to any necessary modifications, any of the provisions of this Act:

Provided that the provisions of this Act enabling land to be acquired compulsorily shall not be so applied except in so far as this Act or any other enactment authorises land to be acquired compulsorily for the purposes of the functions of the local authorities which are delegated to the joint board or joint committee.

(2) In the case of any such joint board or joint committee established prior to the commencement of this Act, the order or other document constituting or regulating the constitution of the joint board or joint committee may be altered for the purposes aforesaid by order made by the Minister concerned on the application of any of the constituent authorities and after consultation with any other constituent authorities.

(3) Without prejudice to any other provisions of this Act, the Secretary of State, on the application of any joint board established by a local Act passed before the commencement of this Act, may by order apply to the joint board any of the provisions of this Act (other than those relating to the compulsory acquisition of land) subject to such modifications as may be specified in the order, and such provisions of any local Act relating to the joint board passed before the commencement of this Act as are specified in the order shall in consequence cease to have effect.

**364.** Where a local authority by virtue of any enactment or any statutory order or otherwise appoint a member of the authority to be a member of any court or body, then, unless otherwise specifically provided in the enactment or order or document regulating the constitution of the court or body, the person so appointed shall cease to be a member of the court or body on ceasing to be a member of the authority.

PART XX.

—*cont.*

Member of local authority appointed to any court or body to cease to be member on ceasing to be member of authority.

**365.** The following subsection shall as from the commencement of this Act be substituted for subsection (1) of section five of the Licensing (Scotland) Act, 1903, which relates to the election and term of office of members of courts under that Act:—

Election and term of office of members of courts for counties under Licensing (Scotland) Act, 1903.

“(1).—(a) The members of a licensing court or court of appeal being justices of the peace or county councillors holding office at the commencement of the Local Government (Scotland) Act, 1947, shall hold office until the day of the first meeting of the county council held after the election of county councillors in the year nineteen hundred and forty-eight, when they shall retire and their successors be elected, and thereafter the term of office of members of the licensing court or court of appeal, being justices of the peace or county councillors, shall be from the day of their election as hereinafter provided until the day of the first meeting of the county council held after the election of county councillors in the third year thereafter.

“(b) The members of such a court being justices of the peace shall be elected at a meeting of the justices of the peace to be held on the same day and at the same place as the first meeting of the county council held after the election of county councillors in the year nineteen hundred and forty-eight and in every third year thereafter.

“(c) The members of such a court being county councillors shall be elected at the first meeting of the county council held after the election of county councillors in the year nineteen hundred and forty-eight and in every third year thereafter.

“(d) Notwithstanding any enactment providing that a member of a court appointed by a local authority shall cease to be a member of the court on ceasing to be a member of the local authority, a member of the licensing court or court of appeal who is a county councillor until the day of the election of county councillors shall continue to be a member of the court

PART XX.  
—cont.

until his successor is appointed at the first meeting of the county council held after the election.

“(e) A justice of the peace who is not entered in the valuation roll for a county or a burgh situated therein as a proprietor, tenant or occupier of lands or heritages shall not be entitled to vote or submit a motion or, except with leave of the meeting, to take part in a discussion in connection with an election by the justices for the county of representatives from their own number to the county licensing court or court of appeal or to a court of appeal from a burgh licensing court or be eligible as a member of any such court.”

Provisions as  
to Sunday, &c.

366.—(1) Where the day or the last day on which anything is required or permitted by or in pursuance of this Act to be done is a Sunday, Christmas Day, New Year's Day, Good Friday, bank holiday, or a public holiday, or a day appointed for public thanksgiving or mourning, the requirement or permission shall be deemed to relate to the first day thereafter which is not one of the days before mentioned, but, save as aforesaid or as otherwise expressly provided in this Act, in reckoning a number of days for the purposes of this Act, the days before specified shall not be excluded.

(2) Where under the foregoing provisions of this section an election is postponed, the day on which the election is held shall be treated as the day of election for all purposes of this Act relating to that election:

Provided that where a day is declared to be a bank holiday or day of public thanksgiving or mourning, nothing in this subsection shall affect the validity of any act done in relation to an election before or on the date of the declaration.

References  
to census.

367. For the purposes of this Act or any other enactment relating to local government, references to the last published census shall as regards any local government area be construed as references to the last census in respect of which the Registrar-General for Scotland has, in pursuance of the Act under which the census was taken, published a report giving the population of that area, not being a report which is or purports to be of a provisional nature.

Adaptation of  
local Acts  
relating to  
local  
authorities.

368.—(1) In the case of a local authority to whom a local Act passed before the commencement of this Act applies, the Secretary of State may on the application of the authority make an order—

(a) modifying provisions of the local Act in consequence of the provisions of this Act; or

- (b) modifying provisions of this Act in their application to the authority in consequence of the provisions of the local Act; or
- (c) declaring that provisions of the local Act shall cease to have effect; or
- (d) declaring that provisions of this Act shall not apply in the case of that authority:

Provided that—

- (i) an order under this section shall not, unless the authority consent thereto, be made with respect to any provision of this Act in which reference is made to a local Act;
- (ii) an order under this section shall not be made with respect to Part II of this Act so far as relating to offences connected with elections, or Part V of this Act so far as relating to administrative schemes and committees for the purposes of such schemes, or Part X of, or the Second Schedule to, this Act;
- (iii) an order under this section shall not affect any provision of a local Act so far as relating to the purpose for which any money may be applied;
- (iv) if within five years after the commencement of this Act the Secretary of State has not received an application from the local authority relating to any provision with respect to which it appears to him necessary or proper to make an order under this section, he may make an order with respect to the provision.

(2) An order under paragraph (iv) of the proviso to the immediately preceding subsection shall be subject to special parliamentary procedure.

(3) The Secretary of State shall before making an order under the said paragraph (iv), cause not less than twenty-eight days' notice to be given to the local authority of the purport of the order.

(4) Anything contained in a local Act in its application to a local authority inconsistent with any of the provisions of Part II of this Act so far as relating to offences connected with elections, or Part V of this Act so far as relating to administrative schemes and committees for the purposes of such schemes, or Part X of, or the Second Schedule to, this Act, shall cease to have effect.

(5) Any provision of a local Act applying or adopting any enactment contained in the Burgh Police Acts or in the Town Councils (Scotland) Acts, 1900 to 1923, which is repealed by this Act shall cease to have effect.

PART XX.  
—cont.

(6) Subject to the two immediately preceding subsections and save as otherwise provided in subsection (2) of section three hundred and eighty-one of this Act, the provisions of this Act so far as inconsistent with the provisions of a local Act shall not apply to or as respects the local authority concerned until an order is made under this section with respect to such provisions.

Adaptation  
of other local  
Acts.

**369.** Without prejudice to any other provisions of this Act, if the Secretary of State, on the application of any local authority or any person concerned, is satisfied that the provisions of any local Act passed before the commencement of this Act (not being a local Act to which the immediately preceding section applies) should be adapted in consequence of the provisions of this Act, the Secretary of State may by order make such adaptations in the provisions of the said local Act as seem to him to be necessary in the circumstances.

(2) An order under this section shall be subject to special parliamentary procedure.

Order by  
Secretary of  
State relating  
to House  
Letting and  
Rating  
(Scotland)  
Act, 1911.

**370.—(1)** The Secretary of State may make an order after a local inquiry, if he thinks that such an inquiry should be held, for the purpose of resolving any doubt arising in relation to any assessing authority under the House Letting and Rating (Scotland) Act, 1911, as to the effect of that Act, and any such order shall as soon as may be after it is made be laid before each House of Parliament.

(2) Subsection (7) of section seven of the said Act of 1911 shall have effect subject to the provisions of the foregoing subsection and as if the words from “and in case of doubt” to the end of the subsection were omitted.

Transitional  
regulations.

**371.—(1)** The Secretary of State may, if he considers it necessary for the purpose of carrying this Act into effect, make regulations in the case of any body, person, funds or matter affected by this Act for the transition from the provisions of any enactment repealed by this Act to the provisions of this Act, so however that nothing in the said regulations shall be inconsistent with any provision of this Act.

(2) Regulations made under this section shall as soon as may be after they are made be laid before each House of Parliament.

Provisions  
as to orders.

**372.—(1)** Any order made by a Minister under this Act may be revoked or altered by an order made in like manner as the previous order.



(2) An order made by a Minister under this Act may contain such incidental, consequential and supplemental provisions as appear to the Minister by whom the order is made to be necessary or proper for bringing the order into operation and giving full effect thereto.

PART XX.  
—cont.

373. Where any regulation or order made under this Act is required to be laid before each House of Parliament it shall be so laid for a period of forty days during the Session of Parliament, and if an address is presented to His Majesty by either House of Parliament before the expiration of that period praying that the regulation or order may be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or to the making of a new regulation or order:

Power to annul regulations or orders laid before Parliament.

Provided that in reckoning any such period of forty days as aforesaid no account shall be taken of any time during which both Houses are adjourned for more than four days.

374.—(1) Where, from failure to observe any of the provisions of this Act or from any other cause, a difficulty arises in carrying into effect any of the provisions of this Act, or where in any case any question arises as to the procedure to be followed, or where any question arises in connection with the election of members of a local authority or of magistrates of a burgh and no provision is made in this Act for meeting such difficulty or determining such question, it shall be lawful for the local authority or any seven local government electors for the area of the authority (including in the case of a county any burgh within the county) or the clerk of the authority, or in the case of a question relating to an election of members of a local authority for the returning officer at the election, to make application to the sheriff setting forth the circumstances, and after such intimation and inquiry as to the sheriff seems proper, the sheriff may give such directions as in his judgment will enable the provisions of this Act to be complied with as nearly as possible or determine the question, as the case may be, and may make such order as seems proper to him with reference to the expenses in connection with the application and the persons by whom such expenses are payable.

Application to sheriff in cases of difficulty.

(2) Subject to any order made by the sheriff, all expenses incurred in connection with any application under the preceding subsection shall be defrayed as part of the general expenses of the authority.

375.—(1) Where any application to the sheriff under this Act is dealt with in the first instance by a sheriff substitute, it shall be competent to appeal to the sheriff against the decision of the sheriff substitute within fourteen days after the date

Provisions regarding applications to court.

PART XX.  
—*cont.*

thereof, but subject thereto the decision of the sheriff or sheriff substitute shall, except where otherwise specifically provided, be final.

(2) Where the area of a local authority is situated within more than one sheriffdom, any application to the sheriff under this Act shall be presented to the sheriffs (excluding sheriff substitutes) of the sheriffdoms in which the area of the authority is situated, and in any such application the senior sheriff shall preside at any hearing and the senior sheriff clerk shall act as clerk of court.

(3) Where any application is presented to two or more sheriffs under this Act and the sheriffs are unable to reach an unanimous decision, they shall state a case for the Court of Session and the Court may pronounce any deliverance which it would have been competent for the sheriffs to make.

(4) Any deliverance of the Court of Session or of any sheriff under this Act shall be recorded in the sheriff court books of the county in which the area of the local authority to which it applies is situated, and where an application is made to two or more sheriffs under this Act, the senior sheriff clerk shall, after recording any order in the sheriff court books of his county, transmit a certified copy thereof to the sheriff clerk of any other county concerned, and such certified copy shall be sufficient warrant to the sheriff clerk of any other county to record the order in the sheriff court books of his county.

Saving for  
existing  
members of  
local  
authorities.

**376.—(1)** A person holding office at the commencement of this Act as a member of a local authority or of any committee, sub-committee or joint committee thereof shall be deemed to have been elected or appointed to that office under this Act:

Provided that he shall retire from office on the date on which he would have retired if this Act had not been passed, and until he so retires from that office he shall not be disqualified for holding the office by reason of any circumstance which occurred before the commencement of this Act and which would not have given rise to a disqualification for that office if this Act had not been passed.

(2) This section shall apply to a person holding office as convener or vice-convener of a county, or as provost, bailie, honorary treasurer, or judge of police of a burgh, or as chairman of a district council, in like manner as it applies to a person holding office as a member of a local authority.

(3) On a vacancy in any office arising in consequence of the provisions of this section, the vacancy shall be filled as soon as practicable thereafter, and for that purpose the provisions of this Act shall apply subject to any necessary modifications.

PART XX.  
—cont.

377.—(1) Section three of the Convention of Royal Burghs (Scotland) Act, 1879 (which confers power on certain burghs to make annual payments to the Convention) shall have effect as if for the words “ out of the police assessment or other rates leviable under the provisions of any general or local Act of Parliament ” there were substituted the words “ as part of the general expenses of the burgh.”

Minor consequential amendments of enactments. 42 & 43 Vict. c. 27.

(2) Section two hundred and eight of the Burgh Police (Scotland) Act, 1892 (which relates to the service of petitions and notices relating to proceedings before the dean of guild court) shall have effect as if for the words “ hereinafter provided with regard to the service of any notice by the Commissioners ” there were substituted the words “ provided with regard to the service of any notice by the town council by section three hundred and forty-nine of the Local Government (Scotland) Act, 1947.”

(3) Section three hundred and seventy-two of the Burgh Police (Scotland) Act, 1892 (which relates to the recoupment of arrears of private improvement expenses) shall have effect as if for the words “ take such expenses out of the burgh general assessment ” there were substituted the words “ defray such expenses as part of the general expenses of the town council.”

(4) Subsection (6) of section six of the Sea Fisheries Regulations (Scotland) Act, 1895 (which relates to the establishment of fishery district committees) shall have effect as if for the words from “ shall be levied ” to “ and the amounts so collected ” there were substituted the words “ shall be paid as part of the general expenses of the county council relating exclusively to the landward area of the county, and so far as sanctioned and payable by a town council as part of the expenditure of the town council falling to be defrayed out of the burgh rate so far as payable by occupiers only, and the amounts so payable.”

58 & 59 Vict. c. 42.

(5) Section one hundred and sixty-eight of the Public Health (Scotland) Act, 1897 (which relates to the exemption from stamp duties of deeds and writings under that Act) shall have effect as if for the words “ under this Act ” there were substituted the words “ for the purposes of this Act.”

(6) The following paragraph shall be substituted for paragraph (c) of subsection (1) of section four of the Blind Persons

10 & 11 Geo. 5. c. 49.

PART XX. Act, 1920 (which subsection relates to the application of that  
—*cont.* Act to Scotland):—

“(c) The expression ‘county borough’ means a large burgh for the purposes of the Local Government (Scotland) Act, 1947.”

16 & 17 Geo. 5. (7) The following subsection shall be substituted for sub-  
c. 54. section (2) of section two of the Wireless Telegraphy (Blind Persons Facilities) Act, 1926:—

“(2) In the application of this section to Scotland, ‘county borough’ means a large burgh for the purposes of the Local Government (Scotland) Act, 1947.”

54 & 55 Vict. (8) Any reference in any enactment to a local authority  
c. 34. within the meaning of the Local Authorities Loans (Scotland) Act, 1891, or any such reference to the like effect shall be construed as a reference to a local authority within the meaning of this Act or any statutory authority, commissioners or trustees to whom section two hundred and seventy of this Act applies.

Cesser of certain enactments. 378. For the purpose of simplifying and consolidating the law relating to local government, the enactments set out in the Thirteenth Schedule to this Act shall cease to have effect to the extent specified in the third column of that Schedule.

Interpretation. 379.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:—

“alteration of area” includes an alteration of the boundary of a county, burgh, district or parish, the formation of a burgh or the dissolution of a burgh under Part VI of this Act;

“burgh” means a royal burgh, a parliamentary burgh, a burgh incorporated by Act of Parliament or a police burgh to which the Burgh Police (Scotland) Act, 1892, applies, and any other burgh created after the commencement of this Act under this Act or otherwise;

“Burgh Police Acts” means the Burgh Police (Scotland) Acts, 1892 to 1911, and the Acts amending those Acts;

18 & 19 Vict. c. 68. “Burial Grounds Acts” means the Burial Grounds (Scotland) Act, 1855, and the Acts amending that Act;

“classified road” means a road classified by the Minister of Transport under the Ministry of Transport Act, 1919, in Class I or Class II or in any class declared by him to be not inferior to those classes for the purposes of this Act;

“ committee ”, in relation to a local authority, means a committee to which is referred or delegated any functions vested in the authority;

“ delegate ”, in relation to a committee appointed by a local authority, means remit to the committee with power to the committee to exercise on behalf of the authority the function specified in the remit, and includes power to grant any obligation or enter into any contract or execute any deed on behalf of the authority in relation to the matter so remitted, and where any function is delegated by an authority to a committee, the committee may exercise the function in like manner in all respects as the authority could have done;

“ ecclesiastical charity ” includes a charity the endowment whereof is held for one or more of the following purposes:—

(a) for theological instruction or for the benefit of any theological institution; or

(b) for the benefit of any ecclesiastical person or officer as such; or

(c) for use, if a building, as a church, chapel, mission hall or room, or Sunday school or otherwise by any particular church or denomination; or

(d) for the maintenance, repair or improvement of any such building as aforesaid, or for the maintenance of divine service therein; or

(e) otherwise for the benefit of any particular church or denomination or of any members thereof as such:

Provided that where any endowment of a charity, other than a building held for any of the purposes aforesaid, is held in part only for some of the purposes aforesaid, the charity, so far as that endowment is concerned, shall be an ecclesiastical charity within the meaning of this Act;

“ educational endowment ” has the same meaning as in Part VI of the Education (Scotland) Act, 1946;

“ educational establishment ” has the same meaning as in the Education (Scotland) Act, 1946;

“ electoral area ”, in relation to an election, means the electoral division, burgh, ward or other area for which the election is held;

“ emoluments ” includes all salary, wages, fees and other payments paid or made to an officer as such for his

PART XX.  
—cont.

own use, and the money value of any apartments, rations or other allowances in kind pertaining to his office, but does not include payments for overtime or any sum paid to him to cover travelling expenses, cost of office accommodation, assistance of deputies or clerical or other assistance;

“ enactment ” includes a provision in a provisional order confirmed by Parliament;

“ fixed period ”, in relation to money borrowed by a local authority, means the period within which the money is to be repaid;

“ functions ” includes powers and duties;

“ General Board of Control ” means the General Board of Control for Scotland;

“ grant-aided school ” means a school in respect of which grants are made by the Secretary of State to the managers of the school, other than grants in aid of the managers’ contributions towards the cost of super-annuation of teachers, but does not include a residential school or an orphanage or an approved school within the meaning of the Children and Young Persons (Scotland) Act, 1937;

“ grants under Part III of the Local Government (Scotland) Act, 1929 ” includes grants made under any subsequent enactment out of moneys provided by Parliament towards local government purposes in Scotland by way of addition to the General Exchequer Contribution under the said Part III;

“ gross annual valuation ”, in relation to lands and heritages within an area, means the total of the gross annual values of the said lands and heritages;

“ gross annual value ”, in relation to lands and heritages, means the yearly rent or value thereof as entered in the valuation roll in accordance with the provisions of the Valuation Acts, but without any deduction therefrom or division thereof under the Rating (Scotland) Act, 1926, or Part II of the Local Government (Scotland) Act, 1929;

“ joint board ” means a body corporate, constituted for the purposes of a combination of local authorities under this Act or any other enactment or any statutory order, consisting exclusively of persons appointed by the local authorities;

“ joint committee ” means a body, not being a body corporate constituted for the purpose of a combination of local authorities under this Act or any other

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

16 & 17 Geo. 5.  
c. 47.

enactment or any statutory order, consisting exclusively of persons appointed by the local authorities;

“ land ” includes any right or servitude in, to or over land;

“ lands and heritages ” has the same meaning as in the Valuation Acts;

“ landward area ”, in relation to a county, means the county excluding any burghs therein;

“ large burgh ” means any of the burghs mentioned in Part III of the First Schedule to this Act and, save as provided in subsection (4) of section one, includes any of the counties of cities mentioned in Part II of that Schedule;

“ levy ”, in relation to a rate, includes impose;

“ local Act ” includes a provisional order under any Act confirmed by Parliament;

“ local authority ” means a county council, a town council or a district council;

“ local government elector ” or “ elector ” means a person registered as a local government elector in the register of electors in accordance with the provisions of the Representation of the People Acts;

“ magistrates ” includes the provost;

“ Minister ” means the Secretary of State or other Minister or the General Board of Control or other Government Department, and includes the Electricity Commissioners;

“ Minister concerned ” means—

(a) in relation to any transaction relating to land, the Minister concerned with the purpose for which the land is proposed to be acquired or for which the land is held;

(b) in relation to a combination of local authorities or any joint committee or joint board, the Minister concerned with the purpose for which the combination or joint committee or joint board has or will have effect; and

(c) in any other case, the Minister concerned with the purpose or function in the case of which the provisions of the particular section of this Act apply or are sought to be applied;

PART XX.  
—cont.

and if any question arises under this Act as to which Minister is the Minister concerned the question shall be determined by the Treasury;

- “ occupier ” means the tenant or sub-tenant or any person in the actual occupation of land, but does not include a lodger or a person in the occupation as tenant of a furnished house let for a period less than one year, but includes the person by whom such a furnished house is so let;
- “ officer ” includes a servant;
- “ owner ”, in relation to land, means the person who, for the time being, receives, or, if the land were let, would be entitled to receive the rent of the land, or who, in the case of land which is unlet, is entitled to occupy the land, and includes any trustee, tutor, curator, factor, agent or other person receiving the rent on behalf of any other person, and also a joint owner and a fiar;
- “ Poor Law Acts ” means the Poor Law (Scotland) Act, 1845, and the Acts amending that Act;
- “ prescribed ” means prescribed by regulations, which regulations shall, unless otherwise provided, be made by the Secretary of State;
- “ property ” includes all property, heritable and moveable, and all rights, interests and servitudes in, to and over property;
- “ public body ” includes a local authority and any trustees, commissioners or other persons who as a public body and not for their own profit act under any enactment or statutory order for the improvement of any place or for the supply to any place of water, gas or electricity or for providing or maintaining a market or other public service in any place, and any other authority having power to levy a rate or issue a requisition for payment out of any rate levied for public local purposes;
- “ Public Health Acts ” means the Public Health (Scotland) Act, 1897, and the Acts amending that Act;
- “ Public Libraries Acts ” means the Public Libraries (Scotland) Acts, 1887 to 1920, and the Acts amending those Acts;
- “ public utility undertaking ”, in relation to a local authority, means an undertaking for the provision of water, gas, electricity or transport or any other such revenue-producing service by the authority;



“ rate ” means any rate, charge and assessment the proceeds of which are applicable to public local purposes and which is leviable in respect of lands and heritages;

“ rateable valuation ”, in relation to lands and heritages within an area, means the total of the rateable values of the said lands and heritages;

“ rateable value ” means—

(a) in the case of lands and heritages (other than agricultural lands and heritages within the meaning of the Rating and Valuation Apportionment Act, 1928) the gross annual value, subject in appropriate cases to the deductions specified in the First Schedule to the Rating (Scotland) Act, 1926, and to the division directed to be made by paragraph (a) of subsection (1) of section forty-five of the Local Government (Scotland) Act, 1929; r 8 & 19 Geo. 5. c. 44.

(b) in the case of agricultural lands and heritages within the meaning of the said Act of 1928, the gross annual value subject to the deduction of eighty-seven and one half per centum thereof;

and, after giving effect in the appropriate cases to the above provisions, 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 subsection (7) of section twelve of the Rating (Scotland) Act, 1926, or any corresponding provisions of a local Act;

“ refer ”, in relation to a committee appointed by a local authority, means remit to the committee for consideration and report to the authority but without power to the committee to exercise any function on behalf of the authority, and the expressions “ reference ” and “ stand referred ” shall be construed accordingly;

“ register ”, in relation to a security of a local authority, means any register kept under Part XII of this Act or under any regulations made thereunder and includes any book kept by the authority for the purpose of recording therein entries with respect to the title to and notifications relating to the security;

“ Registration of Births, Deaths and Marriages Acts ” means the Registration of Births, Deaths and Marriages (Scotland) Acts, 1854 to 1938, and the Acts amending those Acts;

PART XX.  
—cont.

- “ resealed ” in relation to a probate or letters of administration, means produced in the commissary court of the county of Midlothian and certified by the commissary clerk of that court or sealed with the seal of that court in accordance with any enactment regulating the same;
- “ Roads and Bridges Acts ” means the Roads and Bridges (Scotland) Act, 1878, and the Acts amending that Act;
- “ salary ” includes allowances;
- “ sale ” includes a sale in consideration of a ground annual or other periodical payment, and the expressions “ sell ” and “ purchase ” shall be construed accordingly;
- “ security ”, in relation to a local authority, means a mortgage, a cash credit bond, a deposit receipt or other document of debt issued by the authority and the security created thereby (including stock created by the authority or a certificate in respect of such stock) whether under this Act or any other enactment or any statutory order or any enactment repealed by this Act, but does not include a local bond under section seventy-one of, and the Fourth Schedule to, the Housing (Scotland) Act, 1925, or under any enactment repealed by that Act, or a bond and disposition in security or other deed of security or document of debt affecting the common good of a burgh, except a document of debt for money borrowed for common good purposes under a statutory borrowing power;
- “ senior bailie ” means the bailie who has been longest in office since his last election as bailie and, where more than one bailie is elected at the same time, means the bailie whom the town council determine to be senior bailie under Part I of this Act;
- “ small burgh ” means any burgh other than a large burgh or a county of a city;
- “ statutory borrowing power ” means any power to borrow money conferred on a local authority by this Act or any other enactment or any statutory order or by any enactment repealed by this Act, but does not include the power of the town council of a burgh to borrow for the purposes of the common good other than purposes for which the council are authorised to borrow by or under any enactment;
- “ statutory order ” means any order, rule or regulation made under any enactment, and includes any scheme

made under the Highlands and Islands (Medical Service) Grant Act, 1913; PART XX.  
—cont.

“ statutory undertakers ” means any persons (including a local authority) authorised by any enactment or statutory order or any scheme made under or confirmed by an enactment to construct, work or carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of gas, electricity, hydraulic power or water; 3 & 4 Geo. 5.  
c. 26.

“ trustee securities ” means investments in which trustees are by the law of Scotland authorised to invest, and includes, in the case of a local authority making an investment, any trustee securities created or issued by the authority themselves;

“ Valuation Acts ” means the Lands Valuation (Scotland) Act, 1854, and the Acts amending that Act;

“ working capital ”, in relation to a public utility undertaking, means money required from time to time to carry on the undertaking, other than money required to meet expenditure of a capital nature.

(2) Where a county council exercise any function within a burgh, the burgh shall for the purposes of that function be deemed to be within the county.

(3) Where in this Act provision is made for a consent, sanction, or approval by the Secretary of State or other Minister, such consent, sanction or approval may be given subject to such conditions as the Secretary of State or other Minister may determine, and failure to comply with any condition so imposed shall operate as if the consent, sanction or approval had not been given as respects the matter in which the failure occurred.

(4) References in this Act to regulations made, approval given or other thing done by the Secretary of State shall be deemed to include references to regulations made, approval given or other thing done before the commencement of this Act by any Government Department whose functions have been transferred to and are at the commencement of this Act vested in the Secretary of State.

(5) References in this Act to a local Act shall be construed as references to such Act only in its application to the local authority or area to which it applies.

(6) Unless the context otherwise requires, any reference in this Act to an enactment contained in the Burgh Police Acts or in the Town Councils (Scotland) Acts, 1900 to 1923, shall be

PART XX.  
—cont

construed as including a reference to that enactment as applied or adopted by a local Act or by a resolution passed under statutory authority.

(7) Unless the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended or extended by any subsequent enactment including this Act.

Interpretation  
as respects  
Crown rights.

**380.** The mention in this Act in relation to any particular matter of His Majesty's royal prerogative shall not be held to prejudice or affect in relation to that or any other matter the general application of any rule of law with respect to any estate, right, power, privilege or exemption of the Crown.

Repeals.

**381.—(1)** Subject to the provisions of this Act, the enactments mentioned in the Fourteenth Schedule to this Act shall be repealed to the extent specified in the third column of that Schedule:

Provided that—

- (i) nothing in this repeal shall affect any byelaw in force at the commencement of this Act, and any such byelaw which is of such a nature that it could have been made under this Act shall have effect as if made under this Act, and may be amended or revoked and enforced accordingly;
- (ii) in the case of a byelaw which has been made before the commencement of this Act but which, by reason of its not having been confirmed or of the time for disallowance not having expired, is not in force at that date, the same proceedings may be taken and with the same effect as if this Act had not been passed;
- (iii) if at the commencement of this Act a casual vacancy has occurred in any office, and the vacancy has not been filled, the vacancy shall be filled in the same manner as if this Act had not been passed;
- (iv) nothing in this repeal shall affect any steps taken before the commencement of this Act with respect to the formation, alteration, combination or dissolution of special districts under any enactment repealed by this Act, and any such steps and any opposition thereto may be continued and followed forth as if this Act had not been passed;
- (v) nothing in this repeal shall affect any proceedings instituted before the commencement of this Act for the alteration of the boundaries of the area of a local authority or for the formation of a burgh under any

- enactment repealed by this Act, and such proceedings and any opposition thereto may be continued and followed forth as if this Act had not been passed;
- (vi) nothing in this repeal shall affect any legal proceedings instituted before the commencement of this Act under or by virtue of any enactment repealed by this Act, and such proceedings may be continued and appealed against as if this Act had not been passed;
  - (vii) in so far as any appointment, agreement, order, scheme, rule or regulation made or resolution passed, direction or notice given, or other thing done under or by virtue of any enactment repealed by this Act could have been made, passed, given or done under or by virtue of a corresponding provision of this Act, it shall not be invalidated by this repeal but shall have effect as if it had been made, passed, given or done under or by virtue of that corresponding provision, and may be amended, revoked or enforced accordingly;
  - (viii) notwithstanding anything in this section, the enactments repealed by this Act relating to the audit of accounts and other matters mentioned in Part X of this Act shall continue to have effect with respect to the accounts of local authorities for the period prior to the first financial year to the accounts for which the provisions of the said Part X apply;
  - (ix) nothing in this repeal shall affect any rates levied by a local authority under any enactment repealed by this Act, or the liability of any person to the authority for payment of such rates, and any such rates may be recovered in like manner as if this Act had not been passed;
  - (x) nothing in this repeal shall affect any requisition issued by a requisitioning authority within the meaning of Part XI of this Act to a rating authority within the meaning of that Part under any enactment repealed by this Act, or the liability of the rating authority to make payment to the requisitioning authority of the sum due thereunder, and such sum may be recovered in like manner as if this Act had not been passed;
  - (xi) nothing in this repeal shall affect any statutory borrowing power exercised by a local authority under any enactment repealed by this Act in respect of which any money borrowed is outstanding at the commencement of this Act, or any security created by the authority in respect of such outstanding

PART XX  
—cont.

money, and such statutory borrowing power and security shall continue to have effect so far as regards such outstanding money as if the statutory borrowing power were contained in this Act, so however that all money borrowed under the said power shall be repaid within the period specified in the repealed enactment relating thereto;

(xii) notwithstanding this repeal, any property or liabilities held or incurred or treated as incurred by a local authority immediately before the commencement of this Act shall continue to be held or incurred or treated as incurred by the authority for the same purposes and subject to the same trusts as they were immediately before the commencement of this Act, and any contract or other document which might have been enforced by or against a local authority immediately before the commencement of this Act shall continue to be enforceable by or against that authority;

(xiii) nothing in this repeal shall affect any compensation payable or any title to compensation under any enactment repealed by this Act, whether as originally enacted or as applied by any other enactment or statutory order.

63 & 64 Vict.  
c. 49.

(2) Any resolution by a town council under section one hundred and nine of the Town Councils (Scotland) Act, 1900, shall cease to have effect, and any enactment in a local Act having the same effect as such a resolution is hereby repealed.

(3) Funds and accounts under this Act shall be deemed to be in continuation of the corresponding funds and accounts under the enactments repealed by this Act.

(4) Any document referring to any Act or enactment repealed by this Act shall be construed as referring to this Act or to the corresponding enactment, if any, in this Act.

52 & 53 Vict.  
c. 63.

(5) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals.

Short title,  
commence-  
ment and  
extent.

382.—(1) This Act may be cited as the Local Government (Scotland) Act, 1947, and shall come into operation on the first day of October, nineteen hundred and forty-seven.

(2) This Act shall, except where otherwise expressly provided, extend only to Scotland.

**SCHEDULES.****FIRST SCHEDULE.**

Section 1.

**PART I.****COUNTIES.**

|             |               |                   |
|-------------|---------------|-------------------|
| Aberdeen    | East Lothian  | Peebles           |
| Angus       | Fife          | Perth             |
| Argyll      | Inverness     | Renfrew           |
| Ayr         | Kincardine    | Ross and Cromarty |
| Banff       | Kinross       | Roxburgh          |
| Berwick     | Kirkcudbright | Selkirk           |
| Bute        | Lanark        | Stirling          |
| Caithness   | Midlothian    | Sutherland        |
| Clackmannan | Moray         | West Lothian      |
| Dumfries    | Nairn         | Wigtown           |
| Dunbarton   | Orkney        | Zetland.          |

**PART II.****COUNTIES OF CITIES.**

|          |        |           |          |
|----------|--------|-----------|----------|
| Aberdeen | Dundee | Edinburgh | Glasgow. |
|----------|--------|-----------|----------|

**PART III.****LARGE BURGHS.**

|            |             |                |
|------------|-------------|----------------|
| Airdrie    | Dunfermline | Motherwell and |
| Arbroath   | Falkirk     | Wishaw         |
| Ayr        | Greenock    | Paisley        |
| Clydebank  | Hamilton    | Perth          |
| Coatbridge | Inverness   | Port Glasgow   |
| Dumbarton  | Kilmarnock  | Rutherglen     |
| Dumfries   | Kirkcaldy   | Stirling.      |

**PART IV.****SMALL BURGHS.**

|             |               |                 |
|-------------|---------------|-----------------|
| Aberchirder | Annan         | Banff           |
| Aberfeldy   | Ardrossan     | Barrhead        |
| Aberlour    | Armadales     | Bathgate        |
| Abernethy   | Auchterarder  | Biggar          |
| Alloa       | Auchtermuchty | Blairgowrie and |
| Alva        | Ballater      | Rattray         |
| Alyth       | Banchory      | Bo'ness         |

1ST SCH.  
—cont.

|                          |                                                   |                        |
|--------------------------|---------------------------------------------------|------------------------|
| Bonnyrigg and Lasswade   | Galston                                           | Maybole                |
| Brechin                  | Gatehouse                                         | Melrose                |
| Bridge of Allan          | Girvan                                            | Millport               |
| Buckhaven and Methil     | Gourock                                           | Milngavie              |
| Buckie                   | Grangemouth                                       | Moffat                 |
| Burghead                 | Grantown-on-Spey                                  | Monifieth              |
| Burntisland              | Haddington                                        | Montrose               |
| Callander                | Hawick                                            | Musselburgh            |
| Campbeltown              | Helensburgh                                       | Nairn                  |
| Carnoustie               | Huntly                                            | Newburgh               |
| Castle Douglas           | Innerleithen                                      | New Galloway           |
| Cockenzie and Port Seton | Inveraray                                         | Newmilns and Greenholm |
| Coldstream               | Inverbervie                                       | Newport                |
| Coupar Angus             | Invergordon                                       | Newton-Stewart         |
| Cove and Kilcreggan      | Inverkeithing                                     | North Berwick          |
| Cowdenbeath              | Inverurie                                         | Oban                   |
| Crail                    | Irvine                                            | Oldmeldrum             |
| Crieff                   | Jedburgh                                          | Peebles                |
| Cromarty                 | Johnstone                                         | Penicuik               |
| Cullen                   | Keith                                             | Peterhead              |
| Culross                  | Kelso                                             | Pitlochry              |
| Cumnock and Holmhead     | Kilrenny, Anstruther Easter and Anstruther Wester | Pittenweem             |
| Cupar                    | Kilsyth                                           | Portknockie            |
| Dalbeattie               | Kilwinning                                        | Portsoy                |
| Dalkeith                 | Kinghorn                                          | Prestonpans            |
| Darvel                   | Kingussie                                         | Prestwick              |
| Denny and Dunipace       | Kinross                                           | Queensferry            |
| Dingwall                 | Kintore                                           | Renfrew                |
| Dollar                   | Kirkcudbright                                     | Rosehearty             |
| Dornoch                  | Kirkintilloch                                     | Rothies                |
| Doune                    | Kirkwall                                          | Rothsay                |
| Dufftown                 | Kirriemuir                                        | St. Andrews            |
| Dunbar                   | Ladybank                                          | St. Monance            |
| Dunblane                 | Lanark                                            | Saltcoats              |
| Dunoon                   | Langholm                                          | Sanquhar               |
| Duns                     | Largs                                             | Selkirk                |
| East Linton              | Lauder                                            | Stewarton              |
| Elgin                    | Laurencekirk                                      | Stonehaven             |
| Elie and Earlsferry      | Lerwick                                           | Stornoway              |
| Ellon                    | Leslie                                            | Stranraer              |
| Eyemouth                 | Leven                                             | Stromness              |
| Falkland                 | Linlithgow                                        | Tain                   |
| Findochty                | Loanhead                                          | Tayport                |
| Forfar                   | Lochgelly                                         | Thurso                 |
| Forres                   | Lochgilphead                                      | Tillicoultry           |
| Fortrose                 | Lochmaben                                         | Tobermory              |
| Fort William             | Lockerbie                                         | Tranent                |
| Fraserburgh              | Lossiemouth and Branderburgh                      | Troon                  |
| Galashiels               | Macduff                                           | Turriff                |
|                          | Markinch                                          | Whitburn               |
|                          |                                                   | Whithorn               |
|                          |                                                   | Wick                   |
|                          |                                                   | Wigtown.               |



## SECOND SCHEDULE.

Sections 10, 25  
and 45.

## PART I.

## PROVISIONS RELATING TO THE STAGES OF THE ELECTION OF COUNTY COUNCILLORS FOR THE LANDWARD AREA OF A COUNTY OR OF TOWN COUNCILLORS PRECEDING THE POLL.

*Notice of Election.*

1.—(1) On, or within seven days before, the day appointed for that purpose by Part II of this Schedule, a notice of election shall be published as hereinafter provided.

(2) The notice of election shall—

(a) in the case of an election of county councillors, be prepared and signed by the county clerk and published by him by causing the notice or a copy thereof to be conspicuously displayed at or near the entrance to the county buildings or the premises where the meetings of the county council are ordinarily held, and also either by causing copies of the notice to be posted up throughout the landward area of the county or by inserting a copy of the notice at least once in one or more newspapers circulating in the county; and

(b) in the case of an election of town councillors, be prepared and signed by the town clerk and published by him by causing the notice or a copy thereof to be conspicuously displayed at or near the entrance to the town hall or the premises where the meetings of the town council are ordinarily held, and also either by causing copies of the notice to be posted up throughout the burgh or by inserting a copy of the notice at least once in one or more newspapers circulating in the burgh.

(3) The notice of election shall be in the appropriate form contained in Part V of this Schedule or in a form substantially to the like effect.

*Nomination of Candidates.*

2.—(1) It shall not be competent to elect to the office of county councillor or of town councillor any person unless a nomination paper in respect of him is delivered in the case of an election of a county councillor to the returning officer at the place specified in the notice of election, or in the case of an election of town councillors to the town clerk at his office, not later than the time appointed for that purpose by Part II of this Schedule.

(2) The nomination paper shall be in the appropriate form contained in Part V of this Schedule, or in a form substantially to the like effect.

(3) The nomination paper in the case of an election of a county councillor shall state—

(a) if the name of the candidate appears in the register of local government electors for any electoral division within the county or for any burgh within the county, the name and

2ND SCH.  
—cont.

address and register number of the candidate as appearing in such of the said registers as is specified in the nomination paper;

- (b) if the name of the candidate does not appear in any of the said registers, the full name of the candidate and his place of residence within the county (including any such burgh as aforesaid) and such information with respect to his place of residence during the twelve months before the date of the nomination as will show whether he has during the whole of the said twelve months resided within the county (including any such burgh as aforesaid);
- (c) whether, to the best of the knowledge, information and belief of the proposers, the candidate is of full age and a British subject and not subject to any legal incapacity, and whether any of the disqualifications set forth in section fifty-two of this Act applies in his case;

and shall be subscribed by two proposers being local government electors for the electoral division to which the nomination applies.

(4) The nomination paper in the case of an election of town councillors for a burgh or in the case of a burgh divided into wards for a ward shall state—

- (a) if the name of the candidate appears in the register of local government electors for the burgh, the name and address and register number of the candidate as appearing in the said register;
- (b) if the name of the candidate does not appear in the said register, the full name of the candidate and his place of residence within the burgh and such information with respect to his place of residence during the twelve months before the date of his nomination as will show whether he has during the whole of the said twelve months resided within the burgh;
- (c) whether, to the best of the knowledge, information and belief of the proposers, the candidate is of full age and a British subject and not subject to any legal incapacity, and whether any of the disqualifications set forth in section fifty-two of this Act applies in his case;

and shall be subscribed by two proposers being two local government electors for the burgh or, in the case of a burgh divided into wards, for the ward to which the nomination applies, and shall also be subscribed by five other local government electors for the burgh or ward, as the case may be, as assenting to the nomination.

(5) The nomination paper shall contain a statement subscribed by the candidate or by a solicitor duly authorised by him, consenting to be nominated as a candidate and that, if elected, he accepts office as a councillor and will faithfully perform the duties of the office, and a statement whether he is of full age and a British subject and not subject to any legal incapacity, and whether any of the disqualifications set forth in section fifty-two of this Act applies in his case.

AND SCH.  
—cont.

(6) It shall not be competent to nominate as a candidate at an election of town councillors a person who at the time of nomination holds the office of town councillor of the burgh unless he falls to retire at the date of the election or has delivered to the town clerk a notice of resignation to take effect at or before the date of the election.

(7) No person shall at an election of a county councillor sign more than one nomination paper in respect of the same electoral division, and if he does so his signature shall be operative only in the case of the paper which is first delivered.

(8) No person shall at an election of town councillors sign more than one nomination paper in respect of the same candidate, nor shall he sign more nomination papers than there are vacancies to be filled in the burgh or, if the burgh is divided into wards, in the ward, and if he signs nomination papers otherwise than is permitted under this sub-paragraph, his signature shall be inoperative in all but those papers, up to the permitted number, which are first delivered.

(9) Neither the returning officer nor any depute returning officer shall sign any nomination paper as proposer, assenter, candidate or solicitor for a candidate and if he does so, his signature shall be inoperative.

(10) The returning officer in the case of an election of a county councillor, and the town clerk in the case of an election of a town councillor, shall receive a nomination paper and deal with it as valid, if—

- (a) the name and address of the person nominated by the nomination paper appear in the register of local government electors for any part of the county or burgh, as the case may be, or, if the name and address of the person nominated do not so appear, the place of his residence is within the county or burgh, as the case may be, and it is declared in or appears from the nomination paper that he has during the whole of the twelve months preceding the date of nomination resided within the county or burgh, as the case may be; and
- (b) it appears from the declarations in the nomination paper that the person nominated is of full age and a British subject and not subject to any legal incapacity and that none of the disqualifications set forth in section fifty-two of this Act applies in his case; and
- (c) the names and addresses of the proposers and (in the case of an election of a town councillor) the assenters in the nomination paper appear in the register of local government electors for the electoral division or burgh, or in the case of a burgh divided into wards for the ward, to which the nomination paper relates; and
- (d) the nomination paper is in or substantially in the form and contains the particulars required by this Schedule; and
- (e) the nomination is not invalid by reason of any of the provisions of sub-paragraphs (6), (7), (8) and (9) hereof,

but if the nomination paper does not comply with the foregoing provisions, the returning officer or town clerk, as the case may be, shall reject it and it shall be null and void. For the purpose of this sub-paragraph, a county shall include every burgh within the county.

2ND SCH.  
—cont.

*Withdrawal of Nominations.*

3.—(1) A nomination may be withdrawn by notice of withdrawal delivered to the returning officer or the town clerk, as the case may be, at the place appointed for the delivery of nomination papers not later than the time appointed for that purpose by Part II of this Schedule:

Provided that a nomination may not be withdrawn if its effect would be to reduce the total number of persons nominated for the election below the number necessary to supply the vacancies to be filled up in the electoral division, burgh or ward, as the case may be, at that election, and notices of withdrawal shall take effect in the order in which they are delivered.

(2) A notice of withdrawal shall be in the appropriate form contained in Part V of this Schedule or in a form substantially to the like effect and shall be signed by the person nominated or by a solicitor duly authorised by him and shall be attested by two witnesses.

(3) If a candidate dies after his nomination and before the latest time for delivery of nomination papers, his nomination shall be deemed to have been withdrawn, and the election shall proceed as if he had not been nominated.

*Nomination in more than one Electoral Division of a County or Ward of a Burgh.*

4. A candidate who is validly nominated for more than one electoral division of a county or for more than one ward of a burgh shall, by notice signed, attested and delivered as aforesaid, withdraw from his candidature in all those electoral divisions or wards, as the case may be, except one, and if he does not so withdraw before the expiration of the time appointed by Part II of this Schedule for the delivery of notices of withdrawal, the returning officer shall on the expiration of the said time declare for which of those electoral divisions or wards, as the case may be, for which the candidate remains validly nominated the candidate shall stand for election, and the candidate shall be deemed to have duly withdrawn his candidature in those other electoral divisions or wards.

*Method of Election and Publication of Result of Uncontested Election.*

5.—(1) In the case of an election of a county councillor—

(a) if two or more persons remain validly nominated for an electoral division, the county councillor for that division shall be elected in accordance with the provisions of Part III of this Schedule from among those persons;

(b) if one person only remains validly nominated for the electoral division, the returning officer shall, not later than the day appointed for that purpose by Part II of this Schedule, cause public notice to be given that there will be no poll in that division and that on the day appointed for declaring the result of the election that person shall be declared to be elected a county councillor.

(2) In the case of the election of town councillors—

(a) if the number of persons remaining validly nominated exceeds the number of vacancies in the burgh or in the ward, the town councillors for the burgh or for the ward, as the case

may be, shall be elected in accordance with the provisions of Part III of this Schedule from among those persons;

2ND SCH.  
—cont.

- (b) if the number of persons remaining validly nominated does not exceed the number of vacancies in the burgh or in any ward, the town clerk shall, not later than the day appointed for that purpose by Part II of this Schedule, cause public notice to be given that there will be no poll in the burgh or ward, as the case may be, and that on the day appointed for declaring the result of the election those persons shall be declared to be elected town councillors.

(3) The public notice to be given under this paragraph shall be in the appropriate form contained in Part V of this Schedule or in a form substantially to the like effect, and shall, except where in the circumstances it is not appropriate, be combined with the public notice of poll to be given under paragraph 2 of Part III of this Schedule and shall be published in like manner as the said notice of poll.

(4) If a person whose name has been included in a notice given under sub-paragraph (1) (b) or sub-paragraph (2) (b) of this paragraph dies before the declaration of election, the provisions of this Act shall apply in the case of an election of a county councillor as if no person had remained validly nominated, and in the case of an election of town councillors as if the number of persons validly nominated were less than the number of vacancies.

## PART II.

### TIMES FOR THE PROCEEDINGS AT AN ELECTION OF COUNTY COUNCILLORS OR OF TOWN COUNCILLORS.

| Proceeding.                                                                      | Time in case of election of county councillors.                          | Time in case of election of town councillors.                            |
|----------------------------------------------------------------------------------|--------------------------------------------------------------------------|--------------------------------------------------------------------------|
| Notice of Election.                                                              | The fourth Tuesday preceding the day of election.                        | The fifteenth day of October in each year.                               |
| Delivery of nomination.                                                          | 4 o'clock afternoon on the third Tuesday preceding the day of election.  | 4 o'clock afternoon on the Friday preceding the last Tuesday of October. |
| Delivery of notice of withdrawal of nomination.                                  | 4 o'clock afternoon on the second Tuesday preceding the day of election. | 4 o'clock afternoon on the Monday preceding the last Tuesday of October. |
| Notice in case of uncontested election and notice of poll in contested election. | The Friday preceding the day of election.                                | The Friday preceding the day of election.                                |

2ND SCH.  
—cont.

PART III.  
PROVISIONS RELATING TO CONTESTED ELECTIONS.

THE POLL.

*General Conduct of Poll.*

1. At every contested election of a county councillor or of town councillors the votes shall be taken by ballot, and the poll shall be conducted in accordance with the provisions of this Schedule.

*Notice of Poll.*

2.—(1) In the case of a contested election of a county councillor the returning officer, and in the case of a contested election of town councillors the town clerk, shall, on or before the day appointed for that purpose by Part II of this Schedule, give public notice of the poll, which notice shall be in the appropriate form contained in Part V of this Schedule, or in a form substantially to the like effect. The said notice shall, except where in the circumstances it is not appropriate, be combined with the notice in the case of an uncontested election under paragraph 5 of Part I of this Schedule.

(2) For the purposes of this Part of this Schedule, the first valid nomination paper delivered at the place appointed for the delivery of nomination papers in respect of a candidate shall be deemed to be the nomination paper of that candidate.

(3) A notice of poll required to be published under this paragraph shall be published at the places at which and in the manner in which the notice of the election is required to be published under Part I of this Schedule.

*Hours of Poll.*

3. The poll shall commence at eight o'clock in the morning and be kept open till eight o'clock in the afternoon of the same day and no longer:

Provided that if the county council or the town council, as the case may be, are satisfied that it is necessary in order to afford all electors such reasonable facilities for voting as are practicable in the circumstances, they may, by resolution passed not less than one month before the last day appointed by Part II of this Schedule for the issue of the notice of election, extend the hours for the keeping open of the poll, so however that the poll shall not commence earlier than seven o'clock in the morning and shall not be kept open later than nine o'clock in the afternoon.

*Use of schools and public rooms.*

4.—(1) The returning officer may use free of charge for the purpose of taking the poll or of counting the votes—

- (a) a room in a grant-aided school; and
- (b) a room the expense of maintaining which is payable by any county, town or district council:

Provided that nothing in this paragraph shall authorise the use of a room used as part of a private dwelling-house.

(2) The returning officer shall make good any damage done to, and defray any expense incurred by the authority or person having control over, any such room as aforesaid by reason of its being used for the purpose of taking the poll or of counting the votes.

(3) The use of a room in an unoccupied house for the purpose of taking the poll or of counting the votes shall not render a person liable to be rated for occupiers' rates or to pay any such rates for that house.

5. An election shall not be held in any premises exclusively appropriated to public religious worship.

*Death of candidate after time for delivery of notice of withdrawal of nominations.*

6. If at or after the latest time for delivery of nomination papers and before the commencement of the poll a candidate who remains validly nominated dies, the returning officer shall, upon being satisfied of the fact of death, countermand the poll.

*Provision of polling stations, ballot boxes, &c.*

7. In the case of an election of a county councillor or of town councillors the returning officer shall—

- (a) provide a sufficient number of polling stations for the electors and allot the electors to the polling stations in such manner as he thinks most convenient, so however that it shall not be necessary that a polling station for an electoral division or a ward of a burgh or a polling district be within the division, ward or district, as the case may be;
- (b) appoint a presiding officer to preside at each polling station, and such other officers (including polling clerks) as may be necessary for taking the poll and counting the votes;
- (c) furnish each polling station with such number of compartments as may be necessary in which the electors can mark their votes screened from observation;
- (d) furnish each presiding officer with such number of ballot boxes and ballot papers as in the opinion of the returning officer may be necessary;
- (e) provide each polling station with materials to enable electors to mark the ballot papers, with instruments for stamping thereon the official mark, with copies of the register of electors for the electoral division, burgh or ward, as the case may be, or such part thereof as contains the names of the electors allotted to vote at the polling station, and with copies of forms of declarations and other documents required for the purposes of the poll;
- (f) do such other acts and things as may be necessary for effectually conducting the election in manner provided by this Schedule.

8. One or more polling stations may be provided in the same building or in the same room.

9. A notice, in the form contained in Part V of this Schedule or in a form substantially to the like effect giving directions for the guidance of electors in voting, shall be exhibited outside every polling station, and in every compartment in the polling station.

*Ballot Boxes, Ballot Papers, Official Mark.*

10. Every ballot box shall be so constructed that the ballot papers can be put therein but cannot be withdrawn therefrom without the box being unlocked.

2ND SCH.  
—cont.

11. Every ballot paper shall be in the form contained in Part V of this Schedule or in a form substantially to the like effect and—

- (a) shall contain the full names and addresses or places of residence of the candidates as shown on their respective nomination papers and arranged alphabetically in the order of their surnames and (if there are two or more candidates with the same surname) of their other names;
- (b) shall be capable of being folded up;
- (c) shall have a number printed on the back; and
- (d) shall have attached a counterfoil with the same number printed on the face.

12. The official mark shall be kept secret and an interval of not less than four years shall intervene between the use of the same official mark at elections for the same county or burgh, as the case may be.

#### *Appointment of Polling Agents.*

13.—(1) Each candidate may appoint one agent (in this Schedule referred to as a "polling agent") to attend at each polling station for the purpose of detecting personation.

(2) Notice in writing of the appointment stating the names and addresses of the persons appointed shall be given by the candidate to the returning officer three days at least before the opening of the poll.

(3) If a polling agent dies or becomes incapable of acting, the candidate may appoint another polling agent in his place and shall forthwith give to the returning officer notice in writing of the name and address of the polling agent so appointed.

(4) A polling agent in respect of whom such notice as aforesaid has been given may during the hours of the poll attend at the polling station to which he has been appointed.

#### *Admission to Polling Station.*

14.—(1) No person shall be admitted to vote at any polling station except at the one allotted to him:

Provided that where an elector for any electoral area is employed by the returning officer for any purpose in connection with an election for that area and the circumstances of the employment are, in the opinion of the returning officer, such as to prevent the elector from voting at the polling station at which he would otherwise be entitled to vote, the returning officer may authorise the elector by a written authorisation to vote at any other polling station in the area, and that polling station shall be deemed to be the polling station allotted to that elector.

(2) The presiding officer shall regulate the number of electors to be admitted to the polling station at the same time, and shall exclude all other persons except the candidates, the polling agents, the officers appointed under this Schedule, the police officers on duty and any person accompanying a blind elector for the purpose of assisting him to vote.

(3) Nothing in this paragraph shall affect the provisions of the Police Disabilities Removal Act, 1887, as applied to elections of county councillors and of town councillors by the Police Disabilities Removal Act, 1893.



*Ballot Boxes to be Sealed.*2ND SCH.  
—cont.

15. Immediately before the commencement of the poll, the presiding officer shall show the ballot box empty to such persons, if any, as may be present in the polling station so that they may see that it is empty, and shall then lock it and place his seal upon it in such manner as to prevent it being opened without breaking the seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

*Questions to be put to Electors.*

16.—(1) The presiding officer may, and if required by a candidate or his polling agent shall, put to any person applying for a ballot paper at the time of his application but not afterwards the following questions or either of them, that is to say:—

In the case of an election of a county councillor—

- (a) Are you the person registered in the register of local government electors now in force for this electoral division as follows (*read the whole entry from the register*)?
- (b) Have you already voted at the present election of a county councillor for this electoral division or for any other electoral division of the county?

In the case of an election of town councillors—

- (a) Are you the person registered in the register of local government electors now in force for this burgh (or ward) as follows (*read the whole entry from the register*)?
- (b) Have you already voted at the present election (*adding, in the case of an election for several wards, in this or any other ward*)?

(2) A ballot paper shall not be delivered to any person required to answer the above questions or either of them unless he has answered the question or questions satisfactorily.

(3) Save as by this paragraph authorised, no inquiry shall be permitted as to the right of any person to vote.

*Challenge of Elector by Polling Agent.*

17.—(1) If at the time a person applies for a ballot paper or after he has applied for a ballot paper and before he has left the polling station a polling agent declares to the presiding officer that he has reasonable cause to believe that the applicant has committed an offence of personation under this Act, it shall be lawful for the presiding officer to order a police officer to arrest the applicant, and the order of the presiding officer shall be sufficient authority for the police officer to take the applicant into custody without a warrant.

(2) A person against whom a declaration is made under this paragraph by a polling agent shall not by reason thereof be prevented from voting, but the presiding officer shall cause the words "protested against for personation" to be placed against his name in the marked copy of the register of electors.

2ND SCH.  
—cont.*Marking of Ballot Papers.*

18. A ballot paper shall be delivered to an elector who applies therefor, and immediately before delivery—

- (a) the ballot paper shall be marked with the official mark either embossed or perforated;
- (b) the number, name and address of the elector as stated in the copy of the register shall be called out;
- (c) the number of the elector shall be marked on the counter-foil; and
- (d) a mark shall be placed in the register against the number of the elector to denote that he has received a ballot paper, but without showing the particular ballot paper which he has received.

19. The elector on receiving the ballot paper shall forthwith proceed into one of the compartments in the polling station and there secretly mark his paper and fold it up so as to conceal his vote, and shall then show to the presiding officer the back of the paper so as to disclose the official mark and put the ballot paper so folded up into the ballot box in the presence of the presiding officer. The elector shall vote without undue delay and shall leave the polling station as soon as he has put his ballot paper into the ballot box.

20.—(1) The presiding officer, on the application—

- (a) of an elector who is incapacitated by blindness or other physical cause from voting in manner directed by this Schedule; or
- (b) if the poll is taken on a Saturday, of an elector who declares that he is a Jew and objects on religious grounds to vote in manner directed by this Schedule; or
- (c) of an elector who makes a declaration that he is unable to read (in this Schedule referred to as "the declaration of inability to read");

shall in the presence of the polling agents cause the vote of the elector to be marked on a ballot paper in manner directed by the elector and the ballot paper to be placed in the ballot box.

(2) The name and number on the register of electors of every elector whose vote is marked in pursuance of this paragraph and the reason why it is so marked shall be entered on a list (in this Schedule called "the list of votes marked by the presiding officer").

21.—(1) Where an elector who is accompanied by another person makes application to the presiding officer to be allowed on the ground of blindness to vote with the assistance of the person accompanying him (in this Schedule referred to as "the companion"), the presiding officer shall require the elector to declare orally whether he is so incapacitated by his blindness as to be unable to vote without assistance.

(2) If the presiding officer is satisfied that the elector is so incapacitated and is also satisfied by a written declaration made by the companion (in this Schedule referred to as "the declaration made by the companion of a blind elector") that the companion

is a qualified person within the meaning of this paragraph and has not previously assisted more than one blind person to vote at the election then being held, the presiding officer shall grant the application, and thereupon anything which is by this Schedule required to be done to or by the said elector in connection with the giving of his vote may be done to, or with the assistance of, the companion, as the case may be.

(3) For the purposes of this paragraph, a person shall be qualified to assist a blind elector to vote if that person is either—

- (a) a person who is entitled to vote at the election then being held; or
- (b) the father, mother, brother, sister, husband, wife, son or daughter of the blind elector and has attained the age of twenty-one years.

(4) The name and number on the register of electors of every elector whose vote is given in accordance with this paragraph and the name and address of the companion shall be entered on a list (in this Schedule called "the list of blind electors assisted by companions").

22.—(1) The declaration of inability to read and the declaration made by the companion of a blind elector—

- (a) shall be in the appropriate form contained in Part V of this Schedule or in a form substantially to the like effect; and
- (b) shall be made before the presiding officer at the time when the elector applies for a ballot paper or applies to vote with the assistance of the companion, as the case may be, and shall forthwith be handed to the presiding officer who shall attest and retain it.

(2) No fee, stamp or other payment shall be charged in respect of the declaration.

#### *Tendered Ballot Papers.*

23. If a person representing himself to be a particular elector named on the register applies for a ballot paper after another person has voted as such elector, the applicant shall, upon satisfactorily answering the questions set out in paragraph 16 of this Part of this Schedule, be entitled to mark a ballot paper in the same manner as any other elector, but the ballot paper (in this Schedule called "a tendered ballot paper") shall be of a colour differing from the other ballot papers and instead of being put into the ballot box shall be given to the presiding officer and endorsed by him with the name of the elector and his number on the register of electors and set aside in a separate packet and shall not be counted by the returning officer; and the name of the elector and his number on the register shall be entered on a list (in this Schedule called "the tendered votes list").

#### *Spoilt Ballot Papers.*

24. An elector who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer and proving the fact of the inadvertence to the satisfaction of the presiding officer, obtain another ballot paper in the place of the ballot paper so delivered up (in this Schedule called "a spoilt ballot paper"), and the spoilt ballot paper shall be immediately cancelled.

2ND SCH.  
—cont.

*Powers of Presiding Officer in adjourning Poll.*

25. Where the proceedings at the taking of the poll are interrupted or obstructed by any riot or open violence, the presiding officer at the polling station where the riot or open violence has occurred may adjourn the poll at that polling station until the following day or some other convenient time, and if necessary may repeat such adjournment until such interruption or obstruction has ceased, and where the poll has been so adjourned by a presiding officer, the presiding officer shall forthwith give notice of such adjournment to the returning officer who shall not finally declare the result of the election until the poll so interrupted or obstructed is closed and the various packets are delivered to the returning officer as provided in the immediately following paragraph.

*Packets of Ballot Papers, &c., to be sealed.*

26. As soon as practicable after the close of the poll, the presiding officer shall in the presence of the polling agents make up into separate packets sealed with his own seal and the seals of such polling agents as desire to affix their seals—

- (a) each ballot box in use at his polling station sealed so as to prevent the introduction of additional ballot papers and unopened, but with the key attached;
- (b) the unused and spoilt ballot papers placed together;
- (c) the tendered ballot papers;
- (d) the marked copies of the register of electors and the counter-foils of the used ballot papers;
- (e) the tendered votes list, the list of blind electors assisted by companions, the list of votes marked by the presiding officer, a statement of the number of electors whose votes are so marked by the presiding officer under the heads "physical incapacity," "Jews," and "unable to read," the declarations made by the companions of blind electors and the declarations of inability to read;

and shall deliver the packets to the returning officer to be taken charge of by him.

27. The packets shall be accompanied by a statement (in this Schedule referred to as "the ballot paper account") made by the presiding officer showing the number of ballot papers entrusted to him and accounting for them under the heads of—

- (a) ballot papers in the ballot box;
- (b) unused and spoilt ballot papers;
- (c) tendered ballot papers.

COUNTING OF VOTES.

*Appointment of Counting Agents.*

28.—(1) Each candidate may appoint agents (in this Schedule referred to as "counting agents") to attend at the counting of the votes.

(2) Notice in writing of every appointment, stating the name and address of the person appointed, shall be given by the candidate to the returning officer three days at least before the opening of the poll, and the returning officer may refuse to admit to the place where the votes are counted any counting agent whose name and address have not been so given, notwithstanding that his appointment may be otherwise valid, and any notice required to be given to a counting agent by the returning officer may be delivered at or sent by post to the address stated in the notice.

(3) If a counting agent dies or becomes incapable of acting, the candidate may appoint another counting agent in his place and shall forthwith give to the returning officer notice in writing of the name and address of the counting agent so appointed.

29. The returning officer shall make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll and shall give to the agents notice in writing of the time and place at which he will begin to count the votes.

#### *The Count.*

30. Except with the consent of the returning officer, no person other than the returning officer, the persons appointed to assist him and the candidates and their counting agents may be present at the counting of the votes:

Provided that a candidate may be present only if he has made the declaration of secrecy required to be made by agents.

31. Before the returning officer proceeds to count the votes, he shall in the presence of the counting agents open each ballot box and, taking out the ballot papers therein, shall count and record the number thereof, checking the number against the ballot paper account, and then mix together the whole of the papers contained in the ballot boxes.

32. The returning officer, while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers.

33. The returning officer shall so far as practicable proceed continuously with counting the votes, allowing only time for refreshment; but he may if he thinks fit and without the consent of any candidate or other person decide not to proceed with the counting of the votes until nine o'clock on the succeeding morning. During the period until he proceeds with the counting the returning officer shall take proper precautions for the safe custody and security of the ballot papers and other documents.

#### *Void Ballot Papers.*

34. Any ballot paper—

- (a) which does not bear the official mark; or
- (b) on which votes are given for more candidates than the elector is entitled to vote for; or

2ND SCH.  
—cont.

(c) on which anything is written or marked by which the elector can be identified except the printed number on the back; or

(d) which is unmarked or void for uncertainty;  
shall not be counted.

35.—(1) The returning officer shall endorse the word " rejected " on any ballot paper which under the last preceding paragraph is not to be counted, and shall add to the endorsement the words " rejection objected to " if an objection is made by any candidate or counting agent to his decision.

(2) The returning officer shall draw up a statement showing the number of ballot papers rejected and not counted by him under the several heads of—

- (a) want of official mark;
- (b) voting for more candidates than entitled to;
- (c) writing or mark by which elector could be identified;
- (d) unmarked or void for uncertainty;

and shall on request allow any candidate or counting agent to copy the statement.

36. The decision of the returning officer as to any question arising in respect of any ballot paper shall be final but shall be subject to review on an election petition questioning the election.

#### *Equality of Votes.*

37. Where an equality of votes is found to exist and the addition of a vote would entitle any of the candidates to be declared elected, the returning officer shall determine by lot which of the candidates whose votes are equal shall be elected.

#### *Declaration of Result.*

38.—(1) Subject to the provisions of paragraph 25 of this Part of this Schedule, the returning officer shall—

- (a) in the case of an election of a county councillor within the county buildings or other public hall or place in the county, forthwith declare to be elected the candidate to whom the majority of votes have been given at the poll or the candidate elected without a poll in terms of paragraph 5 of Part I of this Schedule, and cause a written or printed statement thereof signed by him to be immediately thereafter conspicuously displayed at or near the entrance to the county buildings or the premises where the meetings of the county council are ordinarily held; and
- (b) in the case of an election of town councillors, within the town hall or other public hall or place in the burgh not later than eight o'clock afternoon of the day after the election declare to be elected the candidates to whom the majority of votes have been given at the poll and also the candidates elected without a poll in terms of paragraph 5 of Part I of this Schedule, and cause a written or printed statement thereof signed by him to be immediately thereafter

conspicuously displayed at or near the entrance to the town hall or the premises where the meetings of the town council are ordinarily held.

2ND SCH.  
—cont.

(2) The returning officer shall forthwith return the names of the persons elected in the case of an election of a county councillor to the county clerk, and in the case of an election of town councillors to the town clerk, and in either case the returning officer shall forthwith give or cause to be given notice in writing to the persons elected of their election.

*Disposal of Ballot Papers, &c., after Poll.*

39. Upon the completion of the counting the returning officer shall seal up in separate packets the counted and rejected ballot papers. He shall not open the sealed packet of tendered ballot papers or the sealed packet containing the marked copy of the register of electors and counterfoils, but if required by a candidate or a counting agent shall proceed in the presence of the counting agents to verify the ballot paper account given by each presiding officer by comparing it with the number of ballot papers recorded by him under paragraph 31 of this Part of this Schedule and the unused and spoilt ballot papers in his possession and the tendered votes list, and shall re-seal each sealed packet after examination. The returning officer shall draw up a statement as to the result of any verification required and shall on request allow any counting agent to copy the statement.

40. The returning officer shall forward for retention as hereinafter provided to the county clerk in the case of an election of a county councillor, or to the town clerk in the case of an election of town councillors, or where the county clerk or the town clerk is the returning officer he shall retain among the records of the county or burgh, as the case may be, all the packets of ballot papers in his possession together with the said statements, the ballot paper accounts, tendered votes lists, lists of blind electors assisted by companions, lists of votes marked by the presiding officer, statements relating thereto, declarations made by the companions of blind electors, declarations of inability to read, packets of counterfoils and marked copies of registers sent by each presiding officer, endorsing on each packet a description of its contents and the date of the election to which they relate, and the name of the electoral division, burgh or ward for which the election was held.

41.—(1) The sheriff (excluding a sheriff substitute) having jurisdiction in the county or burgh, as the case may be, on being satisfied by evidence on oath—

- (a) that the inspection or production of any rejected ballot papers; or
- (b) that the opening of the sealed packet of counterfoils or the inspection of counted ballot papers;

is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers or for the purpose of a petition questioning an election, may make an order for the inspection or production of any such ballot papers or the opening of the sealed packet of counterfoils.

2ND SCH.  
—cont.

(2) An order made under this paragraph may be made subject to such conditions as to persons, time, place and mode of inspection or production of ballot papers or of opening the sealed packet of counterfoils as the sheriff may think expedient, and may direct the county clerk or the town clerk, as the case may be, having custody of the ballot papers and the sealed packet of counterfoils to retain them intact for such period as may be specified in the order.

(3) Any power given to a sheriff by this paragraph may be exercised otherwise than in open court.

(4) In making and carrying into effect an order under this paragraph, care shall be taken that the way in which any particular elector has voted shall not be disclosed until it has been proved that he voted and his vote has been declared by a competent court to be invalid.

(5) An appeal shall lie to the Court of Session from any order of a sheriff made under this paragraph.

42. Except by order of a sheriff or of the Court of Session made under the last preceding paragraph, no person shall be allowed to inspect any ballot papers in the custody of the county clerk or the town clerk, as the case may be, or to open the sealed packet of counterfoils.

43. Where an order is made for the production by the county clerk or town clerk of any document in his possession relating to any specified election, the production by that clerk or his agent of the document ordered in such manner as may be directed by the order shall be conclusive evidence that the document so produced relates to the specified election; and any endorsement appearing on any packet of ballot papers produced by that clerk or his agent shall be prima facie evidence of those papers being what they are stated to be by the endorsement. The production from proper custody of a ballot paper purporting to have been used at any election and of a counterfoil marked with the same printed number and having a number marked thereon in writing shall be prima facie evidence that the person who voted by that ballot paper was the person who at the time of that election had affixed to his name in the register of electors at that election the same number as the number written on that counterfoil.

44. The county clerk or the town clerk, as the case may be, shall retain for six months among the records of the county or burgh all documents relating to an election forwarded to him by the returning officer in pursuance of this Schedule, and then unless otherwise directed by an order made under paragraph 41 of this Part of this Schedule shall cause them to be destroyed.

45. All the documents forwarded or retained under paragraph 40 of this Part of this Schedule other than ballot papers and counterfoils shall during a period of six months from the day of election be open to public inspection at such time and in such manner as may be determined by the county council or town council with the consent of the Secretary of State, and the county clerk or town clerk shall supply copies of or extracts from the said documents to any person demanding the same on payment of such fees and subject



to such conditions as may be determined by the county council or town council with the consent of the Secretary of State.

46. Subject to the provisions of this Part of this Schedule, the county clerk or the town clerk shall, in respect of the custody and destruction of ballot papers and other documents coming into his possession in pursuance of this Part of this Schedule, be subject to the directions of the county council or the town council, as the case may be.

*General Provisions as to Contested Elections.*

47. The returning officer may if he thinks fit preside at a polling station, and the provisions of this Part of this Schedule relating to a presiding officer shall apply to a returning officer so presiding with the necessary modifications as to things to be done by the returning officer to the presiding officer or by the presiding officer to the returning officer.

48. No returning officer or officer appointed under this Schedule or any partner or clerk of any such officer shall act as a polling or counting agent.

49. No person shall be appointed to act as an officer under this Part of this Schedule for the purposes of an election who has been employed by or on behalf of a candidate in or about the election.

50. A presiding officer may by the officers appointed to assist him do any act which he is required or authorised by this Part of this Schedule to do at a polling station except ordering the arrest, exclusion or removal of any person from the polling station.

51. A candidate may himself do any act or thing which an agent of his, if appointed, would have been authorised or required to do or may assist his agent in doing any such act or thing, but before acting under this paragraph the candidate shall make the declaration of secrecy required to be made by agents. Where a candidate has no agent for the purposes of any of the paragraphs of this Schedule, any notice under any such paragraph shall be given to the candidate.

52. Where in this Part of this Schedule any act or thing is required or authorised to be done in the presence of the agents of the candidates, the non-attendance of any agents or agent at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

*Requirement of Secrecy.*

53.—(1) Every returning officer and every officer, polling agent or counting agent authorised to attend at a polling station or at the counting of the votes shall before the opening of the poll, or in the case of an officer or agent appointed after the opening of the poll before acting as such officer or agent, make a declaration of secrecy in the form contained in Part V of this Schedule or in a form substantially to the like effect.

(2) In the case of a returning officer, the declaration shall be made in the presence of a justice of the peace, and in the case of any other officer or of an agent, the declaration shall be made in the presence either of a justice of the peace or of the returning officer.

2ND SCH.  
—cont.

(3) Save as aforesaid, no such returning officer, officer or agent shall be required as such to make any declaration or to take any oath on the occasion of an election.

(4) Every returning officer and every candidate, officer, polling agent or counting agent in attendance at a polling station or at the counting of the votes shall maintain and aid in maintaining secrecy of the voting.

(5) No person, being a returning officer or a candidate or officer appointed under this Part of this Schedule or polling agent or counting agent, shall—

(a) except for some purpose authorised by law, communicate before the poll is closed to any person any information as to—

(i) the name or number on the register of any elector who has or has not applied for a ballot paper or voted at a polling station; or

(ii) the official mark; or

(b) ascertain or attempt to ascertain at the counting of the votes, the number on the back of any ballot paper; or

(c) communicate any information obtained at the counting of the votes as to the candidate for whom any vote is given on any particular ballot paper.

(6) No person, whether or not such an officer, candidate, polling agent or counting agent as aforesaid, shall—

(a) interfere with or attempt to interfere with an elector when recording his vote; or

(b) otherwise obtain or attempt to obtain in a polling station information as to the candidate for whom an elector in that place is about to vote or has voted; or

(c) communicate at any time to any person any information obtained in a polling station as to the candidate for whom an elector in that station is about to vote or has voted or as to the number on the back of the ballot paper given to an elector at that station; or

(d) directly or indirectly induce an elector to display his ballot paper after he has marked it so as to make known to any person the name of the candidate for or against whom he has so marked his vote.

(7) No person having undertaken to assist a blind elector to vote shall communicate at any time to any person any information as to the candidate for whom that elector intends to vote or has voted or as to the number on the back of the ballot paper given for the use of that elector.

54. Any justice of the peace, any returning officer and any presiding officer may take any declaration authorised by this Part of this Schedule to be made before him.

*Keeping of Order in Polling Station.*2ND SCH.  
—cont.

55.—(1) It shall be the duty of the presiding officer to keep order at his polling station.

(2) If any person misconducts himself in a polling station or fails to obey the lawful orders of the presiding officer, he may immediately by order of the presiding officer be removed from the polling station by a police officer in or near that station or by any other person authorised in writing by the returning officer to remove him; and the person so removed shall not without the permission of the presiding officer again enter the polling station during the day.

(3) Any person so removed may, if charged with the commission in the polling station of an offence, be taken into custody by a police officer for an offence without a warrant.

(4) The powers conferred by this paragraph shall not be exercised so as to prevent an elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

*Supplemental Provisions.*

56. In computing any period of time for the purposes of sub-paragraph (2) of paragraph 13 or sub-paragraph (2) of paragraph 28 of this Part of this Schedule, a Sunday, Christmas Day, New Year's Day, Good Friday, bank holiday or day appointed for public thanksgiving or mourning shall be disregarded.

## PART IV.

## APPLICATION OF SCHEDULE TO DISTRICT COUNCIL ELECTION.

1. The provisions of this Schedule (including the forms in Part V thereof) as applied to the election of county councillors shall apply to the election of district councillors subject to the provisions of this Part of this Schedule and to such other modifications and adaptations as the circumstances shall require.

2. The election shall take place in the same stations, with the same returning and presiding officers and clerks as the election of county councillors.

3. If there should be a contested election for district councillors but no contested election for a county councillor in any electoral division, the district council election shall be conducted in the same manner as if there were a contested election for a county councillor in such electoral division.

4. The returning officer shall make and publish such other arrangements as he shall think fit for the purpose of enabling nomination papers and copies of the register of electors to be obtained and for nomination papers and notices of withdrawal to be received and dealt with at some place within or adjoining the district, and for that purpose may by writing under his hand delegate such of his powers as he shall think necessary to the clerk of the district council or other fit person, and such person shall for that purpose be deemed to be a deputy of the returning officer.

2ND SCH.  
—cont.

5. It shall not be necessary to publish any of the notices under this Schedule elsewhere than in the district, but the returning officer may, if he thinks it expedient, publish them in any manner in which he publishes notices for the election of county councillors, and any of the said notices may relate both to the election of district councillors and to the election of county councillors.

6. The returning officer shall forthwith make a return to the clerk of the district council of the persons elected as district councillors and of the persons elected as members of the county council for the electoral divisions within the district, and give or cause to be given notice in writing to the persons elected of their election.

## PART V.

FORMS FOR USE AT THE ELECTION OF COUNTY  
COUNCILLORS OR OF TOWN COUNCILLORS.

## FORM A.

## FORM OF NOTICE OF ELECTION.

*1.—Form of Notice of Election applicable to the election of county councillors for the landward area of a county.*

County of . . . . .

County Council Election, 19 . . . . .

In terms of the Local Government (Scotland) Act, 1947, notice is hereby given—

1. That the election of a county councillor for each electoral division in the landward area of the county will in the event of there being a poll take place on Tuesday, the . . . . . day of November next, between the hours of . . . . . o'clock forenoon and . . . . . o'clock afternoon at the places aftermentioned.

(a) Electoral division of (*here specify name of electoral division*).

    Polling place (*here specify polling place or places within which polling stations are situated*).

(b) Electoral division of (*here specify name of electoral division*).

    Polling place (*here specify polling place or places within which polling stations are situated*).

(*and so on through the whole number of electoral divisions*).

2. That the county council have appointed . . . . . to be the returning officer for the purposes of the election.

3. That no person can be elected to the office of county councillor in respect of whom a nomination paper is not delivered to the returning officer before four o'clock in the afternoon of Tuesday the . . . . . day of October current, that all withdrawals of persons nominated must be intimated to the returning officer before four o'clock in the afternoon of Tuesday the . . . . . day of October current, and that all intimations must be delivered at (*here specify address of place where nomination papers are to be delivered*).

4. That every person proposed for election as a county councillor must be nominated by a separate nomination paper in the appropriate Form contained in Part V of the Second Schedule to the said Act or in a form substantially to the like effect, and every such nomination paper must be subscribed by two proposers being local government electors for the electoral division to which the nomination applies, and shall contain a statement subscribed by the candidate or by a solicitor duly authorised by him consenting to be nominated as a candidate and that, if elected, he accepts office as a county councillor and will faithfully perform the duties of the office.

5. That no person shall sign more than one nomination paper in respect of the same electoral division, and if he does so his signature shall be operative only in the case of the paper which is first delivered.

6. That a candidate who is validly nominated for more than one electoral division shall by notice signed, attested and delivered withdraw from his candidature in all those electoral divisions except one, and if he does not so withdraw before the expiration of the time appointed by Part II of the Second Schedule to the said Act for the delivery of notices of withdrawal the returning officer shall on the expiration of the said time declare for which of those electoral divisions for which the candidate remains validly nominated the candidate shall stand for election, and the candidate shall be deemed to have withdrawn his candidature in those other electoral divisions.

7. That in the event of only one person remaining validly nominated in any electoral division of the county there will be no poll in that electoral division, and that on the day appointed for declaring the election the person so nominated shall be declared to be elected a county councillor.

8. That forms of nomination and withdrawal may be had at the place above mentioned on or after 15th October current.

9. That one copy of the register of local government electors for an electoral division may be had free of charge by a candidate for that division or his agent at the place mentioned on or after the said date. Additional copies of the register may be had subject to payment of a charge fixed by Order in Council.

Sgd. A.B.,

County Clerk.

(Date.)

*II.—Form of Notice of Election applicable to the election of town councillors in a burgh not divided into wards.*

Burgh of

Municipal election, 19

In terms of the Local Government (Scotland) Act, 1947, notice is hereby given—

1. That the annual election of councillors to supply the vacant places in the town council of the burgh will in the event of there being a poll take place on Tuesday, the                    day of November next between the hours of                    o'clock forenoon and                    o'clock afternoon at the places following, viz.:—

2ND SCH.  
—cont.

## Polling Places

*(Here specify the polling place or places within which polling stations are situated)*

to elect town councillors in the place of  
*(Here mention names of councillors retiring, and cause of retirement, whether by rotation or otherwise).*

2. That no person can be elected to the office of town councillor in respect of whom a nomination paper is not delivered to me before four o'clock afternoon of Friday the day of October current, that all withdrawals of persons nominated must be intimated to me before four o'clock afternoon of Monday the day of October current, and that all intimations must be delivered at my office situated at *(here specify address of office)*.

3. That every person proposed for election as a town councillor must be nominated by a separate nomination paper in the appropriate form contained in Part V of the Second Schedule to the said Act or in a form substantially to the like effect, and every such nomination paper must be subscribed by two proposers being local government electors for the burgh and also five other local government electors for the burgh as assenting to the nomination, and shall contain a statement subscribed by the candidate or by a solicitor duly authorised by him consenting to be nominated as a candidate and that, if elected, he accepts office as a town councillor and will faithfully perform the duties of the office.

4. That no person shall sign more than one nomination paper in respect of the same candidate nor shall he sign more nomination papers than there are vacancies to be filled, and if he signs nomination papers otherwise than is herein permitted his signature shall be inoperative in all but those papers up to the permitted number which are first delivered.

5. That in the event of the number of persons remaining validly nominated not exceeding the number of vacancies there will be no poll and that on the day appointed for declaring the election the persons so nominated shall be declared to be elected town councillors.

6. That forms of nomination and withdrawal may be had at my office above mentioned on or after 15th October current.

7. That one copy of the register of local government electors for the burgh may be had free of charge by a candidate or his agent at my office aforesaid on or after the said date. Additional copies of the register may be had subject to payment of a charge fixed by Order in Council.

A.B.,

Town Clerk.

*(Date.)*

*III.—Form of Notice of Election applicable to the election of town councillors in a burgh divided into wards.*

Burgh of

Municipal election, 19

In terms of the Local Government (Scotland) Act, 1947, notice is hereby given—

1. That the annual election of town councillors to supply the vacant places in the town council of the burgh will in the event

of there being a poll take place on Tuesday the \_\_\_\_\_ day  
of November next between the hours of \_\_\_\_\_ o'clock  
forenoon and \_\_\_\_\_ o'clock afternoon at the places  
aftermentioned.

2ND SCH.  
—cont.

First ward.

Polling place (*here specify polling place or places within which  
polling stations are situated*).

To elect \_\_\_\_\_ town councillor[s] in place of  
(*here mention name[s] of councillor[s] retiring, and cause of  
retirement, whether by rotation or otherwise*).

Second ward.

(*As above, and so on through the whole number of wards.*)

2. That no person can be elected to the office of town councillor in respect of whom a nomination paper is not delivered to me before four o'clock afternoon of Friday the \_\_\_\_\_ day of October current, that all withdrawals of persons nominated must be intimated to me before four o'clock afternoon of Monday the \_\_\_\_\_ day of October current, and that all intimations must be delivered at my office situated at (*here specify address of office*).

3. That every person proposed for election as a town councillor must be nominated by a separate nomination paper in the appropriate form contained in Part V of the Second Schedule to the said Act or in a form substantially to the like effect, and every such nomination paper must be subscribed by two proposers being local government electors for the ward to which the nomination applies and also by five other local government electors for the said ward as assenting to the nomination, and shall contain a statement subscribed by the candidate or by a solicitor duly authorised by him consenting to be nominated as a candidate and that, if elected, he accepts office as a town councillor and will faithfully perform the duties of the office.

4. That no person shall sign more than one nomination paper in respect of the same candidate nor shall he sign more nomination papers than there are vacancies to be filled in the ward; and if he signs nomination papers otherwise than is herein permitted his signature shall be inoperative in all but those papers up to the permitted number which are first delivered.

5. That a candidate who is validly nominated for more than one ward shall by notice signed, attested and delivered withdraw from his candidature in all those wards except one, and if he does not so withdraw before the expiration of the time appointed by Part II of the Second Schedule to the said Act for the delivery of notices of withdrawal the returning officer shall on the expiration of the said time declare for which of those wards for which the candidate remains validly nominated the candidate shall stand for election, and the candidate shall be deemed to have withdrawn his candidature in those other wards.

6. That in the event of the number of persons remaining validly nominated in any of the wards not exceeding the number of vacancies there will be no poll in such ward, and that on the day appointed for declaring the election the persons so nominated shall be declared to be elected town councillors.

2ND SCH.  
—cont.

7. That forms of nomination and withdrawal may be had at my office abovementioned on or after 15th October current.

8. That one copy of the register of local government electors for the ward may be had free of charge by a candidate or his agent at my office aforesaid on or after the said date. Additional copies of the register may be had subject to payment of a charge fixed by Order in Council.

A.B.,  
Town Clerk.  
(Date.)

### FORM B.

#### FORM OF NOMINATION PAPER.

*I.—Form of Nomination Paper applicable to the election of county councillors for the landward area of a county.*

#### *Front of Nomination Paper.*

County of . . .  
County Council Election, 19 . . .

We, A.B. (*here insert name and address and register number as in the register of local government electors for the electoral division for which the candidate is being nominated*) and C.D. (*here insert name and address and register number as in the said register*), hereby propose and nominate—

E.F. (*if the candidate's name appears in the register of local government electors for any electoral division within the county or for a burgh within the county, here insert name and address and register number of the candidate as in the register in which his name appears, specifying the area to which that register relates*),

(*if the candidate's name does not appear in any of the said registers, here insert his full name and place of residence and if the circumstances warrant it add "who has resided at (insert address or addresses) within the county of (specify county or any burgh within the county) during the whole of the twelve months preceding this date"*)

for election as a county councillor for the electoral division of (*specify electoral division*) at the next ensuing election of county councillors in the county of (*specify county*).

We hereby declare to the best of our knowledge, information and belief that—

- (a) the said E.F. is of full age and a British subject and not subject to any legal incapacity; and
- (b) the said E.F. is not disqualified for being nominated as a candidate for election as a county councillor by reason of any of the disqualifications set forth in section 52 of the Local Government (Scotland) Act, 1947, a copy of which section is printed on the back hereof.



Given under our hand this (*insert date*).

A.B.

C.D.

2ND SCH.  
—cont.

I, the nominee for election, consent to being nominated as a candidate and, if elected, accept office as a county councillor for the said electoral division. I declare that, if elected, I shall faithfully perform the duties of the office.

I am of full age and a British subject and not subject to any legal incapacity. (*If the candidate is not qualified as a registered local government elector, and if the circumstances warrant it, add "I have resided within the county of (including any burgh within the county) during the whole of the twelve months preceding the date abovementioned".*)

I declare that I am not disqualified for being nominated as a candidate for election as a county councillor by reason of any of the disqualifications set forth in section 52 of the Local Government (Scotland) Act, 1947, a copy of which section is printed on the back hereof.

E.F.

To the Returning Office,

County of

*Note*:—Where this form is subscribed by a solicitor on behalf of the candidate it should be subscribed as follows—"For and on behalf of E.F., X.Y., Solicitor, (*here insert address*) duly authorised by the said E.F. to sign this form."

*Back of Nomination Paper.*

(*Here print copy of section 52 of the Local Government (Scotland) Act, 1947.*)

*Note*.—If any person signs any nomination paper as candidate, proposer or solicitor on behalf of a candidate knowing any of the statements contained therein to be false, he shall be liable under the Local Government (Scotland) Act, 1947, on conviction on indictment or on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding fifty pounds or to both such imprisonment and fine.

II.—*Form of Nomination Paper applicable to the election of town councillors in a burgh not divided into wards.*

*Front of Nomination Paper.*

Burgh of

Municipal Election, 19 .

We, A.B. (*here insert name and address and register number as in the register of local government electors for the burgh of* ) and C.D. (*here insert name and address and register number as in the said register*), hereby propose and nominate—

2ND SCH.  
—cont.

E.F. (if the candidate's name appears in the said register, here insert name and address and register number as in the said register),

(if the candidate's name does not appear in the said register, here insert his full name and place of residence, and if the circumstances warrant it add "who has resided at (insert address or addresses) within the burgh of (specify burgh) during the whole of the twelve months preceding this date")

for election as a town councillor at the next ensuing municipal election in the said burgh of (specify burgh).

We hereby declare to the best of our knowledge, information and belief that—

- (a) the said E.F. is of full age and a British subject and not subject to any legal incapacity; and
- (b) the said E.F. is not disqualified for being nominated as a candidate for election as a town councillor by reason of any of the disqualifications set forth in section 52 of the Local Government (Scotland) Act, 1947, a copy of which section is printed on the back hereof.

Given under our hand this (insert date).

A.B.

C.D.

We, the undersigned, being registered local government electors for the burgh of (specify burgh), do hereby assent to the nomination of the said E.F. as a town councillor as above mentioned.

|          |                                                                               |
|----------|-------------------------------------------------------------------------------|
| G.H., of | } (insert address and register number as in the register for the said burgh.) |
| I.J., of |                                                                               |
| K.L., of |                                                                               |
| M.N., of |                                                                               |
| O.P., of |                                                                               |

I, the nominee for election, consent to be nominated as a candidate and, if elected, accept office as a town councillor for the said burgh. I declare that, if elected, I shall faithfully perform the duties of the office.

I am of full age and a British subject and not subject to any legal incapacity. (If the candidate is not qualified as a registered local government elector, and if the circumstances warrant it, add "I have resided within the burgh of during the whole of the twelve months preceding the date above mentioned".)

I declare that I am not disqualified for being nominated as a candidate for election as a town councillor by reason of any of the disqualifications set forth in section 52 of the Local Government (Scotland) Act, 1947, a copy of which section is printed on the back hereof.

E.F.

To the Town Clerk of

2ND SCH.  
—cont.

*Note*.—Where this form is subscribed by a solicitor on behalf of the candidate it should be subscribed as follows—"For and on behalf of E.F., X.Y., Solicitor, (*here insert address*) duly authorised "by the said E.F. to sign this form."

*Back of Nomination Paper.*

(*Here print copy of section 52 of the Local Government (Scotland) Act, 1947.*)

*Note*.—If any person signs any nomination paper as candidate, proposer or solicitor on behalf of a candidate knowing any of the statements contained therein to be false, he shall be liable under the Local Government (Scotland) Act, 1947, on conviction on indictment or on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding fifty pounds or to both such imprisonment and fine.

III.—*Form of Nomination Paper applicable to the election of town councillors in a burgh divided into wards.*

*Front of Nomination Paper.*

Burgh of

Municipal Election, 19 .

We, A.B. (*here insert name and address and register number as in the register of local government electors for the ward for which the candidate is being nominated*) and C.D. (*here insert name and address and register number as in the said register*), hereby propose and nominate—

E.F. (*if the candidate's name appears in the register for any ward in the burgh, here insert name and address and register number as in the register in which his name appears, specifying the ward to which the register relates*),

(*if the candidate's name does not appear in the register for any part of the burgh, here insert his full name and place of residence and, if the circumstances warrant it, add "who has resided at (insert address or addresses) within the burgh of (specify burgh) during the whole of the twelve months preceding this date"*)

for election as a town councillor for the ward (*specify ward*) at the next ensuing municipal election in the burgh of (*specify burgh*).

We hereby declare to the best of our knowledge, information and belief that—

- (a) the said E.F. is of full age and a British subject and not subject to any legal incapacity; and
- (b) the said E.F. is not disqualified for being nominated as a candidate for election as a town councillor by reason of

2ND SCH.  
—cont.

any of the disqualifications set forth in section 52 of the Local Government (Scotland) Act, 1947, a copy of which section is printed on the back hereof.

Given under our hand this (*insert date*).

A.B.

C.D.

We, the undersigned, being registered local government electors for the ward (*specify ward*) in the burgh of (*specify burgh*), do hereby assent to the nomination of the said E.F. as a town councillor as above mentioned.

|          |                                                                                       |
|----------|---------------------------------------------------------------------------------------|
| G.H., of | } ( <i>insert address and register number as in the register for the said ward.</i> ) |
| I.J., of |                                                                                       |
| K.L., of |                                                                                       |
| M.N., of |                                                                                       |
| O.P., of |                                                                                       |

I, the nominee for election, consent to being nominated as a candidate and, if elected, accept office as a town councillor for the said ward. I declare that, if elected, I shall faithfully perform the duties of the office.

I am of full age and a British subject and not subject to any legal incapacity. (*If the candidate is not qualified as a registered local government elector, and if the circumstances warrant it, add "I have resided within the burgh of during the whole of the twelve months preceding the date before mentioned".*)

I declare that I am not disqualified for being nominated as a candidate for election as a town councillor by reason of any of the disqualifications set forth in section 52 of the Local Government (Scotland) Act, 1947, a copy of which section is printed on the back hereof.

E.F.

To the Town Clerk of

*Note*.—Where this form is subscribed by a solicitor on behalf of the candidate it should be subscribed as follows—"For and on behalf of E.F., X.Y., Solicitor, (*here insert address*) duly authorised by the said E.F. to sign this form."

*Back of Nomination Paper.*

(*Here print copy of section 52 of the Local Government (Scotland) Act, 1947.*)

*Note*.—If any person signs any nomination paper as candidate, proposer or solicitor on behalf of a candidate knowing any of the statements contained therein to be false, he shall be liable under the Local Government (Scotland) Act, 1947, on conviction on indictment or on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding fifty pounds or to both such imprisonment and fine.

FORM C.

2ND SCH.  
—cont.

FORM OF NOTICE OF WITHDRAWAL.

[County of  
County Council Election, 19 .]  
[Burgh of  
Municipal Election, 19 .]

I, E.F. (*here insert name and address as in nomination paper*) hereby withdraw my nomination as a candidate for election as a [county councillor for the electoral division of (*specify electoral division*)] [town councillor for the burgh] [town councillor for ward (*specify ward*)] at the next ensuing election of [county councillors in the county of (*specify county*)] [town councillors in the burgh of (*specify burgh*)]:

Dated this (*insert date*).....

Name .....  
Address .....  
Designation .....

Witness. E.F.

Name .....  
Address .....  
Designation .....

Witness.

[To the Returning Officer,  
County of .]  
[To the Town Clerk of .]

*Note*.—Where this form is subscribed by a solicitor on behalf of the candidate it should be subscribed as follows— “ For and on behalf of E.F., X.Y., Solicitor, (*here insert address*) duly authorised “ by the said E.F. to sign this form.”

FORM D.

FORM OF NOTICE IN CASE OF UNCONTESTED ELECTION.

*I.—Form of Notice of Uncontested Election applicable to the election of county councillors for the landward area of a county.*

*Note*.—This form shall, except where in the circumstances it is not appropriate, be combined with the notice of poll (Form E.).

County of  
County Council Election, 19 .

In terms of the Local Government (Scotland) Act, 1947, I hereby give notice that the following person[s] remain[s] validly nominated for the electoral division[s] as hereinafter mentioned, and as not more than one person so remains validly nominated for [each of] the said division[s], there will be no poll in that [or those] electoral division[s], and that on the day appointed for declaring the result

2ND SCH.  
—cont.

of the election the said person[s] shall be declared to be elected county councillor[s].

| Electoral Division[s]. | Name[s] of person[s] elected. | Address[es] or place[s] of residence. | Names of proposers. | Addresses of proposers. |
|------------------------|-------------------------------|---------------------------------------|---------------------|-------------------------|
|                        |                               |                                       |                     |                         |

A.B.,

Returning Officer.

(Date).

*II.—Form of Notice of Uncontested Election applicable to the election of town councillors in a burgh not divided into wards.*

Burgh of  
Municipal Election, 19 .

In terms of the Local Government (Scotland) Act, 1947, I hereby give notice that the following persons remain validly nominated for the burgh, and as the number of persons so remaining validly nominated does not exceed the number of vacancies to be supplied therein, there will be no poll, and that on the day appointed for declaring the result of the election the said persons shall be declared to be elected town councillors of the burgh.

| Names of persons elected. | Addresses or places of residence. | Names of proposers. | Addresses of proposers. |
|---------------------------|-----------------------------------|---------------------|-------------------------|
|                           |                                   |                     |                         |

A.B.,

Town Clerk,

(Date.)

*III.—Form of Notice of Uncontested Election applicable to the election of town councillors in a burgh divided into wards.*2ND SCH.  
—cont.

*Note.*—This form shall, except where in the circumstances it is not appropriate, be combined with the notice of poll (Form E.).

Burgh of

Municipal Election, 19 .

In terms of the Local Government (Scotland) Act, 1947, I hereby give notice that the following person[s] remain[s] validly nominated for the ward[s] as hereinafter mentioned, and as the number of persons so remaining validly nominated for [each of] the said ward[s] does not exceed the number of vacancies to be supplied therein, there will be no poll therein, and that on the day appointed for declaring the election the said person[s] shall be declared to be elected town councillor[s] of the burgh.

| Ward[s]. | Name[s] of person[s] elected. | Address[es] or place[s] of residence. | Names of proposers. | Addresses of proposers. |
|----------|-------------------------------|---------------------------------------|---------------------|-------------------------|
|          |                               |                                       |                     |                         |

A.B.,

Town Clerk.

(Date.)

FORM E.

FORM OF NOTICE OF POLL.

*I.—Form of Notice of Poll applicable to the election of county councillors for the landward area of a county.*

*Note.*—This form shall, except where in the circumstances it is not appropriate, be combined with the notice in the case of uncontested election (Form D.).

County of

County Council Election, 19 .

In terms of the Local Government (Scotland) Act, 1947, I hereby give notice that the following persons remain validly nominated for election as county councillors as hereinafter mentioned in this county at the election which shall be held on Tuesday the            day of November next between the hours of            o'clock forenoon and            o'clock afternoon at the places mentioned in the

2ND SCH.  
—cont.

Notice of Election dated \_\_\_\_\_, one councillor falling to be elected for each electoral division.

| Electoral Division[s]. | Names of candidates. | Addresses or places of residence of candidates. | Names of proposers. | Addresses of proposers. |
|------------------------|----------------------|-------------------------------------------------|---------------------|-------------------------|
|                        |                      |                                                 |                     |                         |

The persons entitled to vote at this election are the persons registered under the Representation of the People Acts as local government electors for the [respective] electoral division[s] aforesaid.

Where a person is registered as an elector in respect of more than one electoral division, he may vote in any one of the said electoral divisions, but shall not thereafter vote at this election in any other electoral division.

A.B.,

Returning Officer.

(Date.)

II.—Form of Notice of Poll applicable to the election of town councillors in a burgh not divided into wards.

Burgh of \_\_\_\_\_  
Municipal Election, 19 \_\_\_\_\_

In terms of the Local Government (Scotland) Act, 1947, I hereby give notice that the following persons remain validly nominated for election as town councillors in this burgh as hereinafter mentioned at the municipal election which shall be held on Tuesday the \_\_\_\_\_ day of November next between the hours of \_\_\_\_\_ o'clock forenoon and \_\_\_\_\_ o'clock afternoon at the places mentioned in the Notice of Election dated \_\_\_\_\_

| Names of candidates. | Addresses or places of residence of candidates. | Names of proposers. | Addresses of proposers. |
|----------------------|-------------------------------------------------|---------------------|-------------------------|
|                      |                                                 |                     |                         |

To elect \_\_\_\_\_ town councillors (*specify number*).



The persons entitled to vote at this election are the persons registered under the Representation of the People Acts as local government electors for the burgh.

2ND SCH.  
—cont.

A.B.,

Town Clerk.

(Date.)

*III.—Form of Notice of Poll applicable to the election of town councillors in a burgh divided into wards.*

*Note.*—This form shall, except where in the circumstances it is not appropriate, be combined with the notice in the case of uncontested election (Form D.).

Burgh of

In terms of the Local Government (Scotland) Act, 1947, I hereby give notice that the following persons remain validly nominated for election as town councillors in this burgh as hereinafter mentioned at the municipal election which shall be held on Tuesday the day of November next between the hours of o'clock forenoon and o'clock afternoon at the places mentioned in the Notice of Election, dated , (*alter if not appropriate*) one councillor falling to be elected for each ward.

| Ward[s]. | Names of candidates. | Addresses or places of residence of candidates. | Names of proposers. | Addresses of proposers. |
|----------|----------------------|-------------------------------------------------|---------------------|-------------------------|
| I.       |                      |                                                 |                     |                         |
| II.      |                      |                                                 |                     |                         |
| III.     |                      |                                                 |                     |                         |

The persons entitled to vote at this election are the persons registered under the Representation of the People Acts as local government electors for the [respective] ward[s] aforesaid.

Where a person is registered as an elector in respect of more than one ward, he may vote in any one of the said wards but shall not thereafter vote at this election in any other ward.

A.B.,

Town Clerk.

(Date.)



## FORM G.

2ND SCH.  
—cont.

FORM OF DIRECTIONS FOR THE GUIDANCE OF THE ELECTOR IN VOTING, WHICH SHALL BE PRINTED IN CONSPICUOUS CHARACTERS, AND EXHIBITED OUTSIDE EVERY POLLING STATION AND IN EVERY COMPARTMENT OF EVERY POLLING STATION.

The elector may vote for \_\_\_\_\_ candidate[s].

The elector will go into one of the compartments, and, with the pencil provided in the compartment, place a cross on the righthand side of the ballot paper, opposite the name of each candidate for whom he votes, thus x.

The elector will then fold up the ballot paper so as to show the official mark on the back, and leaving the compartment will, without showing the front of the paper to any person, show the official mark on the back to the presiding officer, and then in the presence of the presiding officer put the paper into the ballot box and forthwith quit the polling station.

If the elector inadvertently spoils a ballot paper he can return it to the officer who will, if satisfied of such inadvertence, give him another paper.

If the elector votes for more than \_\_\_\_\_ candidate[s] or places any mark on the paper by which he may be afterwards identified his ballot paper will be void and will not be counted.

If the elector fraudulently takes a ballot paper out of the polling station or puts into the ballot box any other paper than the ballot paper given him by the officer, he will be liable on conviction on indictment or on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding fifty pounds or to both such imprisonment and fine.

## FORM H.

FORM OF DECLARATION OF SECRECY BY RETURNING OFFICER AND EVERY OFFICER, POLLING AGENT OR COUNTING AGENT AUTHORISED TO ATTEND AT A POLLING STATION OR AT THE COUNTING OF VOTES.

I solemnly promise and declare that I shall at this election maintain and aid in maintaining the secrecy of the voting and shall not do anything forbidden by sub-paragraphs (5) and (6) of paragraph 53 of Part III of the Second Schedule to the Local Government (Scotland) Act, 1947, which have been read by me.

## FORM I.

FORM OF DECLARATION OF INABILITY TO READ.

I, A.B., of \_\_\_\_\_, being numbered \_\_\_\_\_ on the register of local government electors for the [ \_\_\_\_\_ ] electoral division of the county of \_\_\_\_\_ [burgh of \_\_\_\_\_] [ward of the burgh of \_\_\_\_\_], do hereby declare that I am unable to read.

A.B., \_\_\_\_\_ his mark  
day of \_\_\_\_\_ 19 . . .

2ND SCH.  
—cont.

I, the undersigned, being the presiding officer for the polling station for the [ ] electoral division of the county of [ ] [burgh of [ ] [ward of the burgh of [ ]], do hereby certify that the above declaration having been first read to the abovenamed A.B. was signed by him in my presence with his mark.

Sgd. C.D.,  
day of 19 .

## FORM J.

FORM OF DECLARATION TO BE MADE BY THE COMPANION OF A  
BLIND ELECTOR.

I, A.B., of [ ], having been requested to assist C.D., who is numbered [ ] on the register of local government electors for the [ ] electoral division of the county of [ ] [burgh of [ ] [ward of the burgh of [ ]], to record his vote at the election now being held for the said [electoral division] [burgh] [ward], do hereby declare that [I am entitled to vote at the said election] [I am the \* of the said elector and have attained the age of twenty-one years] and that I have not previously assisted any blind person [except E.F., of [ ]] to vote at the said election.

\* State the relationship of the companion to the elector.

Signed, A.B.,  
day of 19 .

I, the undersigned, being the presiding officer for the polling station for the [ ] electoral division of the county of [ ] [burgh of [ ] [ward of the burgh of [ ]], do hereby certify that the above declaration having been first read to the abovenamed declarant was signed by the declarant in my presence.

Signed, G.H.,  
day of 19 .  
at [ ] minutes past [ ] o'clock in the [ ] noon.

*Note.*—If the person making the above declaration knowingly and wilfully makes therein a statement false in a material particular, he will on conviction be liable under the False Oaths (Scotland) Act, 1933, to imprisonment with or without hard labour for a term not exceeding two years or to a fine or to both such imprisonment and fine.

## THIRD SCHEDULE.

Sections 64, 71.

## MEETINGS AND PROCEEDINGS OF LOCAL AUTHORITIES.

## PART I.

*County Councils.*

1.—(1) A county council shall in every year hold such meetings of the council as are required for the purpose of complying with this Act or any other enactment or any statutory order and such other meetings as are considered necessary for the transaction of the general business of the council.

3RD SCH.  
—cont.

(2) A meeting of the council shall be held in the year of the election on Tuesday fourteen days after the day of election, or on such other day within three weeks after the day of election as the council have, prior to the election by standing order or otherwise, determined, and in other years on such day in the month of November or December as the council determine. The said meeting held in the year of election may for the purposes of this Act and of any other enactment be referred to as the first meeting of the county council after the election of county councillors.

(3) Meetings of the county council shall be held in the case of the first meeting after the election at twelve noon or at such other hour as the council have, prior to the election by standing order or otherwise determined, and in the case of other meetings at such hour and on such dates as the council may by standing order or otherwise fix, or if no hour is so fixed at twelve noon.

(4) Meetings of a county council shall be held at such place either within or without the county as the council may direct.

2. Subject to any administrative scheme under this Act or to any standing orders made by a county council, the following provisions shall have effect with respect to convening meetings of the council and of committees and sub-committees thereof:—

- (1) Notice of the time and place of a meeting of a county council shall be given by or on behalf of the county clerk not less than seven days before the meeting by being left at or sent by post to the usual place of residence or the place of business of every member of the council, and shall specify the business proposed to be transacted at the meeting:

Provided that want of notice to any member of the council shall not affect the validity of a meeting.

- (2) The county clerk shall call a meeting of the county council at any time on being required so to do by the convener of the county or on receiving a requisition in writing for that purpose specifying the business proposed to be transacted at the meeting signed by one-fourth of the whole number of members of the council, which meeting shall be held within fourteen days of receipt of the requisition.
- (3) Except in the case of business which has to be transacted at a meeting of the council required to be held by this Act or any other enactment or any statutory order, no business shall be transacted at a meeting of the council other than that specified in the notice of the meeting.
- (4) The provisions of all the sub-paragraphs of this paragraph shall apply to committees and sub-committees of the council in like manner as they apply to the council, with the substitution of references to the committee or sub-committee, as the case may be, and to the chairman of the committee or sub-committee for references to the council and to the convener respectively, and the chairman of the committee or sub-committee, as the case may be, shall for the purpose of ascertaining whether a valid requisition for a meeting has been made determine whether any matter mentioned in the requisition is a matter in respect of which the county councillors representing a large burgh exercise a deliberative vote.

3RD SCH.  
—cont.  
Emergency  
meeting.

3. Where it appears to the convener of the county that an item of business demands special urgency, a meeting of the council shall if he so requires be called by the county clerk to be held at a time which does not permit of notice being given in accordance with sub-paragraph (1) of the last preceding paragraph, or the standing orders, but any resolution passed at such a meeting shall not be valid and binding on the council unless a majority of the whole members of the council are present at the meeting or the resolution is confirmed by a subsequent meeting called after due notice as aforesaid.

Chairman of  
meeting.

4.—(1) At a meeting of a county council, the convener of the county if present shall preside.

(2) If the convener of the county is absent from a meeting of the council, the vice-convener of the county shall if present preside, but if the convener and the vice-convener are both absent from a meeting of the council, such county councillor as the members of the council present at the meeting shall choose shall preside.

Quorum.

5. Subject to the provisions of Part IV of this Schedule, no business shall be transacted at a meeting of a county council unless at least one-fourth of the whole number of members of the council or such other proportion as the council with consent of the Secretary of State may determine are present thereat.

## PART II.

### *Town Councils.*

Meetings.

1.—(1) The town council of a burgh shall in every year hold such meetings of the council as are required for the purpose of complying with any provision of this Act or any other enactment or any statutory order and such other meetings as are considered necessary for the transaction of the general business of the council.

(2) A meeting of the council shall be held on the first Friday after the first Tuesday in November.

(3) Meetings of the town council shall be held in the case of the meeting appointed to be held on the first Friday after the first Tuesday of November at twelve noon or at such other hour as the council may by standing order or otherwise fix, and in the case of other meetings at such hour and on such dates as the council may by standing order or otherwise fix or, if no hour is so fixed, at twelve noon.

(4) Meetings of a town council shall be held at such place as the council may direct.

Convening  
meetings.

2. Subject to any administrative scheme under this Act and to any standing orders made by a town council, the following provisions shall have effect with respect to convening meetings of the council and of committees and sub-committees thereof:—

(1) Notice of the time and place of a meeting of a town council shall be given by or on behalf of the town clerk not less than twenty-four hours before the meeting by being left at or sent by post to the usual place of residence or the place of business of every member of the council, and shall specify the business proposed to be transacted at the meeting:

Provided that want of notice to any member of the council shall not affect the validity of a meeting.

- (2) The town clerk shall call a meeting of the town council at any time on being required so to do by the provost or on receiving a requisition in writing for that purpose specifying the business proposed to be transacted at the meeting signed by one-fourth of the whole number of members of the council, which meeting shall be held within four days of receipt of the requisition.
- (3) Except in the case of business which has to be transacted at any meeting of the council required to be held by this Act or any other enactment or any statutory order, no business shall be transacted at a meeting of the council other than that specified in the notice of the meeting.
- (4) The provisions of all the sub-paragraphs of this paragraph shall apply to committees and sub-committees of the council in like manner as they apply to the council, with the substitution of references to the committee or sub-committee, as the case may be, and to the chairman of the committee or sub-committee for references to the council and to the provost respectively.
- (5) Any reference in this paragraph to the provost shall include a reference to the acting chief magistrate.

3RD SCH.  
—cont.

3. Where it appears to the provost that an item of business demands special urgency, a meeting of the council shall if he so requires be called by the town clerk to be held at a time less than twenty-four hours from the issue of the notice, or less than the period fixed by standing orders, but any resolution passed at such a meeting shall not be valid and binding on the council unless a majority of the whole members of the Council are present at the meeting or the resolution is confirmed by a subsequent meeting called after due notice as aforesaid.

Emergency  
meeting.

4.—(1) At a meeting of a town council, the provost if present shall preside.

Chairman of  
meeting.

(2) If the provost is absent, the senior bailie present at the meeting and failing any bailie such councillor as the members of the council present shall choose shall preside.

5. Subject to the provisions of Part IV of this Schedule, no business shall be transacted at a meeting of a town council unless at least one-fourth of the whole number of members of the council or such other proportion as the council with consent of the Secretary of State may determine are present thereat.

Quorum.

### PART III.

#### *District Councils.*

1.—(1) A district council shall in every year hold such meetings of the council as are required for the purpose of complying with any provision of this Act or any other enactment or any statutory order and such other meetings as are considered necessary for the transaction of the general business of the council.

Meetings.

3RD SCH.  
—cont.

(2) A meeting of the council shall be held on such day within ten days after the day of election of elected district councillors as the council prior to the election have determined, which meeting may for the purposes of this Act and of any other enactment be referred to as the first meeting of the district council after the election of district councillors.

(3) The meetings of the council shall be held at such hour and at such place as the council may by standing order or otherwise determine.

Convening  
meetings.

2. Subject to any standing orders made by a district council, the following provisions shall have effect with respect to convening meetings of the council and of committees and sub-committees thereof:—

- (1) Notice of the time and place of a meeting of a district council shall be given by or on behalf of the clerk of the council not less than three days before the meeting by being left at or sent by post to the usual place of residence or the place of business of every member of the council, and shall specify the business proposed to be transacted at the meeting:

Provided that want of notice to any member of the council shall not affect the validity of a meeting.

If there is no clerk of the council the chairman shall call any meeting except the first meeting of the council after the election of district councillors, which meeting shall be called by the county clerk.

- (2) The clerk of the district council shall call a meeting of the council at any time on being required so to do by the chairman of the council or on receiving a requisition in writing for that purpose specifying the business proposed to be transacted at the meeting signed by one-fourth of the whole number of members of the council or by three members, whichever is the greater number, which meeting shall be held within ten days of the receipt of the requisition.
- (3) Except in the case of business which has to be transacted at any meeting of the council required to be held by this Act or any other enactment or any statutory order or except with leave of the meeting, no business shall be transacted at a meeting of the council other than that specified in the notice of the meeting.
- (4) The provisions of all the sub-paragraphs of this paragraph shall apply to committees and sub-committees of the council in like manner as they apply to the council, with the substitution of references to the committee or sub-committee, as the case may be, and to the chairman of the committee or sub-committee for references to the council and to the chairman of the council respectively.

Emergency  
meeting.

3. Where it appears to the chairman of the council that an item of business demands special urgency, a meeting of the council shall if he so requires be called by the clerk of the council to be held at a time less than three days from the issue of the notice or less than the period fixed by standing orders, but any resolution passed



at such a meeting shall not be valid and binding on the council unless a majority of the whole members of the council are present at the meeting or the resolution is confirmed by a subsequent meeting called after due notice as aforesaid.

3RD SCH.  
—cont.

4.—(1) At a meeting of a district council the chairman of the council if present shall preside. Chairman of meeting.

(2) If the chairman of the council is absent from a meeting of the council, the vice-chairman of the council shall, if present, preside, but if the chairman and vice-chairman are both absent from the meeting, such district councillor as the members of the council present shall choose shall preside.

5. Subject to the provisions of Part IV of this Schedule, no business shall be transacted at a meeting of the council unless one fourth of the whole number of members of the council or three members, whichever is the greater number, are present thereat. Quorum.

#### PART IV.

##### *Provisions relating to local authorities generally.*

1. Notice of any meeting of the authority or of any committee thereof appointed to be held by this Act or any other enactment or any statutory order or by standing order of the authority shall, without instructions, be given by the clerk of the authority or in the case of a committee by the clerk of the committee. Notice of meetings required by statute, &c.

2. No item of business shall be transacted at a meeting of a local authority or of any committee or sub-committee thereof if, in consequence of the provisions of section seventy-three of this Act, less than a quorum of the authority or committee or sub-committee, as the case may be, are entitled to vote on that item. Transaction of business where members disabled by section 73 of Act.

3. A local authority or a committee or sub-committee may adjourn a meeting of the authority, committee or sub-committee, as the case may be, to any other day, hour and place. Adjournment of meeting.

4.—(1) Subject to the provisions of this Act or any other enactment or any statutory order that may be applicable and to any provisions of standing orders relating to the suspension of such orders, all acts of, and all questions coming and arising before, a local authority or any committee or sub-committee of a local authority shall be done and decided by a majority of the members of the authority or committee or sub-committee, as the case may be, present and voting at a meeting of the authority or committee or sub-committee, as the case may be: Decision on questions.

Provided that any decision to transact at an ordinary meeting of a local authority or of any committee or sub-committee thereof business of which notice has not been given shall not, if standing orders made by the local authority so provide, be arrived at except by such majority greater than a bare majority as may be specified.

(2) Save as otherwise provided in this Act, in the case of an equality of votes, the person presiding at the meeting shall give a casting vote.

5. The names of members present at a meeting of a local authority shall be recorded. Names of members present to be recorded.

3RD SCH.  
—cont.  
Minutes.

6.—(1) Minutes of the proceedings of a meeting of a local authority shall be drawn up by or on behalf of the clerk of the authority and shall be signed at the meeting by the person presiding thereat or shall be submitted to the next ensuing meeting of the authority for approval as a record of the meeting and signed by the person presiding at that next ensuing meeting, and, without prejudice to any of the other provisions of this Act, any minute purporting to be so signed shall be received in evidence without further proof.

(2) Subject to any administrative scheme under this Act or any standing orders of or other directions by a local authority, the provisions of the preceding sub-paragraph shall apply with respect to any committee or sub-committee of the authority in like manner as they apply with respect to the authority.

(3) Until the contrary is proved, a meeting of a local authority or of a committee or sub-committee thereof in respect of the proceedings whereof a minute has been made and signed in manner above provided, shall be deemed to have been duly convened and held, and all the members present at the meeting shall be deemed to have been duly qualified, and where the proceedings are proceedings of a committee or sub-committee, the committee or sub-committee, as the case may be, shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minutes.

Standing orders. 7.—(1) Subject to the provisions of this Act and of any administrative scheme thereunder, a local authority may make standing orders for the regulation of their proceedings and business and may vary or revoke such orders.

(2) Any such standing orders may, without prejudice to any other matters that may be dealt with therein, provide for the closure of debate, for voting by ballot with respect to any matter, and for the suspension by resolution of the local authority for the remainder of a meeting of any member disregarding the authority of the chairman of the meeting or obstructing the meeting or conducting himself offensively at the meeting. Any member of a local authority so suspended shall forthwith leave the meeting and shall not without the consent of the meeting again enter the meeting, and if any member so suspended refuses when so required by the person presiding to leave the meeting, he may immediately by order of the person presiding be removed from the meeting by a police officer or by any other person authorised by the person presiding to remove him.

(3) Any such standing orders shall, unless otherwise provided therein, apply with respect to any committee or sub-committee of the authority in like manner as they apply with respect to the authority.

Vacancies,  
&c. not to  
invalidate  
proceedings.

8.—(1) The proceedings of a local authority or a committee or sub-committee thereof shall not be invalidated by any vacancy among their number or by any defect in the election or qualification of any member thereof, or by any member voting on or taking part in the consideration or discussion of any question when he is not entitled to do so.

(2) If the proceedings at a meeting of a local authority or of a committee or sub-committee thereof are notwithstanding anything in

this Schedule open to challenge on the ground that the meeting has not been duly convened, such proceedings shall be validated by confirmation of the minutes of the meeting at a subsequent meeting duly convened of the authority, committee or sub-committee, as the case may be.

3RD SCH.  
—cont.

9. The provisions of paragraphs 1, 2, 3, 4, 5, 6 and 8 of this Part of this Schedule and any standing orders made by a town council under paragraph 7 shall apply with respect to the magistrates of the burgh in like manner as they apply with respect to the town council, save as otherwise directed by the magistrates and subject to any necessary modifications.

Application of  
this Part of  
Schedule to  
magistrates of  
burgh.

10. Where there are at the same time vacancies in the case of more than one-third of the members of a local authority, then until the number of members in office is increased to not less than two thirds of the whole number of members of the local authority, the quorum of the authority shall be determined by a reference to the number of members of the authority remaining instead of by reference to the whole number of members of the authority, so however that the quorum shall never in the case of a county council or a town council be less than one-eighth of the whole number of members of the council or three members, whichever is the greater number.

Quorum in  
cases of  
vacancies.

---

#### FOURTH SCHEDULE

Section 173.

---

ENACTMENTS CONTAINING PROVISIONS AS TO THE ACQUISITION BY AGREEMENT OF, AND CERTAIN OTHER DEALINGS IN, LAND BY LOCAL AUTHORITIES, NOT AFFECTED BY THE PROVISIONS OF PART VIII OF THIS ACT.

1. The Burial Grounds Acts.
2. The Electricity (Supply) Acts, 1882 to 1936.
3. The Military Lands Acts, 1892 to 1903.
4. The Light Railways Acts, 1896 and 1912.
5. The Cremation Act, 1902.
6. The Housing (Scotland) Acts, 1925 to 1946.
7. The Restriction of Ribbon Development Act, 1935.
8. The Town and Country Planning (Scotland) Act, 1945
9. The Water (Scotland) Act, 1946.
10. The Education (Scotland) Act, 1946.
11. Any local Act.

2 Edw. 7. c. 8.

25 & 26 Geo. 5  
c. 47.

Sections 191  
and 224.

FIFTH SCHEDULE.

EXPENDITURE OF A TOWN COUNCIL TO BE DEFRAIDED OUT OF THE  
BURGH RATE SO FAR AS PAYABLE BY OCCUPIERS OF LANDS AND  
HERITAGES ONLY.

1. Expenditure of a town council (not being expenditure included in a requisition made by the county council upon the town council under Part XI of this Act, except any portion thereof to which the proviso to subsection (5) of section two hundred and fourteen of this Act applies) incurred for and in connection with the following:—

- (1) Police and police court (including any expenditure under section three hundred and fifteen (so far as unrepealed) of the Burgh Police (Scotland) Act, 1892, and on the provision of halls and other buildings for public meetings and assemblies under section seventy-four of this Act which the town council direct shall be defrayed as expenditure on police, but excluding any expenditure under the Children and Young Persons (Scotland) Act, 1937).
- (2) Lighting, including lighting of streets, courts and common stairs.
- (3) Cleansing, including public conveniences.
- (4) Dean of Guild Court.
- (5) Surveys and plans under the Burgh Police Acts.
- (6) Markets.
- (7) Slaughter houses.
- (8) Public clocks.
- (9) Public baths, including open air bathing facilities.
- (10) Public wash-houses and drying grounds.
- (11) Inspection of weights and measures, including provision of public weighing machines.
- (12) Issue and supervision of licences under the Burgh Police Acts.
- (13) Public libraries.
- (14) Supervision of food and drugs.
- (15) The Dogs Act, 1871.
- (16) The Pedlars Act, 1871.
- (17) The Explosives Acts, 1875 and 1923.
- (18) The Military Lands Acts, 1892 to 1903.

34 & 35 Vict.  
c. 56.

34 & 35 Vict.  
c. 96.

- |                                                                                           |                           |
|-------------------------------------------------------------------------------------------|---------------------------|
| (19) The Fatal Accidents Inquiry (Scotland) Act, 1895.                                    | 5TH SCH.<br>—cont.        |
| (20) Section six of the Sea Fisheries Regulation (Scotland) Act, 1895.                    | 58 & 59 Vict.<br>c. 36.   |
| (21) The Light Railways Acts, 1896 and 1912.                                              |                           |
| (22) Section two of the Telegraph Act, 1899.                                              | 62 & 63 Vict.<br>c. 38.   |
| (23) Licensing court under the Licensing (Scotland) Act, 1903.                            | 3 Edw. 7. c. 25.          |
| (24) The Advertisement Regulations Acts, 1907 and 1925.                                   |                           |
| (25) The Protection of Animals (Scotland) Act, 1912.                                      | 2 & 3 Geo. 5.<br>c. 14.   |
| (26) The Temperance (Scotland) Act, 1913.                                                 |                           |
| (27) Application or representation under section seventy-eight of the Railways Act, 1921. | 11 & 12 Geo. 5.<br>c. 55. |
| (28) The Theatrical Employers Registration Act, 1925.                                     | 15 & 16 Geo. 5.<br>c. 50. |

2. Expenditure which in terms of any enactment relating to any public utility undertaking (other than a water undertaking) falls to be defrayed out of rates.

3. Expenditure to be defrayed out of the sum raised by rate in lieu of petty customs.

---

### SIXTH SCHEDULE.

Section 262.

---

#### ENACTMENTS FOR THE PURPOSES OF WHICH MONEY MAY BE BORROWED BY LOCAL AUTHORITIES REPAYABLE WITHIN PERIODS OTHER THAN THIRTY YEARS.

| Enactments.                                     | Maximum period for<br>repayment of loan.                                                                                             |
|-------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| 1. The Burial Grounds Acts.                     | Twenty years.                                                                                                                        |
| 2. The Lunacy (Scotland) Acts, 1857 to 1913.    | Such period not exceeding sixty years as may be sanctioned by the General Board of Control.                                          |
| 3. The Burghs Gas Supply (Scotland) Act, 1876.  | Such period not exceeding forty <sup>39 &amp; 40 Vict.</sup> years as may be sanctioned by <sup>c. 49.</sup> the Secretary of State. |
| 4. The Electricity (Supply) Acts, 1882 to 1936. | Such period not exceeding sixty years as may be sanctioned by the Electricity Commissioners.                                         |

6TH SCH.  
—cont.

## Enactments.

Maximum period for  
repayment of loan.

- | 6TH SCH.<br>—cont.        | Enactments.                                                                                                                       | Maximum period for<br>repayment of loan.                                                                       |
|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|
|                           | 5. The Public Libraries Acts.                                                                                                     | Such period not exceeding fifty years as may be sanctioned by the Secretary of State.                          |
|                           | 6. The Small Holdings Act, 1892.                                                                                                  | Such period not exceeding fifty years as may be sanctioned by the Secretary of State.                          |
|                           | 7. The Military Lands Acts, 1892 to 1903.                                                                                         | Such period not exceeding fifty years as may be sanctioned by a Secretary of State.                            |
|                           | 8. The Allotments (Scotland) Acts, 1892 to 1922.                                                                                  | Such period not exceeding eighty years as may be sanctioned by the Secretary of State.                         |
|                           | 9. Part IV of the Local Government (Scotland) Act, 1894, so far as relating to the purchase of land or the erection of buildings. | Such period not exceeding forty years as may be sanctioned by the Secretary of State.                          |
|                           | 10. The Light Railways Acts, 1896 and 1912.                                                                                       | Such period not exceeding sixty years as may be sanctioned by the Secretary of State.                          |
|                           | 11. Section 139 of the Public Health (Scotland) Act, 1897.                                                                        | Such longer period than thirty years not exceeding sixty years as may be sanctioned by the Secretary of State. |
|                           | 12. The Cremation Act, 1902.                                                                                                      | Twenty years.                                                                                                  |
| 3 & 4 Geo. 5.<br>c. 38.   | 13. The Mental Deficiency and Lunacy (Scotland) Act, 1913.                                                                        | Such period not exceeding sixty years as may be fixed by the General Board of Control.                         |
|                           | 14. The Housing (Scotland) Acts, 1925 to 1946.                                                                                    | Such period not exceeding eighty years as may be sanctioned by the Secretary of State.                         |
| 15 & 16 Geo. 5.<br>c. 82. | 15. The Roads and Streets in Police Burghs (Scotland) Act, 1925.                                                                  | The period provided in section two of that Act.                                                                |
|                           | 16. The Housing (Rural Workers) (Scotland) Acts, 1926 to 1942                                                                     | Such period not exceeding eighty years as may be sanctioned by the Secretary of State.                         |
|                           | 17. Section 119 (3) of the Road Traffic Act, 1930.                                                                                | Such period as the Secretary of State may fix.                                                                 |

| Enactments.                                               | Maximum period for<br>repayment of loan.                                                                                                                                           | 6TH SCH.<br>—cont.             |
|-----------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| 18. The Harbours, Piers and Ferries (Scotland) Act, 1937. | Such period as the Secretary of State may fix.                                                                                                                                     |                                |
| 19. The Children and Young Persons (Scotland) Act, 1937.  | Such period not exceeding fifty years as may be sanctioned by the Secretary of State.                                                                                              |                                |
| 20. The Physical Training and Recreation Act, 1937.       | Such period as the Secretary of State may fix.                                                                                                                                     | 1 Edw. 8 &<br>1 Geo. 6. c. 46. |
| 21. The Air Raids Precautions Act, 1937.                  | Such period as the Secretary of State may fix.                                                                                                                                     | 1 & 2 Geo. 6.<br>c. 6.         |
| 22. The Fire Brigades Act, 1938.                          | Such period as the Secretary of State may fix.                                                                                                                                     | 1 & 2 Geo. 6.<br>c. 72.        |
| 23. The Civil Defence Act, 1939.                          | Such period as, in the case of a county council or town council as electricity undertakers, the Electricity Commissioners, and in any other case, the Secretary of State, may fix. |                                |
| 24. The Town and Country Planning (Scotland) Act, 1945.   | Such period as the Secretary of State may sanction.                                                                                                                                | 8 & 9 Geo. 6.<br>c. 33.        |
| 25. The Water (Scotland) Act, 1946.                       | Such period not exceeding sixty years as may be sanctioned by the Secretary of State.                                                                                              |                                |
| 26. The Education (Scotland) Act, 1946.                   | Such period not exceeding fifty years as may be sanctioned by the Secretary of State.                                                                                              |                                |
| 27. The National Health Service (Scotland) Act, 1947.     | Thirty years or such other period as the Secretary of State may fix.                                                                                                               |                                |
| 28. The Fire Services Act, 1947.                          | Such period not exceeding sixty years as the Secretary of State may fix.                                                                                                           |                                |
| 29. The Town and Country Planning (Scotland) Act, 1947.   | Such period as the Secretary of State may fix.                                                                                                                                     | 10 & 11 Geo. 6.<br>c. 53.      |

## SEVENTH SCHEDULE.

Section 267.

## (1) FORM OF MORTGAGE BY LOCAL AUTHORITY.

Number.....

£.....

We (*insert designation of local authority*) (hereinafter referred to as "the Council"), by virtue of the Local Government (Scotland) Act, 1947, and of all other powers in that behalf, in consideration of the sum of

(*amount in words*) pounds instantly advanced and paid to us by A. B. of C. (hereinafter referred to as "the mortgagee") do hereby bind and oblige the Council

7TH SCH.  
—cont.

out of the funds, rates and revenues of the Council<sup>(1)</sup> to pay [at the term of ] [on the day of ] nineteen hundred and to the mortgagee or his executors or assignees the said sum of (amount in words) and also to pay the interest thereon at the rate of per centum per annum from the date hereof half-yearly [at the terms of Whitsunday and Martinmas] [on the day of and the day of ] in each year till the said sum is paid; and for the further security of the mortgagee we do hereby assign to the mortgagee and his executors and assignees such proportion of the said funds, rates and revenues for the time being of the Council<sup>(1)</sup> as shall be equivalent to the said sum now paid to us and the interest thereon as aforesaid; *(where interest is payable by coupons or interest warrants delivered with the mortgage, add and for and in respect of the said interest we shall pay the several sums contained in the interest warrants bearing the number and date hereof and delivered herewith and that at the several times mentioned in such warrants upon delivery of the same respectively, and such delivery shall be a sufficient receipt and discharge to us for the contents of such warrants); (Add also if desired—*Declaring that neither the mortgagee nor his foresaids shall be entitled to grant nor shall we be bound to recognise or register any partial transfer of these presents or of the sums of money principal or interest herein contained); and we consent to the registration hereof for preservation and execution.

<sup>(2)</sup> Sealed with the common seal of the Council and subscribed on behalf of the Council by one member of the Council, and the Clerk on the day of nineteen hundred and

.....Councillor.

(SEAL)

.....Clerk.

Entered in the Register of Mortgages of date.....

.....

.....Registrar<sup>(3)</sup>.

Notes:

- (<sup>1</sup>) In the case of a burgh having a common good, there should be added here " (other than the common good of the burgh and the revenues thereof)."
- (<sup>2</sup>) In the case of a mortgage by a district council not having a common seal, the mortgage must be subscribed by two members of the council and the clerk and attested by two witnesses, and a testing clause in usual form inserted.
- (<sup>3</sup>) If the treasurer is not the registrar, there shall be added at the end of the mortgage a receipt by the treasurer for the principal sum paid by the mortgagee.



(2) FORM OF TRANSFER OF MORTGAGE.

7TH SCH.  
—cont.

(To be endorsed on Mortgage.)

I, A. B., within designed, in consideration of the sum of  
(*amount in words*) pounds paid to me  
by D. E. of F., do hereby transfer to the said D. E. and his  
executors and assignees the within mortgage and all interest thereon  
and all my right, title and interest in and to the money thereby  
secured in and to the funds, rates and revenues thereby assigned.

In witness whereof these presents (*insert testing clause in usual  
form*).

(3) FORM OF MINUTE OF RENEWAL OF MORTGAGE.

(To be endorsed on Mortgage.)

It has been agreed upon between the Council and the  
mortgagee within named and designed that the repayment of  
the principal sum contained in the within mortgage shall be  
postponed and that the said principal sum shall be repayable  
[at the term of ] [on the day of ]  
nineteen hundred and and that interest thereon at the rate  
of per centum per annum shall be payable half yearly  
[at the terms of Whitsunday and Martinmas] [on the  
day of and the day of ] in each year  
until the said principal sum is repaid, (*where interest is payable by  
means of coupons or interest warrants delivered with the minute of  
renewal, add which interest shall be paid on presentation of the  
respective interest warrants in number issued herewith*).

Dated the day of nineteen hundred  
and

Signed for and on behalf of the Council.

.....Clerk.

.....Mortgagee.

(4) FORM OF DISCHARGE OF MORTGAGE.

(To be endorsed on Mortgage.)

Received from the Council within named the sum of  
(*amount in words*) pounds sterling being the principal  
sum due under the within mortgage, with all interest due thereon.

Dated the day of nineteen hundred  
and

.....Mortgagee.

Section 275.

## EIGHTH SCHEDULE.

RULES REGULATING THE ADMINISTRATION OF A LOANS FUND  
ESTABLISHED BY A COUNTY COUNCIL OR TOWN COUNCIL UNDER  
THIS ACT.

Interpretation.

*General.*

1. In these rules, unless the context otherwise requires—

“advance”, in relation to the loans fund and a borrowing account of a council, means the transfer of money by way of loan from the loans fund to the appropriate borrowing account in exercise of a statutory borrowing power;

“appointed day” means the day (being the commencement of a financial year) fixed by the council as the day from which a loans fund shall be established by the council;

“borrowing account”, in relation to a council, means an account of the council relating to a purpose for which the council have a statutory borrowing power;

“council” means a county council or a town council having a loans fund;

“loans fund” means a loans fund established under this Act;

“year” means the financial year of the council.

2. Any statutory borrowing power vested in the council on or after the appointed day shall be exercised by the council in manner following and not otherwise, that is to say:—

(a) by borrowing in accordance with the provisions of this Act and carrying to the loans fund such sums as are necessary to enable that fund to make to the appropriate borrowing account of the council or to the other local authority the advances which are required for the purpose for which the statutory borrowing power is available; and

(b) by making from the loans fund such advances to the appropriate borrowing account of the council or to the other local authority, as the case may be.

*Accounts of Loans Fund.*

3. The council shall keep the accounts relating to the loans fund separate from the other accounts of the council.

4. The loans fund shall be kept in two Parts:—

Part I containing a record of all assets and liabilities of the fund classified as follows:—

(a) Assets—

(1) Sums advanced to the various borrowing accounts of the council.

(2) Any loans to other local authorities which the council may be authorised to make.

(3) Investments.

Method of  
exercise of  
statutory  
borrowing  
power.

Accounts of  
loans fund.

Loans fund  
to be kept in  
two parts,  
assets and  
liabilities and  
revenue and  
expenditure.

- (4) Deferred charges.
- (5) Any other assets.
- (b) Liabilities—
  - (1) Mortgages created by the council.
  - (2) Stock issued by the council.
  - (3) Any other liabilities.

8TH SCH.  
—cont.

Part II containing a record of the revenue and expenditure of the fund classified as follows:—

(a) Revenue—

- (1) Interest from the various borrowing accounts of the council—
  - (i) in respect of advances on account of capital;
  - (ii) in respect of advances for ordinary expenditure.
- (2) Interest on loans to other local authorities made by the council.
- (3) Income from investments.
- (4) Other income including unclaimed interest and dividends.

(b) Expenditure—

- (1) Interest and dividends on mortgages, stock and other loans to the council.
- (2) Loans fund expenses including stamp duties.

*Provisions relating to Capital.*

5. All money in the hands of the council on the appointed day in respect of any sinking or other fund established for the redemption of loans to the council, all other capital money in the hands of the council on the said day and available for the repayment of loans and any unapplied balance of money borrowed by the council (including any investments representing such money or balance) shall be paid into and form part of the capital money of the loans fund, and all liabilities of the council in respect of borrowed money outstanding on the appointed day shall be transferred to and form part of the liabilities of the fund.

Transfer to loans fund of assets and liabilities on appointed day.

6. The following sums shall be paid into the loans fund as capital money when received or, in the case of sums specified in paragraphs (c) and (e) hereof, when due, that is to say—

Payments of capital money to loans fund.

- (a) all money borrowed by the council in the exercise of their statutory borrowing powers, including money forming part of any capital fund (within the meaning of section eight of the Local Authorities Loans Act, 1945) belonging to or held by the council transferred by authority of the council to the loans fund for the purpose of being used under the provisions of this Act in exercise of a statutory borrowing power;
- (b) all money of a capital nature received by the council whether from the sale of capital assets or otherwise, except such as is properly applicable to another capital purpose;

8TH SCH.  
—cont.

- (c) the appropriate periodical sums required to be set aside by the council out of the various borrowing accounts for the repayment of advances made from the loans fund to these borrowing accounts;
- (d) the appropriate periodical sums and other sums paid by other local authorities in repayment of advances to those authorities;
- (e) any other money which is directed in pursuance of these rules to be carried to the loans fund and treated as capital money in the loans fund.

Capital  
payments from  
loans fund.

7.—(1) Capital money in the loans fund may be applied—

- (a) in the exercise of any statutory borrowing power of the council duly authorised by the council, by advancing the required amount to the appropriate borrowing account of the council or in making loans to other local authorities;
- (b) in the redemption of securities created by the council, in the purchase of stock for extinction or in the repayment of any money borrowed by the council;
- (c) in defraying the expenses incurred by the council in the creation and issue of stock so far as the same are not defrayed under rule 13 hereof; and
- (d) in defraying any other charges which are directed in pursuance of these rules to be defrayed out of capital money in the loans fund.

(2) Any capital money in the loans fund, not so applied or not about to be so applied within a reasonable period, shall be invested in trustee securities, and the sums realised by the sale of such securities shall on receipt be paid into the loans fund as capital money.

(3) Capital money in the loans fund shall not be applied otherwise than in accordance with the provisions of the preceding paragraphs of this rule.

Conditions  
regulating  
advances.

8.—(1) Advances from the loans fund to a borrowing account shall so far as practicable be made on the fifteenth day of May in each year, so however that if the advance is made on some other date interest shall be charged in accordance with the provisions of paragraph (4) (a) of rule 18 hereof.

- (2) The council shall at the time an advance is made determine—
  - (a) the period within which the advance is to be repaid to the loans funds, so however that the period shall not exceed that prescribed by the enactment or statutory order regulating the statutory borrowing power; and
  - (b) the amount of each of the periodical payments required to repay the advance within the period so determined, and the date on which the first of the said payments is to be made. The payments shall be either equal yearly or half-yearly instalments of principal or, where the advance is to be repaid on the annuity system, equal yearly or half-yearly instalments of principal and interest combined, the amount of principal included in each instalment being separately stated.

8TH SCH.  
—cont.

(3) The periodical payments shall so far as practicable be so adjusted as to be expressed in complete pounds.

(4) The appropriate sums required for the repayment of advances to the loans fund shall be set aside, in the case of yearly repayments on the fifteenth day of May, and in the case of half-yearly payments on the fifteenth day of May and the eleventh day of November in each year.

(5) The amount advanced from the loans fund in exercise of a statutory borrowing power of the council to the appropriate borrowing account of the council shall be diminished each year by the amount of capital paid into the loans fund during the year in respect of that borrowing power.

(6) Whenever capital money (other than money borrowed by the council) is paid into the loans fund, the periodical payments in respect of the advances affected, or if there is no such advance affected, the periodical payments in respect of an advance for a like purpose, or if there is no such advance, the periodical payments in respect of such other advance as the council may determine, shall be adjusted.

(7) This rule shall apply with the necessary modifications in the case of loans by the council to another local authority.

9.—(1) Any money borrowed by the council before the appointed day in exercise of a statutory borrowing power less—

Borrowing  
powers exer-  
cised before  
appointed day.

(a) the amount by which the loan has been reduced by repayment or extinction before the appointed day, and

(b) the amount on the appointed day of any sinking or other fund provided in connection with the redemption thereof, any investments forming part thereof being taken at the market selling value on that day, and

(c) the amount of any unexpended balance of the money borrowed transferred to the loans fund,

shall be deemed to have been provided by means of an advance from the loans fund to the appropriate borrowing account.

(2) The net amounts of the advances so calculated, together with particulars of the appropriate instalments to be repaid during the remainder of the period prescribed by the enactments relating to the statutory borrowing power, shall be entered in the register of advances hereinafter mentioned.

(3) Where before the appointed day provision is being made for the repayment of any sum borrowed by the council by means of an accumulating sinking fund within the meaning of section two hundred and sixty-five of this Act or by instalments on the annuity system, the council may if they think fit determine that the instalments to be transferred to the loans fund during the remainder of the period prescribed by the statutory borrowing power shall be equal yearly or half-yearly instalments of principal.

10. The council shall, in addition to any other registers required to be kept under this Act or under regulations made under this Act, keep a register of the advances made out of the loans fund to the borrowing accounts of the council, setting out all arrangements in

Register of  
advances.

8TH SCH.  
—*cont.*

regard to repayment, and all periodical payments in respect of such advances shall be duly entered in the register.

Redemption  
of debt.

11. The council shall so administer the capital money of the loans fund as to ensure that, at the date when the holders of any security created by the council become entitled to claim redemption or repayment thereof, sufficient money is available for the purpose.

Deferred  
charges and  
liquidation  
thereof.

12.—(1) The expenses incurred in the creation and issue of stock by the council which are under rule 7 hereof defrayed out of the capital money in the loans fund, together with any discount liability which has been assumed by the council in respect of the redemption of stock at a value exceeding the price at which the stock was issued, shall be treated for the purposes of these rules as "deferred charges."

(2) There shall be defrayed in each year out of the revenue money of the loans fund, and debited so far as it relates to discount to the interest account hereinafter mentioned, and so far as it relates to expenses to the loans fund expenses account hereinafter mentioned, such proportion of the deferred charges incurred in respect of each issue of stock as the council may determine, not being less than the proportion of the said charges which one year bears to the number of complete years which will elapse before that stock first becomes redeemable by the council.

Premiums  
received on  
issues of stock.

13. The expenses incurred by the council in the creation and issue of stock shall be a first charge on any sums received as premiums in respect of that issue, and such proportion of the remainder, if any, of the sums so received as corresponds with the proportion which one year bears to the number of complete years which will elapse before that stock first becomes redeemable by the council shall be appropriated in each year to the revenue purposes of the loans fund and credited to the interest account.

Valuation of  
assets and  
liabilities.

14.—(1) All investments transferred to the loans fund on the appointed day under rule 5 hereof shall be entered in the accounts of the loans fund at their market selling value on that day.

(2) Save as aforesaid, any investment of money of the loans fund shall be entered in the accounts of the loans fund at its cost price exclusive of the expenses of investment.

(3) Any stock issued by the council before the appointed day the liabilities in respect of which are transferred to the loans fund shall be entered in the accounts of the loans fund at the value at which the stock is to be redeemed.

Profits and  
losses.

15. There shall be ascertained at the close of each year the net profit or loss which has arisen during the year on—

- (a) the realisation of investments,
- (b) the repayment of loans, and
- (c) the purchase of stock or other securities of the council below or above the value at which they stand in the books of the loans fund,

and the net profit or loss so ascertained (so far as the same is not transferred or met under the immediately succeeding rule) shall be

transferred to the credit or debit of the loans fund expenses account at the close of the year:

8TH SCH.  
—cont.

Provided that the Secretary of State may on the application of the council sanction part of the net profit or loss not being so transferred but being applied or liquidated in accordance with a scheme made by the council and approved by the Secretary of State.

16.—(1) There shall be transferred to the credit of an account called the loans fund reserve account the net profit ascertained under the immediately preceding rule in any year or such part of the net profit as the council consider proper, having regard to the purposes of the account. Loans fund  
reserve  
account.

(2) The council may, and if required by the Secretary of State shall, transfer to the credit of the loans fund reserve account from the loans fund expenses account such sum as the council or the Secretary of State, as the case may be, may consider to be reasonable in respect of the depreciation in the valuation of the investments of the loans fund.

(3) A valuation of the investments of the loans fund shall be made as at the close of each year and a statement appended to the balance sheet showing the amount of any depreciation as at the said date in the total selling value of those investments as against the total value at which they are entered in the accounts of the loans fund and the total amount, if any, which has been transferred to the loans fund reserve account under the immediately preceding paragraph of this rule and is at the time available to meet the said depreciation.

(4) Any money at the credit of the loans fund reserve account may be applied in the manner following but not otherwise:—

- (a) in or towards meeting any net loss ascertained under the immediately preceding rule in any year; or
- (b) in reduction of the periodical repayment instalments by the borrowing accounts to the loans fund over such period of years as the council may determine, so however that the council shall allocate the total annual amount to be applied towards such reduction among the borrowing accounts in the manner provided for in rule 19 hereof:

Provided that no sum shall be applied under paragraph (b) hereof unless the council are satisfied that there will remain in the account an ample reserve in respect of depreciation in the valuation of the investments of the loans fund.

#### *Provisions relating to Revenue.*

17. The council shall from time to time pay to the loans fund such sums as are required from time to time to enable the fund to meet the interest payable on sums borrowed by the council and any other sums directed to be debited to the interest account and the expenses of the loans fund and any other sums directed to be debited to the loans fund expenses account, which sums shall be provided by the several borrowing accounts of the council in accordance with the provisions of rules 18 and 19 hereof. Revenue and  
expenditure.

8TH SCH.  
—cont.  
Interest  
account.

18.—(1) There shall be charged to the interest account and credited to each account of the council which has from time to time during the year any revenue balance in the loans fund interest at a rate to be determined by the council.

(2) There shall be charged to the interest account and credited to each account of the council from which a capital sum (otherwise than by way of reduction of an advance) has during the year been carried to the loans fund interest at a rate to be determined by the council, such rate being equal as nearly as may be to the rate of interest which would be payable on money borrowed during the year of account under a statutory borrowing power.

(3) There shall be charged to each borrowing account of the council which has from time to time during the year received temporary advances of money from the loans fund for current and other expenses, and credited to the interest account interest at a rate to be determined by the council.

(4) Subject to the provisions of this paragraph and of the immediately succeeding paragraph of this rule, the amount of the interest payable during the year by the council on sums borrowed by the council (including interest credited to accounts of the council under paragraphs (1) and (2) of this rule) after deducting the interest received during the year on investments and on loans to other local authorities and the interest charged to borrowing accounts in respect of temporary advances under paragraph (3) of this rule, and allowing for any sums directed by or in accordance with these rules to be debited or credited to the interest account (in this rule referred to as "the net amount"), shall be apportioned at the close of the year between the several borrowing accounts of the council in the manner following, that is to say:—

- (a) there shall first be charged or allowed to each borrowing account, in respect of any advance or repayment of an advance which has been made or received during the year the appropriate amount in respect of interest for the period between the date of the advance or repayment and the close of the year, calculated at the average rate payable by the council on money borrowed on account of the loans fund;
- (b) the net amount (adjusted to give effect to paragraph (a) hereof) shall be apportioned among the borrowing accounts in the proportion which the advances to each borrowing account outstanding at the commencement of the year bear to the total of the outstanding advances to all the borrowing accounts at such commencement:

Provided that—

- (i) the council may, in the case of local bonds under the Housing (Scotland) Acts, 1925 to 1946, or in any other case where special circumstances exist, make such special charge on account of interest as the council think equitable; and
- (ii) wherever the charge in respect of interest affects the amount of any Exchequer grant, such charge shall be subject to the approval of the Minister concerned.



(5) The council in their discretion may, in lieu of the provisions of the immediately preceding paragraph of this rule but subject always to the proviso thereto, apportion the net amount for any year among the accounts of the council in proportion to the average amount of advances to each borrowing account during the year, so however that if this method of apportionment is adopted, the amount of advances to each borrowing account shall be adjusted by monthly transfers between the loans fund and the several borrowing accounts, and the monthly amounts so ascertained for each account shall form the basis for calculating the average amount of advances to each borrowing account during the year.

19. There shall be ascertained at the close of each year all revenue expenditure (exclusive of interest) in connection with the loans fund during the year, including without prejudice to the said generality— Loans fund expenses account.

- (a) any expenses in connection with borrowing money (other than expenses of the creation and issue of stock),
- (b) any annual contribution to meet deferred charges, so far as they relate to expenses of the creation and issue of stock,
- (c) any loss in connection with investments debited to the loans fund expenses account under rule 15 hereof, and any sums transferred to the credit of the loans fund reserve account from the loans fund expenses account under rule 16 hereof, and
- (d) any other expenses incurred in connection with the management or investment of the loans fund, including such proportion of the remuneration of officers and general administration expenses of the council as may reasonably be allocated to the fund;

and from the total expenditure so ascertained there shall be deducted—

- (a) any items of expenditure during the year which are specifically and properly chargeable to borrowing accounts of the council,
- (b) any profit in connection with investments credited to the loans fund expenses account during the year under rule 15 hereof, and
- (c) any fees or other revenue receipts of the loans fund;

and the balance remaining shall be apportioned among the borrowing accounts in the proportion which the advances to each borrowing account outstanding on the last day of the year bear to the total of all such advances at that date:

Provided that the council may in their discretion apportion the said balance among the borrowing accounts of the authority in proportion to the average amount of advances to each borrowing account during the year, so however that, if this method of apportionment is adopted, the amount of advances to each borrowing account shall be adjusted by monthly transfers between the loans fund and the several accounts, and the monthly amounts so ascertained for each account shall form the basis of calculating the average amount of advances to each borrowing account during the year.

## 8TH SCH.

*Balance Sheet, Certification of Accounts and Report by Auditor.*

—cont.

Balance sheet,  
certification of  
accounts and  
report by  
auditor.

20. A separate balance sheet of the loans fund of the council shall be prepared as at the close of each year, and the accounts relating to the loans fund as well as the balance sheet shall be certified as to the correctness thereof by the treasurer of the council, and the auditor of the accounts of the council shall at least once in every year make a report to the council setting forth—

- (a) the enactments (including this Act) and statutory orders under which sums have been borrowed by the council and advances made to the borrowing accounts of the council, and whether the council have duly paid into the loans fund the interest due by the borrowing accounts and the appropriate periodical sums required to be set aside for the repayment of advances made from the loans fund to the borrowing accounts; and
- (b) whether the provisions of these rules have otherwise been duly complied with.

*Miscellaneous.*Default by  
council.

21. In the event of it appearing at any time from a report by the auditor of the accounts of the council or otherwise that the council have failed duly to make payment of interest or of the appropriate periodical sums required to be set aside for the repayment of advances made from the loans fund as aforesaid, or that the provisions of these rules have otherwise not been duly complied with, it shall be competent for the Secretary of State to apply by petition to the Court of Session to have the council ordained to make such payment and to comply in such other manner with the provisions of these rules as may be necessary in the circumstances, and the Court are hereby authorised to do therein as shall appear to be just.

Investigation of  
loans fund.

22. Without prejudice to the provisions of the preceding rule, the Secretary of State may from time to time as he thinks fit cause an investigation to be made into the administration of the loans fund of the council, and the expenses of such investigation shall be defrayed by the council.

Loans fund  
regulations.

23. Notwithstanding anything in this Schedule, the Secretary of State may from time to time by regulations make such modifications in or additions to any of these rules as appear to him necessary or desirable and such regulations may apply generally or in the case of any particular council or class of council.

Section 315.

## NINTH SCHEDULE.

ENACTMENTS UNDER WHICH THE FUNCTIONS OF A COUNTY COUNCIL  
ARE SO FAR AS RELATING TO A LARGE BURGH TRANSFERRED TO THE  
TOWN COUNCIL OF THE BURGH.

1. The Explosives Acts, 1875 and 1923.
2. The Destructive Insects and Pests Acts, 1877 to 1927.
3. The Diseases of Animals Acts, 1894 to 1937.

4. The Blind Persons Act, 1920.
5. The Rats and Mice (Destruction) Act, 1919.
6. The Fertilisers and Feeding Stuffs Act, 1926.
7. The Wireless Telegraphy (Blind Persons' Facilities) Act, 1926.

9TH SCH.  
—cont.  
9 & 10 Geo. 5.  
c. 72.  
16 & 17 Geo. 5.  
c. 45.

---

TENTH SCHEDULE.

---

Section 317.

PROVISIONS WITH RESPECT TO THE CONSTRUCTION OF ACTS AND  
DOCUMENTS AND OTHER MATTERS IN CASE OF TRANSFER OF  
FUNCTIONS.

1. All books, records and other documents relating exclusively to any function transferred by or by virtue of this Act shall be delivered to the transferee authority, who shall also have access at all reasonable times to any books, records or other documents relating in part to any function so transferred.

2. Any reference in any enactment or statutory order to the authority being the transferor authority under this Schedule shall, so far as necessary for the purposes of the transfer of functions by or by virtue of this Act, be construed as a reference to the authority being the transferee authority under this Schedule.

3. All contracts, deeds, agreements, regulations, byelaws, notices and other instruments and documents affecting any functions transferred by or by virtue of this Act, so far as relating to such transfer, shall be of full force and effect in favour of or against the transferee authority and may be enforced as fully and effectually as if instead of the authority named in the instrument or document the transferee authority had been a party thereto.

4. Where anything has been commenced by or under the authority of the transferor authority before the date on which the transfer takes effect and such thing is in relation to a function transferred by or by virtue of this Act, such thing, so far as relating to the transfer, may be carried on and completed by or under the authority of the transferee authority.

5. Where at the date on which the transfer takes effect any legal or other proceeding is pending to which a transferor authority are a party and such proceeding has reference to a function transferred by or by virtue of this Act, the transferee authority shall, so far as relating to the transfer, be substituted in such proceeding for the transferor authority, and such proceeding shall not lapse or abate by reason of the substitution.

6. Any cause of action by or against any transferor authority which exists at the date on which the transfer takes effect in relation to any function transferred by or by virtue of this Act shall not be prejudicially affected by the transfer, but may, so far as relating to the transfer, be prosecuted or enforced by or against the transferee authority as successors of the transferor authority.

Section 318.

## ELEVENTH SCHEDULE.

PROVISIONS AS TO THE DETERMINATION AND PAYMENT OF  
COMPENSATION TO OFFICERS IN CASE OF TRANSFER OF FUNCTIONS.Procedure  
for claiming  
compensation.

1.—(1) For the purpose of enabling a claim for compensation to be assessed, the claimant shall deliver to the local authority with the claim a statement containing such particulars as may be prescribed.

(2) The said statement shall be accompanied by a statutory declaration that it is a true statement to the best of the knowledge, information and belief of the claimant.

(3) The local authority shall forthwith take the claim into consideration and assess the just amount of compensation, if any, and shall forthwith inform the claimant of their decision.

(4) A claimant, if so required by any member of the local authority by notice sent by the clerk of the authority, shall attend at a meeting of the authority or of any committee appointed by the authority for the purpose, and answer on oath all questions asked by any member of the authority or committee touching the matters set forth in his claim and in the said statement, and shall further produce all books, papers and documents in his possession or under his control relating to the claim. The oath shall be administered in the case of a county council by the convener or vice-convener, in the case of a town council by the provost or acting chief magistrate, and in the case of a district council by the chairman of the council, or in any case by any justice of the peace present at the meeting.

(5) If a local authority fail to inform any claimant of their decision on his claim within six months after it has been delivered to them, the Secretary of State may, on application made to him by the claimant, direct the authority to do so within such time not being less than one month as may be specified in the direction.

(6) A claim for compensation against a local authority shall not be maintainable unless it is delivered to the authority within two years of the date on which it is alleged to have arisen.

General  
considerations  
to be applied.

2. For the purpose of determining whether compensation is payable to an officer and, if so, the amount of such compensation, regard shall be had to—

- (a) the conditions upon which his appointment was made;
- (b) the nature of his office;
- (c) all the other circumstances of the case.

Power to award  
compensation  
by way of a  
lump sum.

3. Compensation shall be awarded by way of an annual sum unless the local authority and the claimant otherwise agree, in which case the compensation may be awarded by way of a lump sum representing the capital value of an annual sum.

4.—(1) The annual sum payable as compensation in respect of the determination of a whole-time office shall not exceed the aggregate of the following sums:—

11TH SCH.  
—cont.  
Assessment  
of compensation  
for determina-  
tion of whole-  
time office.

- (i) for every year of the officer's service, one-sixtieth of an amount equal to the annual pecuniary loss which he has sustained by reason of the determination of the office;
- (ii) in the case of service for twenty years or upwards, a sum equal to ten-sixtieths of the said amount;  
in the case of service for fifteen years and less than twenty years, a sum equal to seven-sixtieths of the said amount;  
in the case of service for ten years and less than fifteen years, a sum equal to five-sixtieths of the said amount;  
in the case of service for five years and less than ten years, a sum equal to three-sixtieths of the said amount;  
in the case of service for less than five years, a sum equal to one-sixtieth of the said amount; and
- (iii) in the case of an officer who was appointed as a specially qualified person or who before his appointment had been employed (otherwise than in an office within the meaning of this Schedule) as a depute, assistant or clerk by a permanent officer for the purpose of the discharge of the latter's official duties, such additional sum, if any, not exceeding ten-sixtieths of the said amount as the local authority, in their discretion and in consideration of his special qualifications or of his previous employment, as the case may be, may think fit to award:

Provided that the compensation shall not in any event exceed two-thirds of the said amount.

(2) In assessing the amount of any pecuniary loss sustained by an officer by reason of the determination of his office, regard shall be had as respects any emoluments either—

- (a) to the amount of those emoluments received by him in respect of that office immediately before the material date; or
- (b) to the average amount of those emoluments received by him in respect of that office during the period of five years next before the material date, or such shorter period as may be reasonable in the circumstances.

(3) In assessing the amount of any pecuniary loss sustained by an officer by reason of the determination of his office, regard shall also be had to—

- (a) any increase of the emoluments enjoyed by the officer at the material date which he has obtained in consequence of the transfer of functions; and
- (b) the emoluments of any office or other public appointment which he would have obtained on or after that date if he had accepted an offer made to him.

5. In the case of a claim for compensation in respect of the determination of a part-time office, the compensation, if any, which would

Assessment of  
compensation

11TH SCH.  
—cont.  
for determina-  
tion of part-  
time office.

have been payable if the office had been a whole-time office shall be reduced by one-quarter or by such other amount as may in the circumstances be reasonable:

Provided that no reduction shall be made in the case of an officer who immediately before the material date held two or more offices and who devoted the whole of his time to the duties of such offices.

Assessment  
of compensation  
for diminution  
of emoluments.

6. In the case of an officer who suffers any diminution of the emoluments of an office, the compensation shall not exceed a sum bearing the same proportion to the amount of compensation which could have been awarded if his office had been determined as the amount by which the emoluments of the office are diminished bears to the amount of those emoluments before diminution.

Rules for  
computing  
period of  
service.

7.—(1) In computing the period of service of an officer for the purposes of assessing any compensation payable to him, account shall, subject to the provisions of the sub-paragraphs of this paragraph, be taken of all the service in any capacity of the officer under any local authority, whether he was appointed annually or otherwise.

(2) Where the material date has occurred at any time other than the expiration of a complete year of an officer's service, the portion then expired of that year shall be treated as a complete year if it exceeds six months and, if it does not, shall be ignored.

(3) Where the claim is in respect of the loss of a whole-time office or of two or more offices which in the aggregate involve the whole-time service of the officer, any previous period of part-time service shall be treated as though it were whole-time service for a proportionately reduced period.

(4) Where the claim is in respect of the loss of one or some only of several offices held by the officer, account shall not be taken of service in an office which the officer continues to hold unless throughout the period of his service in that office he devoted the whole of his time to the duties of the several offices held by him.

(5) Where the claim is in respect of the loss of an office held by an officer who while holding that office was also employed in an office the employment in which is ordinarily regarded as full-time employment, no account shall be taken of service in the last-mentioned office.

(6) If an officer was temporarily absent from his office during any war whilst serving in His Majesty's forces or the forces of any Allied or Associated Powers or on any other form of war service within the meaning of the Local Government Staffs (War Service) Act, 1939, such period of temporary absence shall be reckoned as service under that authority:

2 & 3 Geo. 6.  
c. 94.

Provided that in the case of an officer who after the eleventh day of November nineteen hundred and eighteen voluntarily extended his term of service in the forces, no period of absence during any such extension shall be reckoned.

Right of appeal.

8. An appeal may be submitted to the Secretary of State—

(1) by a claimant who is aggrieved by the failure of a local authority to inform him of their decision upon his claim within the time required by any direction of the Secretary

of State or by the refusal of the authority to grant any compensation or by the amount of compensation assessed, within three months after the failure or after the date on which he receives notice of the decision of the authority, as the case may be, and

11TH SCH.  
—cont.

- (b) if not less than one-third of the members of a local authority subscribe to a protest against the amount of compensation granted by the authority as being excessive, by any subscriber to the protest, within three months after the decision of the authority,

and the Secretary of State shall consider the case and determine whether any compensation and if so what amount ought to be granted to the claimant, and his determination shall be final.

9. The sum payable as compensation shall be or commence to be payable at the date fixed by the local authority on granting compensation or, in the case of appeal, by the Secretary of State, and shall be recoverable as a debt due from the authority.

Date on which  
compensation  
commences.

10.—(1) If a person receiving compensation in pursuance of the provisions of this Act—

Suspension of  
compensation.

- (a) obtains any office or other public appointment, or  
(b) receives by virtue of anything done in consequence of the transfer of functions any increase of the emoluments which were enjoyed by him at the date as at which the compensation was assessed,

he shall not, so long as he holds that office or other public appointment or receives those increased emoluments, be entitled to receive any greater sum by way of compensation in respect of the office for which compensation is awarded than would make up the amount, if any, by which the emoluments which he is receiving fall short of the emoluments of the office in respect of which compensation was awarded:

Provided that where a person held two or more offices at the date as at which the compensation was assessed or has been awarded compensation in respect of two or more offices, the Secretary of State may, on the application of that person or of any authority by whom the compensation is payable, modify the operation of the foregoing sub-paragraph in relation to that person so far as is in the opinion of the Secretary of State necessary in order equitably to meet the circumstances of the case.

(2) Where an officer to whom compensation has been awarded in pursuance of the provisions of this Act subsequently becomes entitled to a superannuation allowance in respect of any office or other public appointment which he has accepted after the material date, and in calculating the amount of such allowance account is taken of any period of service in respect of which compensation is payable, then if the compensation does not exceed such part of the superannuation allowance as is attributable solely to that service, the compensation shall cease to be payable, and if it exceeds such part of the superannuation allowance as aforesaid, it shall be reduced by an amount equal to that part of the allowance.

11TH SCH.  
—cont.  
Forms.

11. The Secretary of State may prescribe the form of any notice, statement, award or other document to be used in connection with a claim for compensation, and the forms so prescribed or forms substantially to the like effect shall be used in all cases to which the forms are applicable.

Interpretation.

12. For the purposes of this Schedule—

“ Public appointment ” means any employment the emoluments of which are payable out of public funds;

“ Service ” means whole-time or part-time service in any office after the officer has attained the age of eighteen years;

“ Material date ” means the date on which the determination of office or diminution of emoluments, as the case may be, takes effect.

Section 338.

## TWELFTH SCHEDULE.

MAXIMUM RATES OF ALLOWANCES IN RESPECT OF TRAVELLING AND OTHER PERSONAL EXPENSES NECESSARILY INCURRED AND TIME NECESSARILY LOST FROM ORDINARY EMPLOYMENT BY MEMBERS OF A COUNTY COUNCIL OR OF ANY COMMITTEE OR SUB-COMMITTEE THEREOF IN ATTENDING MEETINGS.

### PART I.

#### *Travelling Expenses.*

A sum representing the amount of third-class railway fare or first-class steamer fare between the place of meeting and the ordinary place of residence of the member of the council, committee or sub-committee. In so far as there is no railway service but a public service by some other means of transport is available, the amount of the fare by such other means of transport, and in so far as there is no railway or other public means of transport, the cost of a hired conveyance if such cost is approved by the council.

### PART II.

#### *Other Personal Expenses.*

(a) When attendance at the meeting has entailed absence from the ordinary place of residence of the member of not less than four hours, the sum of three shillings and fourpence.

(b) Where such attendance has entailed an absence from the ordinary place of residence of the member of not less than eight hours, the sum of six shillings and eightpence.



(c) Where such attendance has entailed one or more nights of absence from the ordinary place of residence of the member, the sum of one pound for each night necessarily spent away from home. Each such payment of one pound shall cover a period of twenty-four hours, and paragraph (a) or (b), as the case may be, shall apply in the case of any further period of absence of less than twenty-four hours.

12TH SCH.  
—cont.

PART III.

*Time Necessarily Lost from Ordinary Employment.*

The sum of seven shillings and sixpence for each half-day, and the sum of fifteen shillings for each full day, necessarily so lost.

THIRTEENTH SCHEDULE.

Section 378.

ENACTMENTS CEASING TO HAVE EFFECT.

| Session and Chapter.    | Short Title.                                             | Extent to which enactment shall cease to have effect.                                                                                                                        |
|-------------------------|----------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 20 & 21 Vict.<br>c. 70. | The Boundaries of Burghs Extension (Scotland) Act, 1857. | The Act so far as relating to the extension of the boundaries of burghs.                                                                                                     |
| 20 & 21 Vict.<br>c. 71. | The Lunacy (Scotland) Act, 1857.                         | Section fifty-seven (which provides for the county making over asylum to the district board having deduction from amount of assessment).                                     |
| 25 & 26 Vict.<br>c. 54. | The Lunacy (Scotland) Act, 1862.                         | Section ten (which provides for counties or parishes providing asylum accommodation to be relieved from assessments).                                                        |
| 38 & 39 Vict.<br>c. 17. | The Explosives Act, 1875.                                | In section seventy-two (which relates to the provision of magazines by local authorities) the words "in the case of a council of the Treasury and".                          |
| 39 & 40 Vict.<br>c. 49. | The Burghs Gas Supply (Scotland) Act, 1876.              | In section five (which relates to the approval of a resolution to adopt the Act) the words from "and in the event of" to the end of the section.                             |
| 52 & 53 Vict.<br>c. 50. | The Local Government (Scotland) Act, 1889.               | In section fourteen (which relates to the transfer of administration of certain Acts in burghs under 7,000) the words from "Provided also that if" to the end of the section |

13TH SCH.  
—cont.

| Session and Chapter.         | Short Title.                                      | Extent to which enactment shall cease to have effect.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|------------------------------|---------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 52 & 53 Vict.<br>c. 50—cont. | The Local Government (Scotland) Act, 1889—cont.   | <p>Section fifteen (which relates to the transfer to county councils of powers of certain Government Departments and other authorities).</p> <p>In section thirty (which relates to election of councillors in a county), in subsection (7), the words from "and shall at the "same time" to the end of the subsection.</p> <p>In section fifty-one (which relates to alteration of boundaries of areas) paragraph (b), and paragraph (c) so far as it relates to the alteration of the boundaries of any burgh.</p> <p>In section fifty-five (which confers power on the county council to enforce the provisions of the Rivers Pollution Prevention Act, 1876) in subsection (3), the words "by provisional order "made on the application of the "council of any of the counties "and burghs concerned."</p> <p>Section sixty-one (which relates to proceeding for determining questions as to transfer of powers).</p> <p>Section sixty-three (which relates to power to modify regulations as to rating).</p> <p>Section sixty-four, so far as it relates to inspection of estimates and making copies thereof or extracts therefrom.</p> <p>In section sixty-seven (which relates to borrowing by a county council) in subsection (4), the words "but not to an amount "greater than one-half of such "part of such rates."</p> <p>In section seventy-five (which relates to payments out of the county fund) subsection (4).</p> |
| 54 & 55 Vict.<br>c. 34.      | The Local Authorities Loans (Scotland) Act, 1891. | The whole Act (which provides facilities for the raising of money by local authorities) so far as applying to district councils.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 54 & 55 Vict.<br>c. 52.      | The Public Health (Scotland) Amendment Act, 1891. | Section six (which relates to the power to abolish certain special water districts).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

| Session and Chapter.    | Short Title.                           | Extent to which enactment shall cease to have effect.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-------------------------|----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 55 & 56 Vict.<br>c. 55. | The Burgh Police (Scotland) Act, 1892. | <p>Section eleven (which relates to revision of boundaries of burghs) so far as applying to large burghs.</p> <p>Section twelve (which enables municipal boundaries to be extended to police boundaries and police boundaries to municipal or parliamentary boundaries).</p> <p>Sections forty-five and forty-six (which provide for conferring special powers by provisional orders).</p> <p>Section two hundred and twenty-six (which relates to the preparation of estimates before execution of works).</p> <p>In section three hundred and six (which relates to the procedure and restrictions in cases of special orders) the words from "Provided always", where those words first occur, to the end of the section.</p> <p>Section three hundred and eighteen (which relates to byelaws to be confirmed) so far as it requires byelaws to be confirmed by the sheriff.</p> <p>In section three hundred and forty (which relates to town councils levying the burgh general assessment) the words from "and the rate of assessment" to "circulating therein."</p> <p>Section three hundred and sixty-three (which relates to separate districts in burghs bearing their share of expenses).</p> <p>In section three hundred and seventy-three (which relates to exemptions and savings) subsection (3) so far as it applies to large burghs.</p> <p>In section three hundred and seventy-three, in subsection (3), as respects small burghs, the words "or its not" to the end of the subsection.</p> |

13TH SCH.  
—cont.

13TH SCH.  
—cont.

| Session and Chapter.         | Short Title.                                                           | Extent to which enactment shall cease to have effect.                                                                                                                                                                                                                           |
|------------------------------|------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 55 & 56 Vict.<br>c. 55—cont. | The Burgh Police (Scotland) Act, 1892—cont.                            | In section three hundred and seventy-four (which relates to the power of town councils to borrow money) the words from "or until the expiration" to the end of the section.                                                                                                     |
| 56 & 57 Vict.<br>c. 8.       | The Local Authorities Loans (Scotland) Act, 1891, Amendment Act, 1893. | The whole Act so far as applying to district councils.                                                                                                                                                                                                                          |
| 60 & 61 Vict.<br>c. 38.      | The Public Health (Scotland) Act, 1897.                                | Section one hundred and thirteen, (which relates to estimates for work).                                                                                                                                                                                                        |
| 63 & 64 Vict.<br>c. 49.      | The Town Councils (Scotland) Act, 1900.                                | In section ten (which relates to number of magistrates and councillors) the words from "In burghs" to the end of the section.<br>In section fifty-three (which relates to notice to councillors of their election) the words from "and require them" to the end of the section. |
| 3 Edw. 7. c. 33              | The Burgh Police (Scotland) Act, 1903.                                 | Section forty-two (which provides for town councils in certain burghs having powers of dean of guild court).<br>In section one hundred and four, in subsection (2), paragraph (v) (which relates to period of advertisement for borrowing).                                     |
| 8 Edw. 7. c. 62              | The Local Government (Scotland) Act, 1908.                             | In section three (which relates to the power to provide county buildings and dwellings) subsection (6).                                                                                                                                                                         |
| 6 & 7 Geo. 5.<br>c. 12.      | The Local Government (Emergency Provisions) Act, 1916.                 | In section twenty-two (which relates to the application of the Act to Scotland) subsection (2).                                                                                                                                                                                 |
| 6 & 7 Geo. 5.<br>c. 69.      | The Public Authorities and Bodies (Loans) Act, 1916.                   | The whole Act (which provides for borrowing by certain authorities by means of the issue of bearer bonds and other securities to bearer).                                                                                                                                       |
| 14 & 15 Geo. 5.<br>c. 36.    | The Local Authorities Loans (Scotland) Act, 1924.                      | The whole Act (which amends the Local Authorities Loans (Scotland) Acts, 1891 and 1893) so far as applying to district councils.                                                                                                                                                |
| 19 & 20 Geo. 5.<br>c. 25.    | The Local Government (Scotland) Act, 1929.                             | In section two (which relates to transfers of functions to county councils) subsection (2).                                                                                                                                                                                     |

## FOURTEENTH SCHEDULE.

Section 381.

## ENACTMENTS REPEALED.

| Session and Chapter. | Short Title.                                                           | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|----------------------|------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 6 Geo. 4. c. 22      | The Jurors (Scotland) Act, 1825.                                       | In section two, the words "all magistrates of royal burghs."                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 8 & 9 Vict. c. 83.   | The Poor Law (Scotland) Act, 1845.                                     | <p>In section nine, the words from "and also by a summons" to the end of the section.</p> <p>Sections ten to thirteen, so far as unrepealed.</p> <p>Sections sixteen and seventeen.</p> <p>In section thirty, the words from the beginning of the section to "provided always that".</p> <p>Section thirty-three.</p> <p>Section forty-six.</p> <p>Section fifty-three.</p> <p>In section sixty-two, the words from "and for the more" to the end of the section, so far as unrepealed.</p> <p>Section eighty-seven.</p> |
| 17 & 18 Vict. c. 80  | The Registration of Births, Deaths and Marriages (Scotland) Act, 1854. | <p>In section fifty, the words from "and it shall be lawful" to "sheriff may direct."</p> <p>In section fifty-one, the words "out of the assessment to be levied as hereinbefore directed" and the word "which" where that word second occurs.</p>                                                                                                                                                                                                                                                                       |
| 17 & 18 Vict. c. 91. | The Lands Valuation (Scotland) Act, 1854.                              | <p>In section three, the words from "and every such assessor shall be removable" to the end of the section.</p> <p>In section eighteen, the words after the words "the just amount thereof" to the end of the section.</p> <p>Section thirty-one.</p> <p>Section thirty-six, so far as unrepealed.</p>                                                                                                                                                                                                                   |

14TH SCH.  
—cont.

| Session and Chapter.    | Short Title.                                                      | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-------------------------|-------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 18 & 19 Vict.<br>c. 68. | The Burial Grounds<br>(Scotland) Act,<br>1855.                    | In section fourteen, the words from "and the proportion" to "in manner after-mentioned".<br>In section twenty-six, the words from "to be levied" to the end of the section.<br>In section twenty-seven, the words from "and to charge" to the end of the section.<br>Sections twenty-nine and thirty.                                                                                                                                                                                                                                                                                                                       |
| 20 & 21 Vict.<br>c. 42. | The Burial Grounds<br>(Scotland) Act,<br>1857.                    | The whole Act, so far as un-repealed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 20 & 21 Vict.<br>c. 70. | The Boundaries of<br>Burghs Extension<br>(Scotland) Act,<br>1857. | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 20 & 21 Vict.<br>c. 71. | The Lunacy (Scotland) Act, 1857.                                  | In section fifty-two, the words from "and all the powers" to the end of the section.<br>In section fifty-three, the words from "and it shall be lawful" to the end of the section.<br>Section fifty-seven.<br>In section sixty-one, the words from "on the security" to "any part thereof", the words from "in such district" to "within the same", and the words from "and every such security" to the end of the section.<br>Sections sixty-two to sixty-seven.<br>In section sixty-eight, the words from "and it shall be the duty" to "respectively".<br>Section seventy-two.<br>Section seventy-four.<br>Schedule (K). |
| 20 & 21 Vict.<br>c. 72. | The Police (Scotland) Act, 1857.                                  | Sections two and three.<br>In section four, the words from the beginning of the section to "Secretary of State," the words "on not less than ten or more than twenty days' notice," the words "according to the rules," and the words "as aforesaid."                                                                                                                                                                                                                                                                                                                                                                       |

| Session and Chapter.                 | Short Title.                                                           | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                          |
|--------------------------------------|------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 20 & 21 Vict.<br>c. 72— <i>cont.</i> | The Police (Scotland) Act, 1857— <i>cont.</i>                          | <p>In section twenty-eight, the word "such," the words "as may be allowed by the rules to be established under this Act," and the words "out of the police assessments to be made and levied by them in terms of this Act."</p> <p>Sections twenty-nine to thirty-three.</p> <p>Sections forty to forty-three.</p> <p>Section fifty.</p> <p>In section fifty-four, the words from "provided always that in" to the end of the section.</p> |
| 20 & 21 Vict.<br>c. 73.              | The Smoke Nuisance (Scotland) Act, 1857.                               | In section twelve, the words from "to be levied" to the end of the section.                                                                                                                                                                                                                                                                                                                                                                |
| 21 & 22 Vict.<br>c. 90.              | The Medical Act, 1858.                                                 | In section thirty-six, the words "or as a medical officer of health".                                                                                                                                                                                                                                                                                                                                                                      |
| 22 & 23 Vict.<br>c. 66.              | The Sale of Gas Act, 1859.                                             | Section seven.                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 23 & 24 Vict.<br>c. 79.              | The Sheriff Court Houses (Scotland) Act, 1860.                         | <p>Section twelve.</p> <p>In section fifteen, the words from "as herein provided" to the end of the section.</p> <p>Sections nineteen to twenty-one.</p> <p>Sections twenty-three to twenty-five.</p> <p>In section twenty-six, the words "on bonds or mortgage", and the words from "any sum not exceeding" to the end of the section.</p>                                                                                                |
| 23 & 24 Vict.<br>c. 85.              | The Registration of Births, Deaths and Marriages (Scotland) Act, 1860. | <p>Sections twenty-seven and twenty-eight.</p> <p>In section eight, the words from "and the cost" to "first recited Act", and the word "aforesaid."</p>                                                                                                                                                                                                                                                                                    |
| 24 & 25 Vict.<br>c. 18.              | The Poor Law (Scotland) No. 1 Act, 1861.                               | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                             |

14TH SCH.  
—*cont.*

14TH SCH  
—cont.

| Session and Chapter.     | Short Title.                                        | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                             |
|--------------------------|-----------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 24 & 25 Vict.<br>c. 69.  | The Tramways (Scotland) Act, 1861.                  | In section eight, the words "on the credit of such tolls and revenues", the words from "and to grant" to "notwithstanding", and the words from "Provided that" to the end of the section.                                                                                                                                                                     |
| 25 & 26 Vict.<br>c. 54.  | The Lunacy (Scotland) Act, 1862.                    | Section ten.<br>Sections twelve and thirteen.                                                                                                                                                                                                                                                                                                                 |
| 26 & 27 Vict.<br>c. 108. | The Vaccination (Scotland) Act, 1863.               | In section six, the words from "including any share" to the end of the section.<br>In section sixteen, the words from "and the sums" to the end of the section.<br>Section twenty-eight.                                                                                                                                                                      |
| 29 & 30 Vict.<br>c. 51.  | The Lunacy (Scotland) Act, 1866.                    | In section twenty-seven, the words from "on the security" to the end of the section.                                                                                                                                                                                                                                                                          |
| 31 & 32 Vict.<br>c. 82.  | The County General Assessment (Scotland) Act, 1868. | The whole Act, so far as unrepealed.                                                                                                                                                                                                                                                                                                                          |
| 33 & 34 Vict.<br>c. 37.  | The Magistrates (Scotland) Act, 1870.               | The whole Act, so far as unrepealed.                                                                                                                                                                                                                                                                                                                          |
| 33 & 34 Vict.<br>c. 42.  | The Burgh Customs (Scotland) Act, 1870.             | In section two, the words from "but not exceeding" to "boundaries of such burgh", and the words from "and such rate" to "leviable within such burgh."                                                                                                                                                                                                         |
| 33 & 34 Vict.<br>c. 78.  | The Tramways Act, 1870.                             | In section twenty, the words "and take up at interest on the credit of such local rate", and the words from "and for the purpose of securing" to "and the local authority".<br><br>In section forty-three, the words "out of the like rate" and "on the security of the same".<br><br>In section forty-four, the words from "may pay" to "for such purposes". |



| Session and Chapter.    | Short Title.                 | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-------------------------|------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 34 & 35 Vict.<br>c. 56. | The Dogs Act, 1871.          | <p>In section five, the words " and " local rate," and the words " and the rate mentioned in the " third column."</p> <p>In the Schedule, the entries in the third column so far as relating to the town council or the police commissioners.</p>                                                                                                                                                                                                                                                                                                                                                         |
| 34 & 35 Vict.<br>c. 96. | The Pedlars Act, 1871.       | <p>In section twenty, in proviso 6, the words " in aid of the county general assessment " and the words " in aid of the police funds."</p> <p>In section twenty-one, the words " police assessment levied for " support of the police of the ", and the words " in aid of such " assessment."</p>                                                                                                                                                                                                                                                                                                         |
| 35 & 36 Vict.<br>c. 33. | The Ballot Act, 1872.        | <p>In section fourteen, the words " municipal or ".</p> <p>Sections twenty to twenty-two.</p> <p>In section twenty-four, the words " and municipal " wherever those words occur, and the words " or at a municipal election ".</p> <p>In section twenty-nine, paragraph (b) in the definition of the expression " Municipal Corporation Acts ", and paragraph (b) in the definition of the expression " municipal election ".</p> <p>In the First Schedule, in Part II, paragraphs 64 and 65.</p> <p>In the Second Schedule, the note regarding the form of nomination paper in a municipal election.</p> |
| 35 & 36 Vict.<br>c. 91. | The Borough Funds Act, 1872. | The whole Act, so far as unrepealed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 38 & 39 Vict.<br>c. 17. | The Explosives Act, 1875.    | <p>In section seventy, the words from " In a borough " to " borough " rate ", the words from " In " any place " to " county rate ", and the words from " and the " local rate " to the end of the section.</p>                                                                                                                                                                                                                                                                                                                                                                                            |

14TH SCH.  
--cont.

14TH SCH  
—cont.

| Session and Chapter.          | Short Title.                                | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------------|---------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 38 & 39 Vict.<br>c. 17.—cont. | The Explosives Act,<br>1875—cont.           | <p>In section seventy-two, the words from "acquire any land" to "to them and", the words from "Such sums shall be applied" to "out of the local rate", the words "on the security of the local rate" and the words from "Any such loan" to "to include any right over land", except so far as relates to harbour authorities.</p> <p>In section one hundred and nine, subsection (11), except so far as relates to harbour authorities.</p> <p>In section one hundred and eleven, paragraphs (a) and (c), and the words from "the rates or assessments" to the end of the section, except so far as relates to harbour authorities.</p> <p>In section one hundred and twelve, the words from "provided that" to the end of the section.</p>                                                            |
| 39 & 40 Vict.<br>c. 49.       | The Burghs Gas Supply (Scotland) Act, 1876. | <p>In section five, the words from "and in the event of" to the end of the section.</p> <p>In section six, the words from the beginning of the section to "powers of this Act".</p> <p>Section eight.</p> <p>Sections ten to thirteen.</p> <p>Sections fifteen to seventeen.</p> <p>In section eighteen, the words from "and may purchase" to "for these purposes".</p> <p>Section nineteen.</p> <p>In section twenty-seven, the words "on mortgage", and the words from "and to grant" to the end of the section.</p> <p>Sections twenty-eight to thirtyone.</p> <p>In section thirty-two, in paragraph 1, the words "or mortgagee", and the words "or interest on a mortgage", paragraph 2, in paragraph 3, the words "or mortgagees" and the words "or interest on mortgages," and paragraph 4.</p> |

| Session and Chapter.         | Short Title.                                     | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|------------------------------|--------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 39 & 40 Vict.<br>c. 49—cont. | The Burghs Gas Supply (Scotland) Act, 1876—cont. | In section thirty-three, the words "whether", "principal", and "or interest".<br>Sections thirty-four and thirty-five.<br>In section thirty-eight, the words "under the provisions and".<br>Sections thirty-nine and forty.<br>In section forty-one, the words "required by this Act".<br>Schedules (C), (D) and (E).                                                                                                                                                                                                                |
| 39 & 40 Vict.<br>c. 75.      | The Rivers Pollution Prevention Act, 1876.       | In section eight, the paragraph commencing "Any expenses incurred".<br>In section fourteen, the words from the beginning of the section to "such order and".<br>Section fifteen.<br>In section twenty-one, subsections (3), (8) and (9).                                                                                                                                                                                                                                                                                             |
| 40 & 41 Vict.<br>c. 53.      | The Prisons (Scotland) Act, 1877.                | Sections twenty-four and twenty-five.<br>In section fifty-five, the words from "as one loan" to the end of the section.<br>Section fifty-six.<br>Section sixty.<br>Section sixty-three.                                                                                                                                                                                                                                                                                                                                              |
| 40 & 41 Vict.<br>c. 68.      | The Destructive Insects Act, 1877.               | In section four, the words from "the expenses incurred" to "local rate".                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 41 & 42 Vict.<br>c. 8.       | The Public Parks (Scotland), Act, 1878.          | In section five, the words from the beginning of the section to "Provided that," and the words "in terms of this section".<br>Section seven.<br>Section thirteen.<br>In section fourteen, the words from "on the security", where first occurring, to the end of the section.<br>Section fifteen.<br>Sections sixteen to twenty.<br>Sections twenty-two to twenty-four.<br>In section twenty-seven, the words from "The Lands Clauses", where those words first occur, to "1860" and the words from "sell" to "inner house thereof." |
| 41 & 42 Vict.<br>c. 49.      | The Weights and Measures Act, 1878.              | Section fifty so far as relating to a local rate.<br>Section fifty-one.<br>Fourth Schedule so far as relating to a local rate.                                                                                                                                                                                                                                                                                                                                                                                                       |

14TH SCH.  
—cont.

| Session and Chapter.    | Short Title.                                | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-------------------------|---------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 41 & 42 Vict.<br>c. 51. | The Roads and Bridges (Scotland) Act, 1878. | <p>Section thirty-four.</p> <p>In section forty-nine, the words from "and to the clerk" to "district respectively", and the words from "and each district committee" to the end of the section.</p> <p>Section fifty.</p> <p>Section fifty-two.</p> <p>Sections fifty-four and fifty-five.</p> <p>In section fifty-eight, the words from "at a meeting" to "of the meeting", the words from "and many require" to "of the same", and the words from "and the expense" to "fifty years".</p> <p>Section seventy-four.</p> <p>In section seventy-five, the words from "on the security" to "respective boundaries", the word "such" occurring between the words "off" and "debts", and the words from "and such moneys may be borrowed" to the end of the section.</p> <p>Sections seventy-six to seventy-nine.</p> <p>Section eighty-two.</p> <p>Section eighty-six.</p> <p>In section eighty-seven, the words "in aid of the assessment authorised to be imposed by this Act", and the words "under the provisions of this Act".</p> <p>In section eighty-eight, in subsection (3), the words from "and after hearing" to the end of the subsection, and subsection (6).</p> <p>In section ninety, in subsection (2), the words from "and after hearing" to the end of the subsection, and subsection (5).</p> <p>In section ninety-three, the words from "on the security" to the end of the section.</p> <p>Sections one hundred and five and one hundred and six.</p> <p>Section one hundred and ten.</p> <p>Sections one hundred and seventeen and one hundred and eighteen.</p> <p>Schedule (B) No. 1.</p> <p>Schedule (B) No. 2.</p> |

| Session and Chapter.    | Short Title.                                             | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-------------------------|----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 44 & 45 Vict.<br>c. 6.  | The Local Taxation Returns (Scotland) Act, 1881.         | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 45 & 46 Vict.<br>c. 56. | The Electric Lighting Act, 1882.                         | Section seven.<br>In section eight, the words from "on such security" to "stock as aforesaid", excepting so far as the section relates to gas commissioners.                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 46 & 47 Vict.<br>c. 52. | The Bankruptcy Act, 1883.                                | In section thirty-two, in subsection (1), paragraph (d), and in paragraph (e), the words "school board".<br>In section thirty-four, the words "councillor" and "school board".                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 47 & 48 Vict.<br>c. 42. | The Sheriff Court Houses (Scotland) Amendment Act, 1884. | In section six, the words from "and in the case", where those words first occur, to "police assessment levied therein".                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 48 & 49 Vict.<br>c. 10. | The Election (Hours of Poll) Act, 1885.                  | The whole Act, except so far as relates to parliamentary elections.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 49 & 50 Vict.<br>c. 51. | The Poor Law Loans and Relief (Scotland) Act, 1886.      | Sections one to three.<br>The Schedule.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 50 & 51 Vict.<br>c. 39. | The Lunacy Districts (Scotland) Act, 1887.               | Section three.<br>In section five, the words from "and all assessments" to the end of the section.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 50 & 51 Vict.<br>c. 42. | The Public Libraries Consolidation (Scotland) Act, 1887. | In section two, the words from "library rate" to "execution".<br>In section six, the words "on the security of the library rate to be afterwards levied".<br>Sections seven to nine.<br>In section ten, the word "appropriate", the words from "any lands" to "herein provided", and the words from "upon the land" to "purchased".<br>Sections eleven to thirteen.<br>In section fourteen, the words from "at interest" to "purposes thereof", and the words from "and on repayment" to the end of the section.<br>Sections fifteen and sixteen.<br>In section thirty, the words from "shall provide" to "levied by them and". |

14TH SCH.  
—cont.

14TH SCH.  
—cont.

| Session and Chapter.    | Short Title.                               | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-------------------------|--------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 52 & 53 Vict.<br>c. 50. | The Local Government (Scotland) Act, 1889. | <p>Sections three to six.</p> <p>Sections eight to ten, so far as unrepealed.</p> <p>In section fourteen, the words from " Provided also that if " to the end of the section.</p> <p>Section fifteen.</p> <p>In section sixteen, in subsection (2), paragraphs (b) and (d).</p> <p>Sections twenty-five to twenty-seven, so far as unrepealed.</p> <p>Part V, so far as unrepealed.</p> <p>In section thirty-seven, subsections (3) to (6).</p> <p>Section thirty-eight.</p> <p>In section thirty-nine, the words from the beginning of the section to " (that is to say) ", and subsections (2) to (6).</p> <p>In section forty-one, the words from the beginning of the section to the end of paragraph (e), in paragraph (f), the words " without prejudice to the provisions of sections twenty-five " and twenty-six of this Act ", and paragraph (g).</p> <p>Sections forty-three and forty-four.</p> <p>Sections forty-nine to fifty-two, so far as unrepealed.</p> <p>Section fifty-four.</p> <p>In section fifty-five, subsection (3).</p> <p>Sections fifty-six and fifty-seven.</p> <p>Sections fifty-nine to sixty-five.</p> <p>In section sixty-seven, in subsection (1), the words from " on " the security " to " provisions " of this Act ; and ", and subsections (2) to (6).</p> <p>Section sixty-eight, so far as unrepealed.</p> <p>Sections seventy-one and seventy-two.</p> <p>In section seventy-three, subsections (1) to (5), and subsection (7).</p> <p>Sections seventy-four to seventy-six.</p> <p>Section eighty-one.</p> <p>Sections eighty-three and eighty-four.</p> <p>Sections eighty-nine to ninety-six.</p> <p>Sections ninety-eight to one hundred and one.</p> |

| Session and Chapter.                 | Short Title.                                                       | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                    |
|--------------------------------------|--------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 52 & 53 Vict.<br>c. 50— <i>cont.</i> | The Local Government (Scotland) Act, 1889— <i>cont.</i>            | Section one hundred and four.<br>In section one hundred and five, the words from " The expression " ' parish ' " to " ninety-one, " and any Acts amending the " same ", and the definitions of the expressions " Summary " Jurisdiction Acts ", " rate-payer ", " owner ", " costs ", " rate " and " pension ".<br>Sections one hundred and nineteen to one hundred and twenty-one.<br>The Schedule. |
| 52 & 53 Vict.<br>c. 72.              | The Infectious Diseases (Notification) Act, 1889.                  | Section nine.<br>In section eleven, the words from the beginning of the section to " or parochial office ".                                                                                                                                                                                                                                                                                          |
| 53 & 54 Vict.<br>c. 11.              | The Municipal Elections (Scotland) Act, 1890.                      | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                       |
| 53 & 54 Vict.<br>c. 13.              | The Electric Lighting (Scotland) Act, 1890.                        | In the Schedule, the entries in the fourth, fifth, sixth and seventh columns, excepting the entries in those columns relating to gas commissioners.                                                                                                                                                                                                                                                  |
| 53 & 54 Vict.<br>c. 55.              | The Elections (Scotland) (Corrupt and Illegal Practices) Act 1890. | Sections forty-four and forty-five.<br>In section fifty-two, subsection (2).                                                                                                                                                                                                                                                                                                                         |
| 53 & 54 Vict.<br>c. 71.              | The Bankruptcy Act, 1890.                                          | In section nine, the words from " It is hereby declared " to the end of the section.                                                                                                                                                                                                                                                                                                                 |
| 54 & 55 Vict.<br>c. 32.              | The Roads and Streets in Police Burghs (Scotland) Act, 1891.       | In section six, the words from " out of the rate " to the end of the section.                                                                                                                                                                                                                                                                                                                        |
| 54 & 55 Vict.<br>c. 34.              | The Local Authorities Loans (Scotland) Act, 1891.                  | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                       |
| 54 & 55 Vict.<br>c. 52.              | The Public Health (Scotland) Amendment Act, 1891.                  | Section six.                                                                                                                                                                                                                                                                                                                                                                                         |
| 55 & 56 Vict.<br>c. 12.              | The Roads and Bridges (Scotland) Amendment Act, 1892.              | Section three.                                                                                                                                                                                                                                                                                                                                                                                       |

14TH SCH.  
—*cont.*

14TH SCH.  
—cont.

| Session and Chapter.    | Short Title.                           | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-------------------------|----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 55 & 56 Vict.<br>c. 31. | The Small Holdings Act, 1892.          | <p>In section three, subsection (1).<br/>           In section sixteen, in subsection (1), the words from " Provided " that " to the end of the subsection.<br/>           In section eighteen, subsection (2).<br/>           In section nineteen, the words from " in accordance with " in subsection (1) to the end of the section.<br/>           In section twenty-one, subsection (8).</p>                                                                                                                                                                                                                                                                                                                                                                                     |
| 55 & 56 Vict.<br>c. 43. | The Military Lands Act, 1892.          | <p>Section four.<br/>           Section seven, so far as relating to a local authority.<br/>           In section twenty-five, subsection (2), and in subsection (3), the words from " may borrow in " like manner " to " 1889 ", the words " in like manner as they ", where those words second occur, and the words " under section " fourteen " to the end of the subsection.</p>                                                                                                                                                                                                                                                                                                                                                                                                 |
| 55 & 56 Vict.<br>c. 54. | The Allotments (Scotland) Act, 1892.   | <p>In section three, subsection (1).<br/>           Section eleven.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 55 & 56 Vict.<br>c. 55. | The Burgh Police (Scotland) Act, 1892. | <p>In section four, subsections (1), (14), (15), (16), (18) and (26), and in subsection (30), the words from " (1) The duty " to " of land (3) ".<br/>           Sections seven to thirteen.<br/>           Sections sixteen to nineteen.<br/>           In section twenty, the words from the beginning of the section to " management is transferred ".<br/>           Sections twenty-one to twenty-three.<br/>           Sections twenty-five and twenty-six.<br/>           In section twenty-seven, subsection (1).<br/>           In section forty-two, the words from " but without prejudice " to the end of the section.<br/>           Section forty-three.<br/>           Section forty-five, so far as unrepealed.<br/>           Sections forty-six to forty-nine.</p> |



| Session and Chapter.         | Short Title.                                      | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------------------------------|---------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 55 & 56 Vict.<br>c. 55—cont. | The Burgh Police<br>(Scotland) Act,<br>1892—cont. | <p>In section fifty-five, subsections (1), (3) and (4), subsection (5), so far as unrepealed, and in subsection (6), the words "by the sheriff", wherever those words occur.</p> <p>Sections fifty-seven to fifty-nine.<br/>Sections seventy-three to seventy-seven.</p> <p>In section ninety-seven, the words "out of the burgh general assessment".</p> <p>In section one hundred and three, the words "out of the burgh general assessment".</p> <p>In section one hundred and forty-nine, the words from "out of the" to the end of the section.</p> <p>In section one hundred and fifty, the words "out of the burgh general assessment".</p> <p>In section one hundred and fifty-one, the words "levied under this Act" where first occurring, and the words "out of the assessments levied under this Act".</p> <p>In section one hundred and fifty-four, the words from "and they may re-sell" to "for such purposes", and the words from "and the expense", where those words first occur, to "to be levied", where those words first occur, and the words from "and the expense", where those words second occur, to the end of the section.</p> <p>In section one hundred and fifty-eight, the words from "and shall form" to the end of the section.</p> <p>In section two hundred and one, the words from the beginning of the section to "as herein after provided".</p> <p>Sections two hundred and two to two hundred and six.</p> <p>In section two hundred and thirteen, the words, "out of the burgh general assessment".</p> <p>Section two hundred and twenty-six.</p> |

14TH SCH.  
—cont.

| Session and Chapter.         | Short Title.                                      | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|------------------------------|---------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 55 & 56 Vict.<br>c. 55—cont. | The Burgh Police<br>(Scotland) Act,<br>1892—cont. | <p>In section two hundred and thirty-six, the words from " and " on the security " to " general " sewer rates " where first occurring, and the words from " and " to assign " to the end of the section.</p> <p>In section two hundred and fifty, the words " or police assessment books ".</p> <p>In section two hundred and seventy-eight, the words from " on the security of ", where those words first occur, to " one " or more thereof ", and the words from " And where in " to " money on the security of the " burgh general assessment ".</p> <p>In section two hundred and eighty-one, the words " to be " confirmed in the manner " herein provided ".</p> <p>In section three hundred and six, the words from " Provided " always ", where those words first occur, to the end of the section.</p> <p>In section three hundred and eight, the words from " levied " under " to " 1878 ".</p> <p>In section three hundred and fourteen, the words from " and " sell the lands " to the end of the section.</p> <p>In section three hundred and fifteen, the words " a public " hall " to " court-hall and ", the words from " or may " acquire " to " and fitting " up ", the words from " upon " the security " to " improve-ment assessment ", and the words " as hereinafter provided " with regard to the borrowing " of money ".</p> <p>In section three hundred and sixteen, the words from " The " Commissioners may from " time to time repeal " to the end of the section.</p> <p>Sections three hundred and seventeen to three hundred and twenty-four.</p> |

| Session and Chapter.         | Short Title.                                      | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|------------------------------|---------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 55 & 56 Vict.<br>c. 55—cont. | The Burgh Police<br>(Scotland) Act,<br>1892—cont. | <p>Sections three hundred and thirty-six to three hundred and thirty-eight.</p> <p>Section three hundred and thirty-nine, so far as relating to provisions of the Act repealed by this Act.</p> <p>Section three hundred and forty, so far as unrepealed.</p> <p>In section three hundred and forty-one, the words "Out of the burgh general assessment", where those words first occur, the words from "or, if the Commissioners" to "being established to their satisfaction", and the words from "out of the burgh", where those words second occur, to "assessment as aforesaid".</p> <p>Sections three hundred and forty-two to three hundred and forty-five.</p> <p>Sections three hundred and forty-eight to three hundred and sixty.</p> <p>Section three hundred and sixty-three.</p> <p>In section three hundred and sixty-nine, the words from "in the same way", where they first occur, to the end of the section.</p> <p>Sections three hundred and seventy and three hundred and seventy-one.</p> <p>Section three hundred and seventy-three.</p> <p>In section three hundred and seventy-four, the words "and take up", the words from "or for repayment" to "the lenders thereof", and the words from "Provided always that in" to the end of the section.</p> <p>Section three hundred and seventy-five.</p> <p>Sections three hundred and seventy-seven to three hundred and seventy-nine.</p> |

14TH SCH.  
—cont.

| Session and Chapter.         | Short Title.                                                           | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|------------------------------|------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 55 & 56 Vict.<br>c. 55—cont. | The Burgh Police (Scotland) Act, 1892—cont.                            | In section four hundred and fifty-five, in paragraph (4), the words "out of the burgh general assessment".<br>Sections four hundred and sixty to four hundred and sixty-two.<br>Section five hundred and eighteen.<br>Schedule VIII.<br>The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 56 & 57 Vict.<br>c. 8.       | The Local Authorities Loans (Scotland) Act, 1891, Amendment Act, 1893. | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 56 & 57 Vict.<br>c. 25.      | The Burgh Police (Scotland) Act, 1893.                                 | Section five.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 57 & 58 Vict.<br>c. 20.      | The Public Libraries (Scotland) Act, 1894.                             | In section three, in subsection (1), the words from "either (a)" to the end of the subsection.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 57 & 58 Vict.<br>c. 24.      | The Wild Birds Protection Act, 1894.                                   | Section six.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 57 & 58 Vict.<br>c. 57.      | The Diseases of Animals Act, 1894.                                     | In section thirty-three, subsections (2) and (4).<br>In section forty, subsection (1).<br>In section forty-two, in subsection (1), the words "at interest on the credit of the local rate", and the words from "and may secure" to the end of the subsection, and subsections (2) to (5).<br>In section sixty, in subsection (1), the words "and the local rate", the word "respectively", in paragraph (a), the words from "and a rate" to "within the burgh", in paragraph (b), the words from "and a rate" to the end of that paragraph, and subsection (7).<br>Section sixty-two.<br>In section sixty-four, in subsection (4), in paragraph (b), the words from "in aid of" to "rates of the county," and in paragraph (d), the words "in aid of the police funds". |

| Session and Chapter.    | Short Title.                                                    | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-------------------------|-----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 57 & 58 Vict.<br>c. 58. | The Local Government (Scotland) Act, 1894.                      | <p>Sections eight to ten.</p> <p>Sections thirteen to twenty, so far as unrepealed.</p> <p>Section twenty-three.</p> <p>In section twenty-four, in subsection (1), paragraphs (a) and (d), and in subsection (2), the word "let," the words "or exchange," wherever those words occur, and the words "the power of letting for more than a year and".</p> <p>Sections twenty-seven and twenty-eight.</p> <p>In section twenty-nine, the words from "and the expense" to "special parish rate".</p> <p>In section thirty, subsections (1) to (5), and (7) to (9).</p> <p>Section thirty-one.</p> <p>Sections thirty-three to thirty-five.</p> <p>Sections thirty-seven to forty-one, so far as unrepealed.</p> <p>In section forty-two, subsection (3).</p> <p>Sections forty-three and forty-four.</p> <p>Section forty-six.</p> <p>In section forty-eight, subsection (2).</p> <p>Sections forty-nine to fifty-three.</p> <p>In section fifty-four, the words from "the expression 'municipal register'" to "assistant secretary", the words from "the expression 'burghal parish'" to "not comprised within the boundaries of a burgh", and the words from "the expression 'ecclesiastical'" to the end of the section.</p> <p>Schedule II.</p> <p>Schedule III.</p> <p>Schedule IV.</p> |
| 58 & 59 Vict.<br>c. 1.  | The Local Government (Scotland) Act, 1894, Amendment Act, 1895. | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

14TH 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, in subsection (9), the words "as a charge upon the general purposes rate," and the words from "as a charge upon the burgh" to "police assessment."                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 59 & 60 Vict.<br>c. 48. | The Light Railways Act, 1896.                     | In section sixteen, in subsection (1), the words from "in the case of a county" to the end of the subsection, in subsection (2), the words "in manner authorised by the order", and subsection (4).<br>Section seventeen.<br>In section twenty-six, in subsection (5), the words from "imposed along with", where those words first occur, to "parish, as the case may be", the words from "imposed along with", where those words second occur, to "assessment, as the case may be", and the words "in the manner authorised by the order".<br>Third Schedule.                                                                                                |
| 60 & 61 Vict.<br>c. 31. | The Cleansing of Persons Act, 1897.               | In section one, the words from "and any expenses" to the end of the subsection.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 60 & 61 Vict.<br>c. 34. | The Municipal Elections (Scotland) Act, 1897.     | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 60 & 61 Vict.<br>c. 38. | The Public Health (Scotland) Act, 1897.           | Section four.<br>In section six, the words from "and require answers" to the end of the section.<br>Section seven.<br>In section eight, the words "to act as a commissioner or commissioners", and the words from "and the Board" to the end of the section.<br>Sections nine and ten.<br>Sections thirteen and fourteen.<br>In section fifteen, the words from the beginning of the section to "such salaries fixed; and", the word "said", where that word second occurs between the words "the" and "medical", the words from "The medical officer may" to "sanction of the Board", and the words from "The medical officer and" to the end of the section. |

| Session and Chapter.         | Short Title.                                       | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|------------------------------|----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 60 & 61 Vict.<br>c. 38—cont. | The Public Health<br>(Scotland) Act.<br>1897—cont. | <p>In section thirty-four, the words from " on the security " to the end of the section.</p> <p>Section thirty-eight.</p> <p>In section thirty-nine, the words from " out of the assessments " to " 1878, for ".</p> <p>In section ninety-three, the words from " as hereinafter " to " printed ".</p> <p>Section one hundred and thirteen.</p> <p>In section one hundred and twenty-two, subsections (1), (2) and (3), in subsection (4), the words from " out of the assessments " to " 1878 ", and subsection (5).</p> <p>Section one hundred and thirty-one.</p> <p>Sections one hundred and thirty-three to one hundred and thirty-six, so far as unrepealed.</p> <p>Section one hundred and thirty-eight.</p> <p>In section one hundred and thirty-nine, the words from " and on " the security " to " case may " be ", where those words first occur, and the words from " and to assign " to the end of the section.</p> <p>In section one hundred and forty-one, the words " and on the " security of the public health " general assessments ", and the words from " and to assign " to the end of the section.</p> <p>Section one hundred and forty-two.</p> <p>Section one hundred and forty-three.</p> <p>In section one hundred and forty-four, the words from " and " may by agreement " to " with- " out their district " and the words from " They may also " with " to the end of the section.</p> <p>Section one hundred and forty-seven.</p> <p>Section one hundred and fifty-two.</p> |

14TH SCH.  
—cont.

| Session and Chapter.         | Short Title.                                   | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                       |
|------------------------------|------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 60 & 61 Vict.<br>c. 38—cont. | The Public Health (Scotland) Act, 1897—cont.   | Sections one hundred and fifty-nine and one hundred and sixty.<br>Section one hundred and sixty-seven.<br>Sections one hundred and eighty-three to one hundred and eighty-eight.<br>In section one hundred and ninety, the words from "or of the Local" to "1891, as amended".<br>In section one hundred and ninety-one, the words "and standing joint committees".<br>Second Schedule. |
| 62 & 63 Vict.<br>c. 38.      | The Telegraph Act, 1899.                       | In section two, in subsection (1), the words from "defray the expenses" to "and may", the words from "in accordance with" to "borough rate", and in subsection (2), the words from "and the town council or commissioners thereof" to the end of the subsection.                                                                                                                        |
| 62 & 63 Vict.<br>c. 44.      | The Small Dwellings Acquisition Act, 1899.     | In section nine, subsection (3).<br>In section twelve, in subsection (1), in paragraph (a), the words from "Provided that" to the end of the paragraph, subsection (2), and in subsection (4), the words from "in like manner" to the end of the subsection.                                                                                                                            |
| 63 & 64 Vict.<br>c. 28.      | The Inebriates Amendment (Scotland) Act, 1900. | In section one, in subsection (1), the words from "in the same manner" to the end of the subsection, in subsection (2), the words "on the security of the said assessment", and the words from "in the same manner" to the end of the subsection.                                                                                                                                       |
| 63 & 64 Vict.<br>c. 49.      | The Town Councils (Scotland) Act, 1900.        | In section four, subsections (1), (2), (4), (5), (7), (10) to (12) and (14) to (19).<br>Sections five and six.<br>In section eight, the words from "and except in" to the end of the section.<br>Sections nine to twenty-three, so far as unrepealed.                                                                                                                                   |



| Session and Chapter.                 | Short Title.                                                                   | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|--------------------------------------|--------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 63 & 64 Vict.<br>c. 49— <i>cont.</i> | The Town Councils<br>(Scotland) Act,<br>1900— <i>cont.</i>                     | Sections thirty-three to forty-six.<br>Sections forty-eight to ninety-three.<br>Sections ninety-six, so far as unrepealed, to one hundred and seven.<br>Sections one hundred and nine to one hundred and seventeen.<br>Schedules II to VI.                                                                                                                                                                                                                                                                                                                              |
| 1 Edw. 7. c. 24                      | The Burgh Sewerage<br>Drainage and<br>Water Supply<br>(Scotland) Act,<br>1901. | Sections one and two, so far as unrepealed.<br>Section three.<br>Section four, so far as unrepealed.<br>In section five, the words from " Provided that all " to the end of the section.                                                                                                                                                                                                                                                                                                                                                                                |
| 2 Edw. 7. c. 35                      | The Electric Light-<br>ing (Scotland) Act,<br>1902.                            | In section one, the words from " Provided that " to the end of the section.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 3 Edw. 7. c. 9                       | The County Councils<br>(Bills in Parlia-<br>ment) Act, 1903.                   | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 3 Edw. 7. c. 25                      | The Licensing (Scot-<br>land) Act, 1903.                                       | In section eight, in subsection (4), the words from " and, save " as " to the end of the subsection, and in subsection (6) the words from " For the " purpose " to " referred to " therein ".                                                                                                                                                                                                                                                                                                                                                                           |
| 3 Edw. 7. c. 33                      | The Burgh Police<br>(Scotland) Act,<br>1903.                                   | In section three, the words " The " Burgh Police (Scotland) Act, " 1893 ".<br>Section twenty-two.<br>Section thirty-six.<br>In section thirty-eight, paragraphs (1) and (2).<br>Section forty-two.<br>In section forty-four, the words from " The town council may " defray " to the end of the section.<br>Sections forty-six to forty-nine.<br>Section fifty-five.<br>Section fifty-six, so far as relating to burgh prosecutors, burgh surveyors, treasurers and collectors.<br>In section sixty, the words from " and the town council " to the end of the section. |

14TH SCH.  
—cont.

| Session and Chapter.      | Short Title.                                                                | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|---------------------------|-----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3 Edw. 7. c. 33<br>—cont. | The Burgh Police (Scotland) Act, 1903—cont.                                 | In section sixty-two, the words from "The said compensation" to the end of the section.<br>Sections ninety-four to ninety-six.<br>In section one hundred and three, paragraph (10).<br>In section one hundred and four, in subsection (2), paragraph (a), in paragraph (g), the words from "and any expenditure" to the end of the paragraph, and paragraphs (v), (d), (v) and (w).<br>In the Schedule, in Column No. II the words "Sec. 11" and the words from "After" to "by special order". |
| 3 Edw. 7. c. 34           | The Town Councils (Scotland) Act, 1903.                                     | The whole Act, so far as un-repealed.                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 6 Edw. 7. c. 14           | The Alkali &c. Works Regulation Act, 1906.                                  | Section twenty-four.                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 7 Edw. 7. c. 27           | The Advertisements Regulation Act, 1907.                                    | In section three, subsection (6).<br>In section six, subsection (4).                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 7 Edw. 7. c. 40           | The Notification of Births Act, 1907.                                       | In section one, subsection (6).                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 7 Edw. 7. c. 41           | The Whale Fisheries (Scotland) Act, 1907.                                   | Section seven.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 7 Edw. 7. c. 48           | The Qualification of Women (County and Town Councils) (Scotland) Act, 1907. | The whole Act, so far as un-repealed.                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 8 Edw. 7. c. 13           | The Polling Districts (County Councils) Act, 1908.                          | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 8 Edw. 7. c. 48           | The Post Office Act, 1908.                                                  | In section forty-nine, in subsection (8), in paragraph (d), the words from "in the same manner" to the end of the paragraph, and paragraph (g).                                                                                                                                                                                                                                                                                                                                                |
| 8 Edw. 7. c. 62           | The Local Government (Scotland) Act, 1908.                                  | In section one, the words "and the Local Government (Scotland) Act, 1894, Amendment Act, 1895."                                                                                                                                                                                                                                                                                                                                                                                                |

| Session and Chapter.      | Short Title.                                    | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 14TH SCH.<br>—cont. |
|---------------------------|-------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| 8 Edw. 7. c. 62<br>—cont. | The Local Government (Scotland) Act, 1908—cont. | <p>In section three, in subsection (1), the words from "and subject "to" to "such committee; "and", and the words from "but "subject always" to the end of the subsection, and subsections (2) to (7).</p> <p>In section four, the words from "subject to the" to "the "principal Act".</p> <p>Section six.</p> <p>Section nine.</p> <p>In section ten, the words from the beginning of the section to "made thereunder", subsection (2), and in subsection (3), the words from "and "county or" to "general improvement rate".</p> <p>In section eleven, in subsection (4), the words "out of the road "rate".</p> <p>Section fourteen.</p> <p>Sections sixteen and seventeen.</p> <p>In section nineteen, the words "including the provisions "relating to assessment and "borrowing".</p> <p>In section twenty, subsection (1), and in subsection (2), the words "and the fifteenth day of "April", and the words from "and section fifty" to the end of the subsection.</p> <p>Section twenty-three.</p> <p>In section twenty-eight, in subsection (2), the words from "section one hundred" to the end of the subsection.</p> |                     |
| 9 Edw. 7. c. 30           | The Cinematograph Act, 1909.                    | <p>In section six, the words from "and the expenses" to the end of the section.</p> <p>In section eight, in subsection (3), the words from "and the "expression 'borough fund'" to the end of the subsection.</p> <p>Section twenty-one.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                     |
| 9 Edw. 7. c. 34           | The Electric Lighting Act, 1909.                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                     |
| 9 Edw. 7. c. 44           | The Housing, Town Planning, &c., Act, 1909.     | First Schedule as applied by any enactment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                     |
| 1 & 2 Geo. 5.<br>c. 52.   | The Rag Flock Act, 1911.                        | In section one, in subsection (6), paragraph (c), and in subsection (8), paragraph (c).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                     |

14TH SCH.  
—cont.

| Session and Chapter.    | Short Title.                                                 | Extent of Repeal.                                                                                                                                                                                                                                                                                                                        |
|-------------------------|--------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 & 2 Geo. 5.<br>c. 53. | The House Letting and Rating (Scotland) Act, 1911.           | In section seven, in subsection (7), the words from "and in case of "doubt" to the end of the subsection.                                                                                                                                                                                                                                |
| 1 & 2 Geo. 5.<br>c. 55. | The National Insurance Act, 1911.                            | In section sixty-four, in subsection (2), the words from "and any expenses" to the end of the subsection.<br>In section eighty, in subsection (4), the words from "Provided "that" to "Act of 1889", and subsections (12) and (13).                                                                                                      |
| 2 & 3 Geo. 5.<br>c. 3.  | The Shops Act, 1912.                                         | In section thirteen, in subsection (3), the words from "in the "case of the council of a "borough" to "special county "purposes".<br>In section sixteen, the words from "and the costs" to the end of the section.                                                                                                                       |
| 2 & 3 Geo. 5.<br>c. 19. | The Light Railways Act, 1912.                                | In section twenty, the words from "and the expenses" to "any "such expenses".                                                                                                                                                                                                                                                            |
| 3 & 4 Geo. 5.<br>c. 17. | The Fabrics (Misdescription) Act, 1913.                      | In section five, subsection (5).<br>In section five, in subsection (3), the words from "in the case of "the council of a borough" to "special county purposes".<br>In section seven, subsection (3), and the words from "Provided "that" to the end of the section.                                                                      |
| 3 & 4 Geo. 5.<br>c. 20. | The Bankruptcy (Scotland) Act, 1913.                         | In section one hundred and eighty-three, subsection (2).<br>In section one hundred and eighty-four, subsection (3).                                                                                                                                                                                                                      |
| 3 & 4 Geo. 5.<br>c. 26. | The Highlands and Islands (Medical Service) Grant Act, 1913. | In section three, in subsection (3), the words "on the security of "any rate for any purpose".                                                                                                                                                                                                                                           |
| 3 & 4 Geo. 5.<br>c. 32. | The Ancient Monuments Consolidation and Amendment Act, 1913. | In section twenty-one, in subsection (2), the words from "in "the case of any other county "council" to "as a borough "rate", and the words from "in the case of a county "council" to the end of the subsection.<br>In section twenty-three, in subsection (2), the words from "and the expenses" to "general "improvement assessment". |

| Session and Chapter.    | Short Title.                                                               | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-------------------------|----------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3 & 4 Geo. 5.<br>c. 33. | The Temperance (Scotland) Act, 1913.                                       | In section five, in subsection (4), the words from "and any "expenses" to the end of the subsection.                                                                                                                                                                                                                                                                                                                                                           |
| 3 & 4 Geo. 5.<br>c. 37. | The National Insurance Act, 1913.                                          | In section forty-one, in subsection (1), the words from "in "terms of" to "the principal "Act", and subsection (2).                                                                                                                                                                                                                                                                                                                                            |
| 3 & 4 Geo. 5.<br>c. 38. | The Mental Deficiency and Lunacy (Scotland) Act, 1913.                     | In section twenty-seven, in subsection (2), the words from "and such payments" to the end of the subsection.<br>In section thirty, subsection (2).<br>In section sixty-eight, in subsection (4), the word "let", and the words from "and shall "apply" to the end of the subsection, and in subsection (7), the words "and section sixty-two", the words "with the "consent of the Board", and the words from "on the "security" to the end of the subsection. |
| 4 & 5 Geo. 5.<br>c. 31. | The Housing Act, 1914                                                      | In section one, in subsection (2), the words from "Any expenses" to "1890", the words "the like", and the words "as they have for the "purposes of that Part of that "Act".                                                                                                                                                                                                                                                                                    |
| 4 & 5 Geo. 5.<br>c. 39. | The County, Town and Parish Councils (Qualification) (Scotland) Act, 1914. | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 4 & 5 Geo. 5.<br>c. 46. | The Milk and Dairies (Scotland) Act, 1914.                                 | Section ten, so far as unrepealed.<br>Section twenty-three.<br>Section twenty-six.<br>Section thirty.                                                                                                                                                                                                                                                                                                                                                          |
| 4 & 5 Geo. 5.<br>c. 53. | The Special Constables (Scotland) Act, 1914.                               | In section two, the words "and "the county police rate", and the words "and the burgh "general assessment respectively".                                                                                                                                                                                                                                                                                                                                       |

14TH SCH.  
—cont.

| Session and Chapter.     | Short Title.                                             | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                    |
|--------------------------|----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4 & 5 Geo. 5.<br>c. 74.  | The Local Government (Adjustments) (Scotland) Act, 1914. | The whole Act.                                                                                                                                                                                                                                                                                                                                                                       |
| 5 & 6 Geo. 5.<br>c. 64.  | The Notification of Births (Extension) Act, 1915.        | In section two, in subsection (2), the words from the beginning of the subsection to "principal " Act ".                                                                                                                                                                                                                                                                             |
| 5 & 6 Geo. 5.<br>c. 91.  | The Midwives (Scotland) Act, 1915.                       | Section twenty-five.                                                                                                                                                                                                                                                                                                                                                                 |
| 6 & 7 Geo. 5.<br>c. 12.  | The Local Government (Emergency Provisions) Act, 1916.   | In section thirteen, subsection (1). In section twenty-two, in subsection (1), the words from "and references to the Local " to the end of the subsection, and subsection (2).                                                                                                                                                                                                       |
| 6 & 7 Geo. 5.<br>c. 43.  | The War Charities Act, 1916.                             | In section two, subsection (7). In section eleven, in paragraph (e), the words from "and " shall " to the end of the paragraph.                                                                                                                                                                                                                                                      |
| 6 & 7 Geo. 5.<br>c. 69.  | The Public Authorities and Bodies (Loans) Act, 1916.     | The whole Act.                                                                                                                                                                                                                                                                                                                                                                       |
| 7 & 8 Geo. 5.<br>c. 64.  | The Representation of the People Act, 1918.              | In section forty-three, in subsection (8), the words from " Provided that " to the end of the subsection, and in subsection (11), the words from " Provided that " to the end of the subsection.<br>In the Sixth Schedule, in paragraph 8, the words from " The " Local Government " to " word " hereinafter," and the words from " The Town Councils " to " member of Parliament ". |
| 8 & 9 Geo. 5.<br>c. 48.  | The Education (Scotland) Act, 1918.                      | Sections three and thirty-two.<br>Third Schedule.                                                                                                                                                                                                                                                                                                                                    |
| 9 & 10 Geo. 5.<br>c. 46. | The Police Act, 1919                                     | In section thirteen, subsection (2).                                                                                                                                                                                                                                                                                                                                                 |
| 9 & 10 Geo. 5.<br>c. 60. | The Housing, Town Planning, &c. (Scotland) Act, 1919.    | Section forty-seven.                                                                                                                                                                                                                                                                                                                                                                 |
| 9 & 10 Geo. 5.<br>c. 72. | The Rats and Mice (Destruction) Act, 1919.               | In section five, subsection (3). In section nine, in paragraph (b), of subsection (1), the words from " (ii) the expenses " to the end of the paragraph.                                                                                                                                                                                                                             |

| Session and Chapter.      | Short Title.                                            | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|---------------------------|---------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 9 & 10 Geo. 5.<br>c. 85.  | The Mental Deficiency and Lunacy (Amendment) Act, 1919. | The whole Act, so far as unrepealed.                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 9 & 10 Geo. 5.<br>c. 99.  | The Housing (Additional Powers) Act, 1919.              | Section eight.                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 10 & 11 Geo. 5.<br>c. 41. | The Census Act, 1920.                                   | In section seven, the words from "in the case of a county council" to the end of the section.<br>In section nine, in subsection (2), the words from "and any expenses" to the end of the section.                                                                                                                                                                                                                                                                        |
| 10 & 11 Geo. 5.<br>c. 45. | The Public Libraries (Scotland) Act, 1920.              | In section one, in subsection (1), the words from "section eight" to "threepence, and", and the words "as part of the accounts of the rating authority, or".                                                                                                                                                                                                                                                                                                             |
| 10 & 11 Geo. 5.<br>c. 80. | The Air Navigation Act, 1920.                           | In section nineteen, in paragraph (a) of subsection (1), the words from "and the expenses", where those words first occur, to "general purposes rate", the words from "notwithstanding" to "1889", and the words from "and the expenses", where those words second occur, to "of that assessment", and in paragraph (b), the words from "on the security of the general" to "Act, 1889", and the words from "on the security of the public" to the end of the paragraph. |
| 11 & 12 Geo. 5.<br>c. 31. | The Police Pensions Act, 1921.                          | In section twenty-two, subsection (5).                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 11 & 12 Geo. 5.<br>c. 55. | The Railways Act, 1921.                                 | In section seventy-eight, subsection (6), so far as relating to local authorities.<br>In section eighty-three, paragraph (c).                                                                                                                                                                                                                                                                                                                                            |
| 11 & 12 Geo. 5.<br>c. 64. | The Poor Law Emergency Provisions (Scotland) Act, 1921. | In section two, in subsection (1), the words from the commencement of the subsection to "in that section", and the words from "on the security" to "in the parish", and subsections (2) and (3).<br>In section three, in subsection (4), proviso (ii.)                                                                                                                                                                                                                   |

14TH SCH.  
—cont.

14TH SCH.  
—cont.

| Session and Chapter.      | Short Title.                                           | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|---------------------------|--------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 12 & 13 Geo. 5.<br>c. 35. | The Celluloid and Cinematograph Film Act, 1922.        | In section four, subsection (2).<br>In section ten, in subsection (1), the words from "and the "expenses" to the end of the subsection.                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 12 & 13 Geo. 5.<br>c. 46. | The Electricity (Supply) Act, 1922.                    | In section two, the words "or "by a local authority".<br>In section five, in subsection (1), the words from "(a) in cases" to "Minister of Health, or", and in subsection (2), paragraphs (a) and (c), and the words from "Section twenty-one" to the end of the subsection.<br>Section twenty-nine.<br>In section thirty, in paragraph (c) of subsection (2), the words from "to the Local Government "Act" to "1875", the word "respectively", and the words from "to the Local Government "(Scotland)" to the end of the paragraph, and paragraph (d). |
| 12 & 13 Geo. 5.<br>c. 52. | The Allotments (Scotland) Act, 1922.                   | Section eighteen.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 12 & 13 Geo. 5.<br>c. 54. | The Milk and Dairies (Amendment) Act, 1922.            | In section fourteen, in paragraph (f), the words from "and any "expense" to the end of the paragraph, and in paragraph (h), the words from "Any expenses incurred" to "of that "assessment."                                                                                                                                                                                                                                                                                                                                                              |
| 13 & 14 Geo. 5.<br>c. 13. | The Rent Restrictions (Notices of Increase) Act, 1923. | In section three, subsection (6).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 13 & 14 Geo. 5.<br>c. 24. | The Housing, &c. Act, 1923.                            | In section two, in subsection (6), the words from "under Part III "of the principal Act" to the end of the subsection.                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 13 & 14 Geo. 5.<br>c. 32. | The Rent and Mortgage Interest Restrictions Act, 1923. | In section eighteen, subsection (4).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 13 & 14 Geo. 5.<br>c. 41. | The Town Councils (Scotland) Act, 1923.                | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 14 & 15 Geo. 5.<br>c. 36. | The Local Authorities Loans (Scotland) Act, 1924.      | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |



| Session and Chapter.      | Short Title.                                                 | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|---------------------------|--------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 15 & 16 Geo. 5.<br>c. 15. | The Housing (Scotland) Act, 1925.                            | <p>Section sixty-six, so far as unrepealed.</p> <p>In section sixty-eight, subsections (2) (as substituted by the Housing (Scotland) Act, 1930), and (3).</p> <p>In section sixty-nine, subsection (2).</p> <p>In section seventy, in subsection (1), the words from "and that" to the end of the subsection.</p> <p>Section ninety-three.</p> <p>Section ninety-five.</p> <p>In section ninety-six, in subsection (1), the words from "and the expenses" to the end of the subsection, and subsection (2).</p> <p>Section ninety-nine.</p> <p>Section one hundred and one.</p> |
| 15 & 16 Geo. 5.<br>c. 50. | The Theatrical Employers Registration Act, 1925.             | <p>In section twelve, in subsection (2), the words from "in the case of the council of a county borough" to the end of the subsection.</p> <p>In section fourteen, subsection (2).</p>                                                                                                                                                                                                                                                                                                                                                                                          |
| 15 & 16 Geo. 5.<br>c. 82. | The Roads and Streets in Police Burghs (Scotland) Act, 1925. | <p>In section two, the words from "on the security" to "Act 1878".</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 15 & 16 Geo. 5.<br>c. 89. | The Education (Scotland) Act, 1925.                          | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 16 Geo. 5. c. 5           | The Allotments (Scotland) Act, 1926.                         | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 16 & 17 Geo. 5.<br>c. 45. | The Fertilisers and Feeding Stuffs Act, 1926.                | <p>In section seventeen, subsection (3).</p> <p>In section twenty-eight, in paragraph (b), the words from "and the expenses" to the end of the paragraph, and paragraph (c).</p>                                                                                                                                                                                                                                                                                                                                                                                                |

14TH SCH.  
—cont.

| Session and Chapter.      | Short Title.                                           | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|---------------------------|--------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 16 & 17 Geo. 5.<br>c. 47. | The Rating (Scotland) Act, 1926.                       | <p>Section one.<br/>           Sections three and four.<br/>           Section seven.<br/>           Section nine.<br/>           In section eleven, the words from "and section three" to the end of the section.<br/>           In section twelve, subsection (8).<br/>           In section fourteen, subsection (4).<br/>           Sections fifteen to seventeen.<br/>           Sections nineteen to twenty-four.<br/>           Section twenty-five, so far as unrepealed.<br/>           Sections twenty-seven and twenty-eight.<br/>           In section twenty-nine, in subsection (1), the definitions of "agricultural lands and heritages," "agricultural rates grant," "compensation," "education rate," "lunacy rate," "parish council," "parish rates," and "rating authority," and subsections (3) to (5).<br/>           Second Schedule.</p> |
| 16 & 17 Geo. 5.<br>c. 56. | The Housing (Rural Workers) Act, 1926.                 | <p>In section eight, in paragraph (g), the words from "and any expenses" to "of that Act," and the words from "in like manner", where those words second occur, to the end of the paragraph.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 17 & 18 Geo. 5.<br>c. 17. | The Midwives and Maternity Homes (Scotland) Act, 1927. | <p>In section eight, the words from the beginning of the section to "such joint committee, and".</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 18 & 19 Geo. 5.<br>c. 29. | The Slaughter of Animals (Scotland) Act, 1928.         | <p>In section seven, in paragraph (c), the words from "shall be defrayed" to "Provided that" and the words "such expenses".</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 18 & 19 Geo. 5.<br>c. 31. | The Food and Drugs (Adulteration) Act, 1928.           | <p>Section twenty-six, and in section thirty-five, paragraph (h).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

| Session and Chapter.      | Short Title.                                 | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|---------------------------|----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 19 & 20 Geo. 5.<br>c. 25. | The Local Government (Scotland) Act, 1929.   | <p>In section two, subsection (2).<br/>           In section three, subsection (2).<br/>           In section five, subsections (5) and (7).<br/>           In section six, subsections (1), (2) and (4).<br/>           Sections seven to nine.<br/>           In section ten, subsections (4), (5), (7) and (8).<br/>           In section eleven, subsections (1) to (3), (7), (9) and (10).<br/>           Section twelve, so far as unrepealed.<br/>           Sections thirteen to seventeen.<br/>           In section eighteen, subsections (1) to (5).<br/>           Section nineteen.<br/>           Sections twenty-one to twenty-three.<br/>           Section twenty-five.<br/>           In section twenty-six, subsections (1) to (7).<br/>           Section thirty-three.<br/>           Sections thirty-five to forty.<br/>           Sections forty-two and forty-three.<br/>           Third Schedule.<br/>           Fourth Schedule.</p> |
| 19 & 20 Geo. 5.<br>c. 33. | The Bridges Act, 1929.                       | <p>In section eight, subsection (1), and in subsection (2), the words from "as a highway authority", where those words first occur, to the end of the subsection.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 20 & 21 Geo. 5.<br>c. 40. | The Housing (Scotland) Act, 1930.            | <p>In section thirty-nine, in subsection (3), the words from "in accordance with" to the end of the subsection.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 20 & 21 Geo. 5.<br>c. 43. | The Road Traffic Act, 1930.                  | <p>In section one hundred and nineteen, subsection (2), and in subsection (3), the words from "and any sum" to the end of the subsection.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 21 & 22 Geo. 5.<br>c. 17. | The Local Authorities (Publicity) Act, 1931. | <p>In section one, in subsection (1), the words from "Provided that" to the end of the subsection, and in subsection (3), the words from "and in Scotland" to the end of the subsection.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

14TH SCH.  
—cont.

14TH SCH.  
—cont.

| Session and Chapter.                | Short Title.                                                 | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-------------------------------------|--------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 22 & 23 Geo. 5.<br>c. 28.           | The Public Health (Cleansing of Shellfish) Act, 1932.        | In section three, in paragraph (b), the words from "(3) Any expenses" to "1897," and the words "in accordance with" to the end of the paragraph.                                                                                                                                                                                                                                                                                                                                                                                                     |
| 22 & 23 Geo. 5.<br>c. 49.           | The Town and Country Planning (Scotland) Act, 1932.          | In section thirty-seven, in subsection (1), the words from "and" "the costs incurred" to the end of the subsection, and subsection (2).<br><br>In section forty-eight, in subsection (1), the words from the beginning of the subsection to "Provided that", and in subsection (2), the words from "in accordance with" to the end of the subsection.<br><br>In section forty-nine, the words "Any expenses incurred under this Act by", the word "by", where that word second occurs, and the words from "shall be defrayed" to "and such council". |
| 24 & 25 Geo. 5.<br>c. 28.           | The Gas Undertakings Act, 1934.                              | In section thirty-four, the words "(given with the concurrence of the Board of Trade)", and the words "under the provisions" and "and".                                                                                                                                                                                                                                                                                                                                                                                                              |
| 24 & 25 Geo. 5.<br>c. 52.           | The Poor Law (Scotland) Act, 1934.                           | In section seven, in subsection (5), the words from "and the provisions" to the end of the subsection.                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 25 & 26 Geo. 5.<br>c. 36.           | The Public Health (Water and Sewerage) (Scotland) Act, 1935. | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 25 & 26 Geo. 5.<br>c. 41.           | The Housing (Scotland) Act, 1935.                            | In section seventy-six, subsection (3).<br>In section seventy-nine, subsections (2) and (3).                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 25 & 26 Geo. 5.<br>c. 47.           | The Restriction of Ribbon Development Act, 1935.             | In section twenty-five, in subsection (12), the words from "and the provisions" to the end of the subsection.                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 26 Geo. 5. &<br>1 Edw. 8.<br>c. 32. | The National Health Insurance Act, 1936.                     | Section one hundred and ninety-four.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 26 Geo. 5. &<br>1 Edw. 8.<br>c. 42. | The Education (Scotland) Act, 1936.                          | The whole Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

| Session and Chapter.                | Short Title.                                            | Extent of Repeal.                                                                                                                                                                                                                                                                                 |
|-------------------------------------|---------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 26 Geo. 5. &<br>1 Edw. 8.<br>c. 48. | The Health Resorts and Watering Places Act, 1936.       | In section one, in subsection (a), the words from "and (b) expend" to "value of the borough or district", and in subsection (2), paragraph (b).                                                                                                                                                   |
| 26 Geo. 5. &<br>1 Edw. 8.<br>c. 52. | The Private Legislation Procedure (Scotland) Act, 1936. | In section eleven, subsections (1) to (5).                                                                                                                                                                                                                                                        |
| 1 Edw. 8. &<br>1 Geo. 6.<br>c. 5.   | The Trunk Roads Act, 1936.                              | In section twelve, subsection (15).                                                                                                                                                                                                                                                               |
| 1 Edw. 8. &<br>1 Geo. 6.<br>c. 28.  | The Harbours, Piers and Ferries (Scotland) Act, 1937.   | In section twenty-one, in subsection (1), the words from "and the provisions" to the end of the subsection.                                                                                                                                                                                       |
| 1 Edw. 8. &<br>1 Geo. 6.<br>c. 37.  | The Children and Young Persons (Scotland) Act, 1937.    | In section thirty-five, in subsection (1), the words from "and shall not" to the end of the subsection, and subsection (2).<br>In section one hundred and one, in subsection (3), the words from "Provided that" to the end of the subsection.<br>In section one hundred and two, subsection (2). |
| 1 Edw. 8. &<br>1 Geo. 6.<br>c. 46.  | The Physical Training and Recreation Act, 1937.         | In section ten, in subsection (5), the words, from "or any offices" to "their business", and the words "or offices", wherever they occur, in subsection (7), the words from "and the provisions" to the end of the subsection, and subsection (8).                                                |
| 1 & 2 Geo. 6.<br>c. 6.              | The Air Raid Precautions Act, 1937.                     | In section thirteen, in subsection (10), the words from "and the provisions" to the end of the subsection, and subsection (11).                                                                                                                                                                   |
| 1 & 2 Geo. 6.<br>c. 72.             | The Fire Brigades Act, 1938.                            | In section twenty-eight, in subsection (16), the words from the beginning of the subsection to "Provided that", and in subsection (17), the words from "and the provisions" to the end of the subsection.                                                                                         |

14TH SCH.  
—cont.

| Session and Chapter.     | Short Title.                                               | Extent of Repeal.                                                                                                                                                                                                                                                       |
|--------------------------|------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2 & 3 Geo. 6.<br>c. 13.  | The Cancer Act, 1939                                       | In section seven, paragraphs (d) and (e).                                                                                                                                                                                                                               |
| 2 & 3 Geo. 6.<br>c. 28.  | The Local Government Amendment (Scotland) Act, 1939.       | The whole Act.                                                                                                                                                                                                                                                          |
| 2 & 3 Geo. 6.<br>c. 31.  | The Civil Defence Act, 1939.                               | In section ninety-one, subsection (32), and in subsection (33), the words from "and the provisions" to the end of the subsection.                                                                                                                                       |
| 6 & 7 Geo. 6.<br>c. 44.  | The Rent of Furnished Houses Control (Scotland) Act, 1943. | In section four, subsection (3).                                                                                                                                                                                                                                        |
| 8 & 9 Geo. 6.<br>c. 33.  | The Town and Country Planning (Scotland) Act, 1945.        | In section sixty, subsection (1), in subsection (2), the words from "in accordance with" to the end of the subsection, and subsection (3).                                                                                                                              |
| 8 & 9 Geo. 6.<br>c. 37.  | The Education (Scotland) Act, 1945.                        | Sections forty-four and eighty-seven, and Fourth Schedule so far as it amends sections three, twelve, fourteen and seventeen of the Local Government (Scotland) Act, 1929.                                                                                              |
| 9 & 10 Geo. 6.<br>c. 42. | The Water (Scotland) Act, 1946.                            | In section thirty-nine, the words from "subject to" to "Act 1929", and the proviso.<br>Sections forty and forty-one.<br>In section forty-two, in subsection (1), in paragraph (d), the words from "so however" to "determine."                                          |
|                          |                                                            | In section forty-five, the words from the beginning to "the commencement of this Act", so far as these words relate to a local authority providing a supply of water under a public general Act, and the words from "or where the authority" to the end of the section. |
| 9 & 10 Geo. 6.<br>c. 71. | The Police (Scotland) Act, 1946.                           | In section eleven, in subsection (4), the words from "and section" to the end of the subsection.                                                                                                                                                                        |
| 9 & 10 Geo. 6.<br>c. 72. | The Education (Scotland) Act, 1946.                        | In section eighty-two, subsection (3).<br>In section eighty-seven, the words from "and shall" to the end of the section.                                                                                                                                                |

| Session and Chapter.      | Short Title.                                      | Extent of Repeal.                                                                                                                                                                                                                                                                                    |
|---------------------------|---------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10 & 11 Geo. 6.<br>c. 27. | The National Health Service (Scotland) Act, 1947. | In section fifty-three, subsection (6), and in subsection (7), the words from "subject to" to "Act, 1929" and proviso (ii); the Fifth Schedule except paragraph 6; and the Eleventh Schedule, so far as relating to subsection (4) of section fourteen of the Local Government (Scotland) Act, 1929. |

14TH SCH.  
—cont.**CHAPTER 44.***Crown Proceedings Act, 1947.*

## ARRANGEMENT OF SECTIONS.

## PART I.

## SUBSTANTIVE LAW.

## Section.

1. Right to sue the Crown.
2. Liability of the Crown in tort.
3. Provisions as to industrial property.
4. Application of law as to indemnity, contribution, joint and several tortfeasors, and contributory negligence.
5. Liability in respect of Crown ships, &c.
6. Application to Crown ships of rules as to division of loss, &c.
7. Liability in respect of Crown docks, harbours, &c.
8. Salvage claims against the Crown and Crown rights to salvage.
9. Liability in connection with postal packets.
10. Provisions relating to the armed forces.
11. Saving in respect of acts done under prerogative and statutory powers.
12. Transitional provisions.

## PART II.

## JURISDICTION AND PROCEDURE.

*The High Court.*

13. Civil proceedings in the High Court.
14. Summary applications to High Court in certain revenue matters.

*County Courts.*

15. Civil proceedings in the county court.

*General.*

## Section.

16. Interpleader.
17. Parties to proceedings.
18. Service of documents.
19. Venue and related matters.
20. Removal and transfer of proceedings.
21. Nature of relief.
22. Appeals and stay of execution.
23. Scope of Part II.

## PART III.

## JUDGMENTS AND EXECUTION.

24. Interest on debts, damages and costs.
25. Satisfaction of orders against the Crown.
26. Execution by the Crown.
27. Attachment of moneys payable by the Crown.

## PART IV.

## MISCELLANEOUS AND SUPPLEMENTAL.

*Miscellaneous.*

28. Discovery.
29. Exclusion of proceedings in rem against the Crown.
30. Limitation of actions.
31. Application to the Crown of certain statutory provisions.
32. No abatement on demise of Crown.
33. Abolition of certain writs.
34. Proceedings in courts other than the High Court and county courts.

*Supplemental.*

35. Rules of court and county court rules.
36. Pending proceedings.
37. Financial provisions.
38. Interpretation.
39. Repeals, &c.
40. Savings.

## PART V.

## APPLICATION TO SCOTLAND.

41. Application of Act to Scotland.
42. Exclusion of certain provisions.
43. Interpretation for purposes of application to Scotland.
44. Proceedings against the Crown in the sheriff court.
45. Satisfaction of orders granted against the Crown in Scotland.
46. Provisions as to arrestment.
47. Recovery of documents in possession of Crown.
48. Application of 56 and 57 Vict. c. 61 to the Crown.
49. Application to Scotland of s. 26.
50. Application to Scotland of s. 34.
51. Application to Scotland of ss. 36 and 38.



## PART VI.

## EXTENT, COMMENCEMENT, SHORT TITLE, &amp;C.

## Section.

52. Extent of Act.  
53. Provisions as to Northern Ireland.  
54. Short title and commencement.

## SCHEDULES :

- First Schedule.—Proceedings abolished by this Act.  
Second Schedule.—Enactments repealed.

An Act to amend the law relating to the civil liabilities and rights of the Crown and to civil proceedings by and against the Crown, to amend the law relating to the civil liabilities of persons other than the Crown in certain cases involving the affairs or property of the Crown, and for purposes connected with the matters aforesaid. [31st July 1947.]

**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.

## SUBSTANTIVE LAW.

1. Where any person has a claim against the Crown after the commencement of this Act, and, if this Act had not been passed, the claim might have been enforced, subject to the grant of His Majesty's fiat, by petition of right, or might have been enforced by a proceeding provided by any statutory provision repealed by this Act, then, subject to the provisions of this Act, the claim may be enforced as of right, and without the fiat of His Majesty, by proceedings taken against the Crown for that purpose in accordance with the provisions of this Act. Right to sue the Crown.

2.—(1) Subject to the provisions of this Act, the Crown shall be subject to all those liabilities in tort to which, if it were a private person of full age and capacity, it would be subject :— Liability of the Crown in tort.

- (a) in respect of torts committed by its servants or agents ;  
(b) in respect of any breach of those duties which a person owes to his servants or agents at common law by reason of being their employer ; and

PART I.  
—cont.

(c) in respect of any breach of the duties attaching at common law to the ownership, occupation, possession or control of property :

Provided that no proceedings shall lie against the Crown by virtue of paragraph (a) of this subsection in respect of any act or omission of a servant or agent of the Crown unless the act or omission would apart from the provisions of this Act have given rise to a cause of action in tort against that servant or agent or his estate.

(2) Where the Crown is bound by a statutory duty which is binding also upon persons other than the Crown and its officers, then, subject to the provisions of this Act, the Crown shall, in respect of a failure to comply with that duty, be subject to all those liabilities in tort (if any) to which it would be so subject if it were a private person of full age and capacity.

(3) Where any functions are conferred or imposed upon an officer of the Crown as such either by any rule of the common law or by statute, and that officer commits a tort while performing or purporting to perform those functions, the liabilities of the Crown in respect of the tort shall be such as they would have been if those functions had been conferred or imposed solely by virtue of instructions lawfully given by the Crown.

(4) Any enactment which negatives or limits the amount of the liability of any Government department or officer of the Crown in respect of any tort committed by that department or officer shall, in the case of proceedings against the Crown under this section in respect of a tort committed by that department or officer, apply in relation to the Crown as it would have applied in relation to that department or officer if the proceedings against the Crown had been proceedings against that department or officer.

(5) No proceedings shall lie against the Crown by virtue of this section in respect of anything done or omitted to be done by any person while discharging or purporting to discharge any responsibilities of a judicial nature vested in him, or any responsibilities which he has in connection with the execution of judicial process.

(6) No proceedings shall lie against the Crown by virtue of this section in respect of any act, neglect or default of any officer of the Crown, unless that officer has been directly or indirectly appointed by the Crown and was at the material time paid in respect of his duties as an officer of the Crown wholly out of the Consolidated Fund of the United Kingdom, moneys provided by Parliament, the Road Fund, or any other Fund certified by the Treasury for the purposes of this subsection or was at the material time holding an office in respect of which the Treasury certify that the holder thereof would normally be so paid.

3.—(1) Where after the commencement of this Act any servant or agent of the Crown infringes a patent, or infringes a registered trade mark, or infringes any copyright (including any copyright in a design subsisting under the Patents and Designs Acts, 1907 to 1946), and the infringement is committed with the authority of the Crown, then, subject to the provisions of this Act, civil proceedings in respect of the infringement shall lie against the Crown.

PART I.  
—cont.

Provisions as to industrial property.

(2) Nothing in the preceding subsection or in any other provision of this Act shall affect the rights of any Government department under section twenty-nine or section fifty-eight A of the Patents and Designs Act, 1907, or the rights of the Minister of Supply under section twelve of the Atomic Energy Act, 1946.

7 Edw. 7.  
c. 29.  
9 & 10 Geo. 6.  
c. 80.

(3) Save as expressly provided by this section, no proceedings shall lie against the Crown by virtue of this Act in respect of the infringement of a patent, in respect of the infringement of a registered trade mark, or in respect of the infringement of any such copyright as is mentioned in subsection (1) of this section.

4.—(1) Where the Crown is subject to any liability by virtue of this Part of this Act, the law relating to indemnity and contribution shall be enforceable by or against the Crown in respect of the liability to which it is so subject as if the Crown were a private person of full age and capacity.

Application of law as to indemnity, contribution, joint and several tortfeasors, and contributory negligence.  
25 & 26 Geo. 5.  
c. 30.

(2) Without prejudice to the effect of the preceding subsection, Part II of the Law Reform (Married Women and Tortfeasors) Act, 1935 (which relates to proceedings against, and contribution between, joint and several tortfeasors) shall bind the Crown.

25 & 26 Geo. 5.  
c. 30.

(3) Without prejudice to the general effect of section one of this Act, the Law Reform (Contributory Negligence) Act, 1945 (which amends the law relating to contributory negligence) shall bind the Crown.

8 & 9 Geo. 6.  
c. 28.

5.—(1) The provisions of the Merchant Shipping Acts, 1894 to 1940, which limit the amount of the liability of the owners of ships shall, with any necessary modifications, apply for the purpose of limiting the liability of His Majesty in respect of His Majesty's ships; and any provision of the said Acts which relates to or is ancillary to or consequential on the provisions so applied shall have effect accordingly.

Liability in respect of Crown ships, &c.

(2) Without prejudice to the provisions of the preceding subsection, where a ship is built at any port or place within His Majesty's dominions, and His Majesty is interested in her by reason of the fact that she is built by or on behalf of or to the order of His Majesty in right of His Government in the United Kingdom, the provisions of the Merchant Shipping Acts, 1894

PART I.  
—cont.

to 1940, which limit the amount of the liability of the owners of ships shall, with any necessary modifications, apply for the purpose of limiting the liabilities in respect of that ship of His Majesty, her builders, her owners, and any other persons interested in her; and any provision of the said Acts which relates to or is ancillary to or consequential on the provisions so applied shall have effect accordingly.

This subsection shall have effect only in respect of the period from and including the launching of the ship until the time of her completion, and shall not in any event have effect in respect of any period during which His Majesty is not so interested in the ship as aforesaid. In relation to a ship built to the order of His Majesty in right of His Government in the United Kingdom, the time of her completion shall be taken for the purposes of this subsection to be the time when His Majesty, acting in His said right, finally takes delivery of her under the building contract.

(3) Where any ship has been demised or sub-demised by His Majesty acting in right of His Government in the United Kingdom, then, whether or not the ship is registered for the purposes of the Merchant Shipping Acts, 1894 to 1940, the provisions of those Acts which limit the amount of the liability of the owners of ships shall, in respect of the period for which the demise or sub-demise continues, apply, with any necessary modifications, for the purpose of limiting the liabilities in respect of the ship of any person entitled to her by demise or sub-demise; and any provision of the said Acts which relates to or is ancillary to or consequential on the provisions so applied shall have effect accordingly.

This subsection shall be deemed always to have had effect.

(4) Where by virtue of any arrangement between His Majesty and some other person (not being a servant of His Majesty) that other person (hereinafter referred to as "the manager") is entrusted with the management of any of His Majesty's ships, the provisions of the Merchant Shipping Acts, 1894 to 1940, which limit the amount of the liability of the owners of ships shall apply for the purpose of limiting the manager's liability in respect of the ship while so entrusted; and any provision of the said Acts which relates to or is ancillary to or consequential on the provisions so applied shall have effect accordingly.

This subsection shall be deemed always to have had effect.

(5) Where for the purposes of any enactment as applied by this section it is necessary to ascertain the tonnage of any ship, and that ship is not registered for the purposes of the Merchant Shipping Acts, 1894 to 1940, the tonnage of the ship shall be taken for the purposes of that enactment to be the tonnage arrived at by:—

(a) ascertaining her tonnage in accordance with section seventy-seven of the Merchant Shipping Act, 1894, and

the Rules contained in the Second Schedule to that Act, or those Rules as modified or altered from time to time under subsection (7) of the said section seventy-seven, and deducting from her tonnage as so ascertained ten per cent. thereof; or

- (b) where it is impossible to ascertain her tonnage as provided by paragraph (a) of this subsection, taking her estimated tonnage as certified for the purposes of this paragraph, and deducting from her estimated tonnage as so certified ten per cent. thereof.

Where it is necessary to ascertain the tonnage of a ship in the manner provided by paragraph (b) of this subsection, the Chief Ships Surveyor of the Ministry of Transport, or the officer for the time being discharging the functions of the said Surveyor, shall, upon the direction of the court concerned, and after considering such evidence of the dimensions of the ship as it may be practicable to obtain, estimate what her tonnage would have been found to be if she could have been duly measured for the purpose, and issue a certificate stating her tonnage as so estimated by him.

(6) For the purposes of this section the expression "ship" has the meaning assigned to it by section seven hundred and forty-two of the Merchant Shipping Act, 1894, but includes also:—

- (a) any vessel which is a ship as defined by section four of the Merchant Shipping (Liability of Shipowners) Act, 1898; and 61 & 62 Vict. C. 14.
- (b) every description of lighter, barge or like vessel used in navigation in Great Britain, however propelled, so, however, that a vessel used exclusively in non-tidal waters, other than harbours, shall not for the purposes of this paragraph be deemed to be used in navigation.

(7) Any reference in this section to the provisions of the Merchant Shipping Acts, 1894 to 1940, which limit the amount of the liability of the owners of ships shall be construed as including a reference to any provision of those Acts which negatives the liability of the owner of a ship, and accordingly any reference in this section to limiting the liability of any person shall be construed as including a reference to negating his liability.

(8) Relief shall not be available by virtue of the Merchant Shipping (Liability of Shipowners) Act, 1898, in any case in which it is available by virtue of this section.

6. The provisions of sections one, two and three of the Maritime Conventions Act, 1911 (which relate to the apportionment of damage or loss caused by vessels) shall apply in the case of vessels belonging to His Majesty as they apply in the case of other vessels.

Application to Crown ships of rules as to division of loss, &c.  
1 & 2 Geo. 5.  
c. 57.

PART I.  
—cont.  
Liability in  
respect of  
Crown docks,  
harbours, &c.

7.—(1) It is hereby declared that the provisions of the Merchant Shipping Acts, 1894 to 1940, which limit the amount of the liability of the owners of docks and canals, and of harbour and conservancy authorities, apply for the purpose of limiting the liability of His Majesty in His capacity as the owner of any dock or canal, or in His capacity as a harbour or conservancy authority, and that all the relevant provisions of the said Acts have effect in relation to His Majesty accordingly.

63 & 64 Vict.  
c. 32.

(2) In this section the expressions "dock", "harbour", "owner", "harbour authority" and "conservancy authority" have respectively the same meanings as they have for the purposes of section two of the Merchant Shipping (Liability of Shipowners and others) Act, 1900.

(3) In this section references to His Majesty include references to any Government department and to any officer of the Crown in his capacity as such.

Salvage  
claims against  
the Crown  
and Crown  
rights to  
salvage.

8.—(1) Subject to the provisions of this Act, the law relating to civil salvage, whether of life or property, except sections five hundred and fifty-one to five hundred and fifty-four of the Merchant Shipping Act, 1894, or any corresponding provisions relating to aircraft, shall apply in relation to salvage services rendered after the commencement of this Act in assisting any of His Majesty's ships or aircraft, or in saving life therefrom, or in saving any cargo or apparel belonging to His Majesty in right of His Government in the United Kingdom, in the same manner as if the ship, aircraft, cargo or apparel belonged to a private person.

(2) Where after the commencement of this Act salvage services are rendered by or on behalf of His Majesty, whether in right of His Government in the United Kingdom or otherwise, His Majesty shall be entitled to claim salvage in respect of those services to the same extent as any other salvor, and shall have the same rights and remedies in respect of those services as any other salvor.

Liability in  
connection  
with postal  
packets.

9.—(1) Subject as hereinafter provided, no proceedings in tort shall lie against the Crown for anything done or omitted to be done in relation to a postal packet by any person while employed as a servant or agent of the Crown, or for anything done or omitted to be done in relation to a telephonic communication by any person while so employed; nor shall any officer of the Crown be subject, except at the suit of the Crown, to any civil liability for any of the matters aforesaid.

8 Edw. 7.  
c. 48.

(2) Notwithstanding the provisions of section thirteen of the Post Office Act, 1908, proceedings shall lie against the Crown under this subsection in respect of loss of or damage to a registered inland postal packet, not being a telegram, in so far as the loss or damage is due to any wrongful act done or any

neglect or default committed by a person employed as a servant or agent of the Crown while performing or purporting to perform his functions as such in relation to the receipt, carriage, delivery or other dealing with the packet :

Provided that :—

- (a) no proceedings shall lie under this subsection in respect of any postal packet registered before the commencement of this Act ;
- (b) the amount recoverable in any proceedings under this subsection shall not exceed the market value of the packet in question (excluding the market value of any message or information which it bears) at the time when the cause of action arises ;
- (c) the amount recoverable in any such proceedings shall not in any event exceed the maximum amount which, under the Post Office Regulations, is available for compensating the persons aggrieved having regard to the fee paid in respect of the registration of the packet ; and
- (d) the Crown shall not be liable under this subsection in respect of any packet unless such conditions as are prescribed by Post Office Regulations in relation to registered inland postal packets have been complied with in relation to that packet.

For the purposes of any proceedings under this subsection, it shall be presumed, until the contrary is shown on behalf of the Crown, that the loss of or damage to the packet was due to some wrongful act done, or some neglect or default committed, by a person employed as a servant or agent of the Crown while performing or purporting to perform his functions as such in relation to the receipt, carriage, delivery or other dealing with the packet.

(3) No relief shall be available under subsection (2) of this section except upon a claim by the sender or the addressee of the packet in question ; and the sender or addressee of the packet shall be entitled to claim any relief available under the said subsection in respect of the packet, whether or not he is the person damaged by the injury complained of, and to give a good discharge in respect of all claims in respect of the packet under the said subsection :

Provided that where the court is satisfied, upon an application by any person who is not the sender or addressee of the packet, that the sender and the addressee are unable or unwilling to enforce their remedies in respect of the packet under the said subsection, the court may, upon such terms as to security for

PART I.  
—cont.

costs and otherwise as the court thinks just, allow that other person to bring proceedings under the said subsection in the name of the sender or the addressee of the packet.

Any reference in this subsection to the sender or addressee of the packet includes a reference to his personal representatives.

(4) Where by virtue of the last preceding subsection any person recovers any money or property which, apart from that subsection, would have been recoverable by some other person, the money or property so recovered shall be held on trust for that person.

(5) Post Office Regulations may be made for prescribing the conditions to be observed for the purposes of this section in relation to registered inland postal packets.

(6) No claim for salvage shall lie against the Crown by virtue of section eight of this Act in respect of anything done to, or suffered in relation to, any postal packets while they are being carried by sea or by air.

(7) In this section :—

The expression “ postal packet ” has, subject as hereinafter provided, the same meaning as in the Post Office Act, 1908, and accordingly includes a telegram ;

The expression “ Post Office Regulations ” has the same meaning as in the Post Office Act, 1908 ;

The expression “ inland postal packet ” means a postal packet which is posted in the United Kingdom, the Channel Islands or the Isle of Man for delivery, at any place in the United Kingdom, the Channel Islands or the Isle of Man, to the person to whom it is addressed.

The expression “ sender ”, in relation to a postal packet, has such meaning as may be assigned to it by Post Office Regulations.

(8) Any reference in this section to a postal packet shall be construed as including a reference to the contents of such a packet.

Provisions  
relating to the  
armed forces.

10.—(1) Nothing done or omitted to be done by a member of the armed forces of the Crown while on duty as such shall subject either him or the Crown to liability in tort for causing the death of another person, or for causing personal injury to another person, in so far as the death or personal injury is due to anything suffered by that other person while he is a member of the armed forces of the Crown if—

(a) at the time when that thing is suffered by that other person, he is either on duty as a member of the armed forces of the Crown or is, though not on duty as such, on any land, premises, ship, aircraft or vehicle for the time being used for the purposes of the armed forces of the Crown ; and



- (b) the Minister of Pensions certifies that his suffering that thing has been or will be treated as attributable to service for the purposes of entitlement to an award under the Royal Warrant, Order in Council or Order of His Majesty relating to the disablement or death of members of the force of which he is a member :

PART I.  
—cont.

Provided that this subsection shall not exempt a member of the said forces from liability in tort in any case in which the court is satisfied that the act or omission was not connected with the execution of his duties as a member of those forces.

(2) No proceedings in tort shall lie against the Crown for death or personal injury due to anything suffered by a member of the armed forces of the Crown if—

- (a) that thing is suffered by him in consequence of the nature or condition of any such land, premises, ship, aircraft or vehicle as aforesaid, or in consequence of the nature or condition of any equipment or supplies used for the purposes of those forces ; and
- (b) the Minister of Pensions certifies as mentioned in the preceding subsection ;

nor shall any act or omission of an officer of the Crown subject him to liability in tort for death or personal injury, in so far as the death or personal injury is due to anything suffered by a member of the armed forces of the Crown being a thing as to which the conditions aforesaid are satisfied.

(3) The Admiralty or a Secretary of State, if satisfied that it is the fact :—

- (a) that a person was or was not on any particular occasion on duty as a member of the armed forces of the Crown ; or
- (b) that at any particular time any land, premises, ship, aircraft, vehicle, equipment or supplies was or was not, or were or were not, used for the purposes of the said forces ;

may issue a certificate certifying that to be the fact ; and any such certificate shall, for the purposes of this section, be conclusive as to the fact which it certifies.

11.—(1) Nothing in Part I of this Act shall extinguish or abridge any powers or authorities which, if this Act had not been passed, would have been exercisable by virtue of the prerogative of the Crown, or any powers or authorities conferred on the Crown by any statute, and, in particular, nothing in the said Part I shall extinguish or abridge any powers or authorities exercisable by the Crown, whether in time of peace or of war, for the purpose of the defence of the realm or of training, or maintaining the efficiency of, any of the armed forces of the Crown.

Saving in respect of acts done under prerogative and statutory powers.

PART I.  
—cont.

(2) Where in any proceedings under this Act it is material to determine whether anything was properly done or omitted to be done in the exercise of the prerogative of the Crown, the Admiralty or a Secretary of State may, if satisfied that the act or omission was necessary for any such purpose as is mentioned in the last preceding subsection, issue a certificate to the effect that the act or omission was necessary for that purpose; and the certificate shall, in those proceedings, be conclusive as to the matter so certified.

Transitional  
provisions.

12.—(1) When this Act comes into operation, the preceding provisions of this Part of this Act (except subsections (3) and (4) of section five thereof and any provision which is expressly related to the commencement of this Act) shall be deemed to have had effect as from the beginning of the thirteenth day of February, nineteen hundred and forty-seven:

Provided that where by virtue of this subsection proceedings are brought against the Crown in respect of a tort alleged to have been committed on or after the said thirteenth day of February and before the commencement of this Act, the Crown may rely upon the appropriate provisions of the law relating to the limitation of time for bringing proceedings as if this Act had at all material times been in force.

(2) Where any civil proceedings brought before the commencement of this Act have not been finally determined, and the court for the time being seized of those proceedings is of opinion that having regard to the provisions of this section the Crown ought to be made a party to the proceedings for the purpose of disposing completely and effectually of the questions involved in the cause or matter before the court, the court may order that the Crown be made a party thereto upon such terms, if any, as the court thinks just, and may make such consequential orders as the court thinks expedient.

## PART II.

## JURISDICTION AND PROCEDURE.

*The High Court.*Civil  
proceedings  
in the High  
Court.

13. Subject to the provisions of this Act, all such civil proceedings by or against the Crown as are mentioned in the First Schedule to this Act are hereby abolished, and all civil proceedings by or against the Crown in the High Court shall be instituted and proceeded with in accordance with rules of court and not otherwise.

In this section the expression "rules of court" means, in relation to any claim against the Crown in the High Court which falls within the jurisdiction of that court as a prize court, rules of court made under section three of the Prize Courts Act, 1894.

- 14.—(1) Subject to and in accordance with rules of court, the Crown may apply in a summary manner to the High Court :—
- PART II.  
—cont.
- (a) for the furnishing of information required to be furnished by any person under the enactments relating to death duties ;
- Summary applications to High Court in certain revenue matters.
- (b) for the delivery of accounts and payment of duty under the said enactments by persons accountable for or chargeable with such duty and by persons who have taken possession of and administered the estates of deceased persons without obtaining probate or letters of administration ;
- (c) for the delivery of an account under section two of the Stamp Duties Management Act, 1891, or under that section as amended or applied by any subsequent enactment ;
- 54 & 55 Vict. c. 38.
- (d) for the payment of sums improperly withheld or retained within the meaning of the said section two.
- (2) Subject to and in accordance with rules of court, the Crown may apply in a summary manner to the High Court :—
- (a) for the payment of duty under the enactments relating to excise duties ;
- (b) for the delivery of any accounts required to be delivered, or the furnishing of any information required to be furnished, by the enactments relating to excise duties or by any regulations relating to such duties ;
- (c) for the payment of tax under the enactments relating to purchase tax ;
- (d) for the delivery of any accounts, the production of any books, or the furnishing of any information, required to be delivered, produced or furnished under the enactments relating to purchase tax.

#### *County Courts.*

15.—(1) Subject to the provisions of this Act, and to any enactment limiting the jurisdiction of a county court (whether by reference to the subject matter of the proceedings to be brought or the amount sought to be recovered in the proceedings or otherwise) any civil proceedings against the Crown may be instituted in a county court.

Civil proceedings in the county court.

(2) Any proceedings by or against the Crown in a county court shall be instituted and proceeded with in accordance with county court rules and not otherwise

#### *General.*

16. The Crown may obtain relief by way of interpleader proceedings, and may be made a party to such proceedings, in the same manner in which a subject may obtain relief by way of such proceedings or be made a party thereto, and may be made

Interpleader.

PART II.  
—cont.

a party to such proceedings notwithstanding that the application for relief is made by a sheriff or other like officer ; and all rules of court and county court rules relating to interpleader proceedings shall, subject to the provisions of this Act, have effect accordingly.

Parties to  
proceedings.

17.—(1) The Treasury shall publish a list specifying the several Government departments which are authorised departments for the purposes of this Act, and the name and address for service of the person who is, or is acting for the purposes of this Act as, the solicitor for each such department, and may from time to time amend or vary the said list.

Any document purporting to be a copy of a list published under this section and purporting to be printed under the superintendence or the authority of His Majesty's Stationery Office shall in any legal proceedings be received as evidence for the purpose of establishing what departments are authorised departments for the purposes of this Act, and what person is, or is acting for the purposes of this Act as, the solicitor for any such department.

(2) Civil proceedings by the Crown may be instituted either by an authorised Government department in its own name, whether that department was or was not at the commencement of this Act authorised to sue, or by the Attorney General.

(3) Civil proceedings against the Crown shall be instituted against the appropriate authorised Government department, or, if none of the authorised Government departments is appropriate or the person instituting the proceedings has any reasonable doubt whether any and if so which of those departments is appropriate, against the Attorney General.

(4) Where any civil proceedings against the Crown are instituted against the Attorney General, an application may at any stage of the proceedings be made to the court by or on behalf of the Attorney General to have such of the authorised Government departments as may be specified in the application substituted for him as defendant to the proceedings ; and where any such proceedings are brought against an authorised Government department, an application may at any stage of the proceedings be made to the court on behalf of that department to have the Attorney General or such of the authorised Government departments as may be specified in the application substituted for the applicant as the defendant to the proceedings.

Upon any such application the court may if it thinks fit make an order granting the application on such terms as the court thinks just ; and on such an order being made the proceedings shall continue as if they had been commenced against the department specified in that behalf in the order, or, as the case may require, against the Attorney General.

(5) No proceedings instituted in accordance with this Part of this Act by or against the Attorney General or an authorised Government department shall abate or be affected by any change in the person holding the office of Attorney General or in the person or body of persons constituting the department.

PART II.  
—cont.

18. All documents required to be served on the Crown for the purpose of or in connection with any civil proceedings by or against the Crown shall, if those proceedings are by or against an authorised Government department, be served on the solicitor, if any, for that department, or the person, if any, acting for the purposes of this Act as solicitor for that department, or if there is no such solicitor and no person so acting, or if the proceedings are brought by or against the Attorney General, on the Solicitor for the affairs of His Majesty's Treasury.

Service of  
documents.

19.—(1) In any case in which civil proceedings against the Crown in the High Court are instituted by the issue of a writ out of a district registry the Crown may enter an appearance either in the district registry or in the central office of the High Court, and if an appearance is entered in the central office all steps in relation to the proceedings up to trial shall be taken at the Royal Courts of Justice.

Venue and  
related  
matters.

(2) The trial of any civil proceedings by or against the Crown in the High Court shall be held at the Royal Courts of Justice unless the court, with the consent of the Crown, otherwise directs.

Where the Crown refuses its consent to a direction under this subsection the court may take account of the refusal in exercising its powers in regard to the award of costs.

(3) Nothing in this section shall prejudice the right of the Crown to demand a local venue for the trial of any proceedings in which the Attorney General has waived his right to a trial at bar.

20.—(1) If in a case where proceedings are instituted against the Crown in a county court an application in that behalf is made by the Crown to the High Court, and there is produced to the court a certificate of the Attorney General to the effect that the proceedings may involve an important question of law, or may be decisive of other cases arising out of the same matter, or are for other reasons more fit to be tried in the High Court, the proceedings shall be removed into the High Court.

Removal and  
transfer of  
proceedings.

Where any proceedings have been removed into the High Court on the production of such a certificate as aforesaid, and it appears to the court by whom the proceedings are tried that the removal has occasioned additional expense to the person by whom the proceedings are brought, the court may take account of the additional expense so occasioned in exercising its powers in regard to the award of costs.

PART II.  
—cont.

(2) Without prejudice to the rights of the Crown under the preceding provisions of this section, all rules of law and enactments relating to the removal or transfer of proceedings from a county court to the High Court, or the transfer of proceedings from the High Court to a county court, shall apply in relation to proceedings against the Crown :

Provided that :—

- (a) an order for the transfer to a county court of any proceedings against the Crown in the High Court shall not be made without the consent of the Crown ; and
- (b) the duty of a judge to make an order under section forty-four of the County Courts Act, 1934, for the transfer to the High Court of proceedings commenced against the Crown in a county court shall not be conditional upon the giving of security by the Crown.

24 & 25 Geo. 5.  
c. 53.

Nature of  
relief.

21.—(1) In any civil proceedings by or against the Crown the court shall, subject to the provisions of this Act, have power to make all such orders as it has power to make in proceedings between subjects, and otherwise to give such appropriate relief as the case may require :

Provided that :—

- (a) where in any proceedings against the Crown any such relief is sought as might in proceedings between subjects be granted by way of injunction or specific performance, the court shall not grant an injunction or make an order for specific performance, but may in lieu thereof make an order declaratory of the rights of the parties ; and
- (b) in any proceedings against the Crown for the recovery of land or other property the court shall not make an order for the recovery of the land or the delivery of the property, but may in lieu thereof make an order declaring that the plaintiff is entitled as against the Crown to the land or property or to the possession thereof.

(2) The court shall not in any civil proceedings grant any injunction or make any order against an officer of the Crown if the effect of granting the injunction or making the order would be to give any relief against the Crown which could not have been obtained in proceedings against the Crown.

Appeals and  
stay of  
execution.

22. Subject to the provisions of this Act, all enactments, rules of court and county court rules relating to appeals and stay of execution shall, with any necessary modifications, apply to civil proceedings by or against the Crown as they apply to proceedings between subjects.

Scope of  
Part II.

23.—(1) Subject to the provisions of this section, any reference in this Part of this Act to civil proceedings by the Crown shall be construed as a reference to the following proceedings only :—

- (a) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by any such proceedings as are mentioned in paragraph 1 of the First Schedule to this Act ;
- (b) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by an action at the suit of any Government department or any officer of the Crown as such ;
- (c) all such proceedings as the Crown is entitled to bring by virtue of this Act ;

and the expression " civil proceedings by or against the Crown " shall be construed accordingly.

(2) Subject to the provisions of this section, any reference in this Part of this Act to civil proceedings against the Crown shall be construed as a reference to the following proceedings only :—

- (a) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by any such proceedings as are mentioned in paragraph 2 of the First Schedule to this Act ;
- (b) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by an action against the Attorney General, any Government department, or any officer of the Crown as such ; and
- (c) all such proceedings as any person is entitled to bring against the Crown by virtue of this Act ;

and the expression " civil proceedings by or against the Crown " shall be construed accordingly.

(3) Notwithstanding anything in the preceding provisions of this section, the provisions of this Part of this Act shall not have effect with respect to any of the following proceedings, that is to say :—

- (a) proceedings brought by the Attorney General on the relation of some other person ;
- (b) proceedings by or against the Public Trustee ;
- (c) proceedings by or against the Charity Commissioners ;
- (d) proceedings under the Acts relating to charitable trusts by or against the Attorney General ;

PART II.  
—cont.

(e) proceedings relating to educational charities by or against the Minister of Education ;

(f) proceedings by or against the Registrar of the Land Registry or any officers of that registry.

(4) Subject to the provisions of any Order in Council made under the provisions hereinafter contained, this part of this Act shall not affect proceedings initiated in any court other than the High Court or a county court.

## PART III.

## JUDGMENTS AND EXECUTION.

Interest on  
debts  
damages and  
costs.

1 & 2 Vict.  
c. 110.

24.—(1) Section seventeen of the Judgments Act, 1838 (which provides that a judgment debt shall carry interest) shall apply to judgment debts due from or to the Crown.

(2) Where any costs are awarded to or against the Crown in the High Court, interest shall be payable upon those costs unless the court otherwise orders, and any interest so payable shall be at the same rate as that at which interest is payable upon judgment debts due from or to the Crown.

24 & 25 Geo. 5.  
c. 41.

(3) Section three of the Law Reform (Miscellaneous Provisions) Act, 1934 (which empowers courts of record to award interest on debts and damages) shall apply to judgments given in proceedings by and against the Crown.

(4) This section shall apply both in relation to proceedings pending at the commencement of this Act and in relation to proceedings instituted thereafter.

Satisfaction  
of orders  
against the  
Crown.

25.—(1) Where in any civil proceedings by or against the Crown, or in any proceedings on the Crown side of the King's Bench Division, or in connection with any arbitration to which the Crown is a party, any order (including an order for costs) is made by any court in favour of any person against the Crown or against a Government department or against an officer of the Crown as such, the proper officer of the court shall, on an application in that behalf made by or on behalf of that person at any time after the expiration of twenty-one days from the date of the order or, in case the order provides for the payment of costs and the costs require to be taxed, at any time after the costs have been taxed, whichever is the later, issue to that person a certificate in the prescribed form containing particulars of the order :

Provided that, if the court so directs, a separate certificate shall be issued with respect to the costs (if any) ordered to be paid to the applicant.

(2) A copy of any certificate issued under this section may be served by the person in whose favour the order is made upon



the person for the time being named in the record as the solicitor, or as the person acting as solicitor, for the Crown or for the Government department or officer concerned.

(3) If the order provides for the payment of any money by way of damages or otherwise, or of any costs, the certificate shall state the amount so payable, and the appropriate Government department shall, subject as hereinafter provided, pay to the person entitled or to his solicitor the amount appearing by the certificate to be due to him together with the interest, if any, lawfully due thereon :

Provided that the court by which any such order as aforesaid is made or any court to which an appeal against the order lies may direct that, pending an appeal or otherwise, payment of the whole of any amount so payable, or any part thereof, shall be suspended, and if the certificate has not been issued may order any such directions to be inserted therein.

(4) Save as aforesaid no execution or attachment or process in the nature thereof shall be issued out of any court for enforcing payment by the Crown of any such money or costs as aforesaid, and no person shall be individually liable under any order for the payment by the Crown, or any Government department, or any officer of the Crown as such, of any such money or costs.

(5) This section shall apply both in relation to proceedings pending at the commencement of this Act and in relation to proceedings instituted thereafter.

26.—(1) Subject to the provisions of this Act, any order made in favour of the Crown against any person in any civil proceedings to which the Crown is a party may be enforced in the same manner as an order made in an action between subjects, and not otherwise. Execution by  
the Crown.

This subsection shall apply both in relation to proceedings pending at the commencement of this Act and in relation to proceedings instituted thereafter.

(2) Sections four and five of the Debtors Act, 1869 (which provide respectively for the abolition of imprisonment for debt, and for saving the power of committal in case of small debts), shall apply to sums of money payable and debts due to the Crown : 32 & 33 Vict.  
c. 62.

Provided that for the purpose of the application of the said section four to any sum of money payable or debt due to the Crown, the section shall have effect as if there were included among the exceptions therein mentioned default in payment of any sum payable in respect of death duties or purchase tax.

(3) Nothing in this section shall affect any procedure which immediately before the commencement of this Act was available for enforcing an order made in favour of the Crown in proceedings

PART III.  
—cont.

brought by the Crown for the recovery of any fine or penalty, or the forfeiture or condemnation of any goods, or the forfeiture of any ship or any share in a ship.

Attachment  
of moneys  
payable by  
the Crown.

27.—(1) Where any money is payable by the Crown to some person who, under any order of any court, is liable to pay any money to any other person, and that other person would, if the money so payable by the Crown were money payable by a subject, be entitled under rules of court to obtain an order for the attachment thereof as a debt due or accruing due, or an order for the appointment of a sequestrator or receiver to receive the money on his behalf, the High Court may, subject to the provisions of this Act and in accordance with rules of court, make an order restraining the first-mentioned person from receiving that money and directing payment thereof to that other person, or to the sequestrator or receiver :

Provided that no such order shall be made in respect of:—

- (a) any wages or salary payable to any officer of the Crown as such ;
- (b) any money which is subject to the provisions of any enactment prohibiting or restricting assignment or charging or taking in execution ; or
- (c) any money payable by the Crown to any person on account of a deposit in the Post Office Savings Bank.

(2) The provisions of the preceding subsection shall, so far as they relate to forms of relief falling within the jurisdiction of a county court, have effect in relation to county courts as they have effect in relation to the High Court, but with the substitution of a reference to county court rules for any reference in the said subsection to rules of court.

## PART IV.

## MISCELLANEOUS AND SUPPLEMENTAL.

*Miscellaneous.*

Discovery.

28.—(1) Subject to and in accordance with rules of court and county court rules:—

- (a) in any civil proceedings in the High Court or a county court to which the Crown is a party, the Crown may be required by the court to make discovery of documents and produce documents for inspection ; and
- (b) in any such proceedings as aforesaid, the Crown may be required by the court to answer interrogatories :

Provided that this section shall be without prejudice to any rule of law which authorises or requires the withholding of any document or the refusal to answer any question on the ground that the disclosure of the document or the answering of the question would be injurious to the public interest.

Any order of the court made under the powers conferred by paragraph (b) of this subsection shall direct by what officer of the Crown the interrogatories are to be answered.

PART IV.  
—cont.

(2) Without prejudice to the proviso to the preceding subsection, any rules made for the purposes of this section shall be such as to secure that the existence of a document will not be disclosed if, in the opinion of a Minister of the Crown, it would be injurious to the public interest to disclose the existence thereof.

29.—(1) Nothing in this Act shall authorise proceedings in rem in respect of any claim against the Crown, or the arrest, detention or sale of any of His Majesty's ships or aircraft, or of any cargo or other property belonging to the Crown, or give to any person any lien on any such ship, aircraft, cargo or other property.

Exclusion of proceedings in rem against the Crown.

(2) Where proceedings in rem have been instituted in the High Court or in a county court against any such ship, aircraft, cargo or other property, the court may, if satisfied, either on an application by the plaintiff for an order under this subsection or an application by the Crown to set aside the proceedings, that the proceedings were so instituted by the plaintiff in the reasonable belief that the ship, aircraft, cargo or other property did not belong to the Crown, order that the proceedings shall be treated as if they were in personam duly instituted against the Crown in accordance with the provisions of this Act, or duly instituted against any other person whom the court regards as the proper person to be sued in the circumstances, and that the proceedings shall continue accordingly.

Any such order may be made upon such terms, if any, as the court thinks just; and where the court makes any such order it may make such consequential orders as the court thinks expedient.

30.—(1) Section eight of the Maritime Conventions Act, 1911 (which relates to the limitation of actions in respect of damage or loss caused to or by vessels and the limitation of actions in respect of salvage services) shall except in the case of proceedings in respect of any alleged fault of a ship of war or a ship for the time being appropriated to the service of the armed forces of the Crown or to the service of the Post Office, apply in the case of His Majesty's ships as it applies in the case of other vessels:

Limitation of actions.

Provided that the said section eight, as applied by this section, shall have effect as if the words from "and shall, if satisfied" to the end of the said section eight were omitted therefrom.

(2) Subject to the provisions of the preceding subsection, nothing in this Act shall prejudice the right of the Crown to

PART IV.  
—cont.

rely upon the law relating to the limitation of time for bringing proceedings against public authorities.

(3) In this section the expression "ship" includes any boat or other description of vessel used in navigation, and the expression "His Majesty's ships" shall be construed accordingly.

Application  
to the Crown  
of certain  
statutory  
provisions.

31.—(1) This Act shall not prejudice the right of the Crown to take advantage of the provisions of an Act of Parliament although not named therein; and it is hereby declared that in any civil proceedings against the Crown the provisions of any Act of Parliament which could, if the proceedings were between subjects, be relied upon by the defendant as a defence to the proceedings, whether in whole or in part, or otherwise, may, subject to any express provision to the contrary, be so relied upon by the Crown.

32 & 33 Vict.  
c. 62.

(2) Section six of the Debtors Act, 1869 (which empowers the court in certain circumstances to order the arrest of a defendant about to quit England) shall, with any necessary modifications, apply to civil proceedings in the High Court by the Crown.

No abatement  
on demise of  
Crown.

32. No claim by or against the Crown, and no proceedings for the enforcement of any such claim, shall abate or be affected by the demise of the Crown.

Abolition of  
certain writs.

33. No writ of extent or of diem clausit extremum shall issue after the commencement of this Act.

Proceedings in  
courts other  
than the High  
Court and  
county courts.

34.—(1) His Majesty may by Order in Council make such provision as appears to him to be expedient with respect to civil proceedings by or against the Crown in any court not being the High Court or a county court.

(2) An Order in Council made under this section may in particular—

- (a) define the jurisdiction of the court to which the Order relates in civil proceedings by or against the Crown; and
- (b) apply, in relation to civil proceedings by or against the Crown in the said court, any provisions of this Act which would not otherwise apply in relation to those proceedings with such additions exceptions and modifications as appear to His Majesty to be expedient.

(3) The provisions of any such Order shall have effect notwithstanding any provision made by or under any enactment with respect to the court in question; and any such Order may provide for amending or revoking any provision so made as aforesaid.

(4) An Order in Council made under this section may be varied or revoked by a further Order in Council made by His Majesty thereunder.

(5) An Order in Council under this section shall be laid before Parliament as soon as may be after it is made, and, if either House of Parliament, within the next twenty-eight days on which that House has sat after such an Order is laid before it, resolves that the Order be annulled, the Order shall thereupon cease to have effect except as respects things previously done or omitted to be done, without prejudice, however, to the making of a new Order.

PART IV.  
—cont.

Notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, such an Order shall be deemed not to be a statutory rule to which that section applies.

56 & 57 Vict.  
c. 66.

### *Supplemental.*

35.—(1) Any power to make rules of court or county court rules shall include power to make rules for the purpose of giving effect to the provisions of this Act, and any such rules may contain provisions to have effect in relation to any proceedings by or against the Crown in substitution for or by way of addition to any of the provisions of the rules applying to proceedings between subjects.

Rules of court  
and county  
court rules.

(2) Provision shall be made by rules of court and county court rules with respect to the following matters:—

- (a) for providing for service of process, or notice thereof, in the case of proceedings by the Crown against persons, whether British subjects or not, who are not resident in the United Kingdom;
- (b) for securing that where any civil proceedings are brought against the Crown in accordance with the provisions of this Act the plaintiff shall, before the Crown is required to take any step in the proceedings, provide the Crown with such information as the Crown may reasonably require as to the circumstances in which it is alleged that the liability of the Crown has arisen and as to the departments and officers of the Crown concerned;
- (c) for providing that in the case of proceedings against the Crown the plaintiff shall not enter judgment against the Crown in default of appearance or pleading without the leave of the court to be obtained on an application of which notice has been given to the Crown;
- (d) for excepting proceedings brought against the Crown from the operation of any rule of court providing for summary judgment without trial, and for enabling any such proceedings to be put in proper cases into any special list which may be kept for the trial of short causes in which leave to defend is given under any such rule of court as aforesaid;

PART IV.  
—cont.

- (e) for authorising the Crown to deliver interrogatories without the leave of a court in any proceedings for the enforcement of any right for the enforcement of which proceedings by way of English information might have been taken if this Act had not been passed, so, however, that the Crown shall not be entitled to deliver any third or subsequent interrogatories without the leave of the court ;
- (f) for enabling evidence to be taken on commission in proceedings by or against the Crown ;
- (g) for providing :—
- (i) that a person shall not be entitled to avail himself of any set-off or counterclaim in any proceedings by the Crown for the recovery of taxes, duties or penalties, or to avail himself in proceedings of any other nature by the Crown of any set-off or counterclaim arising out of a right or claim to repayment in respect of any taxes, duties or penalties ;
- (ii) that a person shall not be entitled without the leave of the court to avail himself of any set-off or counterclaim in any proceedings by the Crown if either the subject matter of the set-off or counterclaim does not relate to the Government department in the name of which the proceedings are brought or the proceedings are brought in the name of the Attorney General ;
- (iii) that the Crown, when sued in the name of a Government department, shall not, without the leave of the court, be entitled to avail itself of any set-off or counterclaim if the subject matter thereof does not relate to that department ; and
- (iv) that the Crown, when sued in the name of the Attorney General, shall not be entitled to avail itself of any set-off or counterclaim without the leave of the court.

(3) Provision may be made by rules of court for regulating any appeals to the High Court, whether by way of case stated or otherwise, under enactments relating to the revenue, and any rules made under this subsection may revoke any enactments or rules in force immediately before the commencement of this Act so far as they regulate any such appeals, and may make provision for any matters for which provision was made by any enactments or rules so in force.

Pending proceedings.

36. Save as otherwise expressly provided, the provisions of this Act shall not affect proceedings by or against the Crown which have been instituted before the commencement of this Act ; and for the purposes of this section proceedings against

the Crown by petition of right shall be deemed to have been so instituted if a petition of right with respect to the matter in question has been left with a Secretary of State for submission to His Majesty before the commencement of this Act.

PART IV.  
—cont.

37.—(1) Any expenditure incurred by or on behalf of the Crown in right of His Majesty's Government in the United Kingdom by reason of the passing of this Act shall be defrayed out of moneys provided by Parliament. Financial provisions.

(2) Any sums payable to the Crown in right of His Majesty's Government in the United Kingdom by reason of the passing of this Act shall be paid into the Exchequer.

38.—(1) Any reference in this Act to the provisions of this Act shall, unless the context otherwise requires, include a reference to rules of court or county court rules made for the purposes of this Act. Interpretation.

(2) In this Act, except in so far as the context otherwise requires or it is otherwise expressly provided, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“ Agent ”, when used in relation to the Crown, includes an independent contractor employed by the Crown ;

“ Civil proceedings ” includes proceedings in the High Court or the county court for the recovery of fines or penalties, but does not include proceedings on the Crown side of the King's Bench Division ;

“ His Majesty's aircraft ” does not include aircraft belonging to His Majesty otherwise than in right of His Government in the United Kingdom ;

“ His Majesty's ships ” means ships of which the beneficial interest is vested in His Majesty or which are registered as Government ships for the purposes of the Merchant Shipping Acts, 1894 to 1940, or which are for the time being demised or subdemised to or in the exclusive possession of the Crown, except that the said expression does not include any ship in which His Majesty is interested otherwise than in right of His Government in the United Kingdom unless that ship is for the time being demised or subdemised to His Majesty in right of His said Government or in the exclusive possession of His Majesty in that right ;

“ Officer ”, in relation to the Crown, includes any servant of His Majesty, and accordingly (but without prejudice to the generality of the foregoing provision) includes a Minister of the Crown ;

“ Order ” includes a judgment, decree, rule, award or declaration ;

PART IV.  
—cont.

“ Prescribed ” means prescribed by rules of court or county court rules, as the case may be ;

“ Proceedings against the Crown ” includes a claim by way of set-off or counterclaim raised in proceedings by the Crown :

“ Ship ” has the meaning assigned to it by section seven hundred and forty-two of the Merchant Shipping Act, 1894 :

“ Statutory duty ” means any duty imposed by or under any Act of Parliament.

(3) Any reference in this Act to His Majesty in His private capacity shall be construed as including a reference to His Majesty in right of His Duchy of Lancaster and to the Duke of Cornwall.

(4) Any reference in Parts III or IV of this Act to civil proceedings by or against the Crown, or to civil proceedings to which the Crown is a party, shall be construed as including a reference to civil proceedings to which the Attorney General, or any Government department, or any officer of the Crown as such is a party :

Provided that the Crown shall not for the purposes of Parts III and IV of this Act be deemed to be a party to any proceedings by reason only that they are brought by the Attorney General upon the relation of some other person.

(5) Any reference in this Act to the armed forces of the Crown shall be construed as including a reference to the following forces :—

(a) the Women's Royal Naval Service ;

(b) the Queen Alexandra's Royal Naval Nursing Service ;  
and

(c) any other organisation established under the control of the Admiralty, the Army Council or the Air Council.

(6) References in this Act to any enactment shall be construed as references to that enactment as amended by or under any other enactment, including this Act.

## Repeals, &amp;c.

39.—(1) The enactments set out in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

9 & 10 Geo. 5.  
c. 50.

(2) For subsection (1) of section twenty-six of the Ministry of Transport Act, 1919, there shall be substituted the following subsection :—

“(1) The Minister of Transport may for all purposes be described by that name.”

## Savings.

40.—(1) Nothing in this Act shall apply to proceedings by or against, or authorise proceedings in tort to be brought against, His Majesty in His private capacity.



(2) Except as therein otherwise expressly provided, nothing in this Act shall :—

PART IV.  
—cont.

- (a) affect the law relating to prize salvage, or apply to proceedings in causes or matters within the jurisdiction of the High Court as a prize court or to any criminal proceedings ; or
- (b) authorise proceedings to be taken against the Crown under or in accordance with this Act in respect of any alleged liability of the Crown arising otherwise than in respect of His Majesty's Government in the United Kingdom, or affect proceedings against the Crown in respect of any such alleged liability as aforesaid ; or
- (c) affect any proceedings by the Crown otherwise than in right of His Majesty's Government in the United Kingdom ; or
- (d) subject the Crown to any greater liabilities in respect of the acts or omissions of any independent contractor employed by the Crown than those to which the Crown would be subject in respect of such acts or omissions if it were a private person ; or
- (e) subject the Crown, in its capacity as a highway authority, to any greater liability than that to which a local authority is subject in that capacity ; or
- (f) affect any rules of evidence or any presumption relating to the extent to which the Crown is bound by any Act of Parliament ; or
- (g) affect any right of the Crown to demand a trial at bar or to control or otherwise intervene in proceedings affecting its rights, property or profits ; or
- (h) affect any liability imposed on the public trustee or on the Consolidated Fund of the United Kingdom by the Public Trustee Act, 1906 ;

6 Edw. 7.  
c. 55.

and, without prejudice to the general effect of the foregoing provisions, Part III of this Act shall not apply to the Crown except in right of His Majesty's Government in the United Kingdom.

(3) A certificate of a Secretary of State :—

- (a) to the effect that any alleged liability of the Crown arises otherwise than in respect of His Majesty's Government in the United Kingdom ;
- (b) to the effect that any proceedings by the Crown are proceedings otherwise than in right of His Majesty's Government in the United Kingdom ;

shall, for the purposes of this Act, be conclusive as to the matter so certified.

PART IV.  
—cont.

(4) Where any property vests in the Crown by virtue of any rule of law which operates independently of the acts or the intentions of the Crown, the Crown shall not by virtue of this Act be subject to any liabilities in tort by reason only of the property being so vested ; but the provisions of this subsection shall be without prejudice to the liabilities of the Crown under this Act in respect of any period after the Crown or any person acting for the Crown has in fact taken possession or control of any such property, or entered into occupation thereof.

(5) This Act shall not operate to limit the discretion of the court to grant relief by way of mandamus in cases in which such relief might have been granted before the commencement of this Act, notwithstanding that by reason of the provisions of this Act some other and further remedy is available.

## PART V.

## APPLICATION TO SCOTLAND.

Application of Act to Scotland. 41. The provisions of this Part of this Act shall have effect for the purpose of the application of this Act to Scotland.

Exclusion of certain provisions. 42. Section one, Part II (except section thirteen so far as relating to proceedings mentioned in the First Schedule and section twenty-one), Part III (except section twenty-six) and section twenty-eight of this Act shall not apply to Scotland.

Interpretation for purposes of application to Scotland. 43. In the application of this Act to Scotland :—

(a) for any reference to the High Court (except a reference to that Court as a prize court) there shall be substituted a reference to the Court of Session ; for any reference to the county court there shall be substituted a reference to the sheriff court ; the expression “ plaintiff ” means pursuer ; the expression “ defendant ” means defender ; the expression “ county court rules ” means Act of Sederunt applying to the sheriff court ; and the expression “ injunction ” means interdict ;

(b) the expression “ tort ” means any wrongful or negligent act or omission giving rise to liability in reparation, and any reference to liability or right or action or proceedings in tort shall be construed accordingly ; and for any reference to Part II of the Law Reform (Married Women and Tortfeasors) Act, 1935, there shall be substituted a reference to section three of the Law Reform (Miscellaneous Provisions) (Scotland) Act, 1940.

44. Subject to the provisions of this Act and to any enactment limiting the jurisdiction of the sheriff court (whether by reference to the subject matter of the proceedings or otherwise) civil proceedings against the Crown may be instituted in the sheriff court in like manner as if the proceedings were against a subject :

PART V.  
—cont.

Proceedings  
against the  
Crown in the  
sheriff court.

Provided that where in any proceedings against the Crown in the sheriff court a certificate by the Lord Advocate is produced to the effect that the proceedings may involve an important question of law, or may be decisive of other cases, or are for other reasons more fit for trial in the Court of Session, the proceedings shall be remitted to the Court of Session, and where any proceedings have been so remitted to the Court of Session, and it appears to that Court that the remit has occasioned additional expense to the pursuer, the Court shall take account of the additional expense so occasioned in deciding any question as to expenses.

45.—(1) Where in any civil proceedings by or against the Crown or to which the Crown has been made a party, any order (including an award of expenses) is made by any court in favour of any person against the Crown or against a Government department or against an officer of the Crown as such, the clerk of court shall, on an application in that behalf made by or on behalf of that person at any time after the expiration of twenty-one days from the date of the order, or, in a case where there is an award of expenses and the expenses require to be taxed, at any time after taxation whichever is the later, issue to that person a certified copy of the order of the court.

Satisfaction of  
orders granted  
against the  
Crown in  
Scotland.

(2) A copy of any such order may be served by the person in whose favour the order is made upon the person for the time being named in the record as the solicitor, or the person acting as solicitor, for the Crown or for the Government department or officer concerned.

(3) If the order decerns for the payment of any money by way of damages or otherwise or of any expenses, the appropriate Government department shall, subject as hereinafter provided, pay to the person entitled or to his solicitor the amount appearing from the order to be due to him together with the interest, if any, lawfully due thereon :

Provided that the court by which any such order as aforesaid is made or any court to which an appeal against the order lies may direct that pending an appeal or otherwise payment of the whole of any amount so payable, or any part thereof, shall be suspended.

(4) No such order as aforesaid shall warrant any diligence or execution against any person to enforce payment of any such money or expenses as aforesaid, and no person shall be individually

PART V.  
—cont.

liable under any order for the payment by the Crown, or any Government department or any officer of the Crown as such, of any such money or expenses.

Provisions as  
to arrestment.

46. Arrestment in the hands of the Crown or of a Government department or of any officer of the Crown as such shall be competent in any case where arrestment in the hands of a subject would have been competent :

Provided that nothing in the foregoing provisions shall warrant the arrestment of :—

- (a) any wages or salary payable to any officer of the Crown as such ;
- (b) any money which is subject to the provisions of any enactment prohibiting or restricting assignation or charging or taking in execution ; or
- (c) any money payable by the Crown to any person on account of a deposit in the Post Office Savings Bank.

Recovery of  
documents in  
possession  
of Crown.

47. Subject to and in accordance with Acts of Sederunt applying to the Court of Session and the sheriff court, commission and diligence for the recovery of documents in the possession of the Crown may be granted in any action whether or not the Crown is a party thereto, in like manner in all respects as if the documents were in the possession of a subject :

Provided that—

- (i) this subsection shall be without prejudice to any rule of law which authorises or requires the withholding of any document on the ground that its disclosure would be injurious to the public interest ; and
- (ii) the existence of a document shall not be disclosed if, in the opinion of a Minister of the Crown, it would be injurious to the public interest to disclose the existence thereof.

Application  
of 56 & 57  
Vict. c. 61 to  
the Crown.

48. The Public Authorities Protection Act, 1893, shall, in its application to any civil proceedings against the Crown, have effect as if in paragraph (a) of section one thereof for any reference to six months there were substituted a reference to twelve months.

Application to  
Scotland of  
s. 26.

49. Section twenty-six of this Act shall have effect as if for subsection (2) thereof there were substituted the following subsection :—

43 & 44 Vict.  
c. 34.

“(2) The exception in respect of taxes contained in section four of the Debtors (Scotland) Act, 1880, from the enactment therein contained abolishing imprisonment for debt shall apply only in respect of death duties and purchase tax.”

50. Section thirty-five of this Act shall have effect as if subsection (2) thereof there were substituted the following subsection :—

PART V.  
—cont.  
Application to  
Scotland of  
s. 35.

“(2) The following provisions shall apply as regards proceedings in the Court of Session or the sheriff court :—

- (a) where decree in absence has been granted against the Crown the decree shall not be operative without the leave of the court obtained on an application of which notice has been given to the Crown ;
- (b) a person shall not be entitled to avail himself of any set-off or counterclaim in any proceedings by the Crown for the recovery of taxes, duties or penalties, or to avail himself in proceedings of any other nature by the Crown of any set-off or counterclaim arising out of a right or claim to repayment in respect of any taxes, duties or penalties ;
- (c) a person shall not be entitled without the leave of the court to avail himself of any set-off or counterclaim in any proceedings by the Crown if the subject matter of the set-off or counterclaim does not relate to the Government department on whose behalf the proceedings are brought ;
- (d) the Crown, in any proceedings against a Government department, or against the Lord Advocate on behalf of a Government department, shall not, without the leave of the court, be entitled to avail itself of any set-off or counterclaim if the subject matter thereof does not relate to that department.”

51.—(1) Section thirty-six of this Act shall have effect as if the words from “ and for the purposes ” to the end of the section were omitted.

Application to  
Scotland of  
ss. 36 and 38.

(2) Section thirty-eight of this Act shall have effect as if subsection (4) thereof :—

- (i) there were included a reference to this Part of this Act ;
- (ii) for the reference to the Attorney General there were substituted a reference to the Lord Advocate ;
- (iii) the proviso were omitted.

## PART VI.

### EXTENT, COMMENCEMENT, SHORT TITLE, &C.

52. Subject to the provisions hereinafter contained with respect to Northern Ireland, this Act shall not affect the law enforced in courts elsewhere than in England and Scotland, or the procedure in any such courts.

Extent of Act.

PART VI.  
—cont.  
Provisions  
as to Northern  
Ireland.

53.—(1) His Majesty may by Order in Council provide for extending this Act to Northern Ireland with such additions, exceptions and modifications as appear to His Majesty to be expedient.

(2) An Order in Council under this section may provide for amending the law both in its application to the Crown in right of His Majesty's Government in the United Kingdom and in its application to the Crown in right of His Majesty's Government in Northern Ireland.

(3) An Order in Council under this section may provide for amending the law :—

(a) with respect to the right of the Crown to sue in a county court in Northern Ireland ; and

(b) with respect to the award of costs to or against the Crown in Northern Ireland.

(4) An Order in Council under this section may be varied or revoked by a further Order in Council made thereunder.

(5) An Order in Council under this section may include such provisions as appear to His Majesty to be incidental to or consequential on any provisions contained in such an Order by virtue of the preceding provisions of this section.

10 & 11 Geo. 5.  
c. 67.

(6) So far as any provision contained in an Order in Council under this section deals with a matter with respect to which the Parliament of Northern Ireland has power to make laws, it shall, for the purposes of section six of the Government of Ireland Act, 1920 (which relates to the power of the Parliament of Northern Ireland), be deemed to be a provision of an Act passed before the appointed day.

(7) An Order in Council under this section shall be laid before Parliament as soon as may be after it is made, and, if either House of Parliament, within the next twenty-eight days on which that House has sat after such an Order is laid before it, resolves that the Order be annulled, the Order shall thereupon cease to have effect except as respects things previously done or omitted to be done, without prejudice, however, to the making of a new Order.

Notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, such an Order shall be deemed not to be a statutory rule to which that section applies.

Short title  
and com-  
mencement.

54.—(1) This Act may be cited as the Crown Proceedings Act, 1947.

(2) This Act shall come into operation on such day, not later than the first day of January, nineteen hundred and forty-eight, as His Majesty may by Order in Council appoint.

## SCHEDULES.

---

### FIRST SCHEDULE.

Section 23.

#### PROCEEDINGS ABOLISHED BY THIS ACT.

- 1.—(1) Latin informations and English informations.  
 (2) Writs of *capias ad respondendum*, writs of *subpoena ad respondendum*, and writs of appraisalment.  
 (3) Writs of *scire facias*.  
 (4) Proceedings for the determination of any issue upon a writ of extent or of *diem clausit extremum*.  
 (5) Writs of summons under Part V of the Crown Suits Act, 1865. 28 & 29 Vict.  
c. 104.
- 2.—(1) Proceedings against His Majesty by way of petition of right, including proceedings by way of petition of right intituled in the Admiralty Division under section fifty-two of the Naval Prize Act, 1864. 27 & 28 Vict.  
c. 25.  
 (2) Proceedings against His Majesty by way of *monstrans de droit*.

### SECOND SCHEDULE.

Section 39.

#### ENACTMENTS REPEALED.

| Session and Chapter.    | Title or Short Title.                    | Extent of Repeal.                                                                                                                                                                                                                                          |
|-------------------------|------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 25 Edw. 1.<br>c. 18.    | The King's Tenant his Debtor.            | The whole Act.                                                                                                                                                                                                                                             |
| 25 Geo. 3.<br>c. 35.    | The Crown Debtors Act, 1785.             | The whole Act.                                                                                                                                                                                                                                             |
| 57 Geo. 3.<br>c. 117.   | The Extents in Aid Act, 1817.            | The whole Act.                                                                                                                                                                                                                                             |
| 5 & 6 Vict.<br>c. 86.   | The Exchequer Court Act, 1842.           | Section nine.                                                                                                                                                                                                                                              |
| 5 & 6 Vict.<br>c. 94.   | The Defence Act, 1842.                   | Section thirty-four.                                                                                                                                                                                                                                       |
| 19 & 20 Vict.<br>c. 56. | Exchequer Court (Scotland) Act, 1856.    | Sections five to nine.<br>In section ten the words from "in place of," to "provided."<br>Sections eleven and twelve.<br>In section twenty-two the words from "and all interlocutors or decrees," to the end of the section.<br>Schedules A, B, C, D and E. |
| 23 & 24 Vict.<br>c. 34. | The Petitions of Right Act, 1860.        | The whole Act.                                                                                                                                                                                                                                             |
| 27 & 28 Vict.<br>c. 25. | The Naval Prize Act, 1864.               | Section fifty-two.                                                                                                                                                                                                                                         |
| 27 & 28 Vict.<br>c. 57. | The Admiralty Lands and Works Act, 1864. | Section eleven.                                                                                                                                                                                                                                            |

2ND SCH.  
—cont.

| Session and Chapter.      | Title or Short Title.                                                     | Extent of Repeal.                                                                                                                                                                                                                                                                                         |
|---------------------------|---------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 28 & 29 Vict.<br>c. 104   | The Crown Suits Etc.<br>Act, 1865.                                        | The whole Act except Part I<br>and section forty-six thereof.                                                                                                                                                                                                                                             |
| 28 & 29 Vict.<br>c. 124.  | The Admiralty Powers,<br>&c. Act, 1865.                                   | Section two.                                                                                                                                                                                                                                                                                              |
| 30 & 31 Vict.<br>c. 128.  | The War Department<br>Stores Act, 1867.                                   | Section twenty.                                                                                                                                                                                                                                                                                           |
| 31 & 32 Vict.<br>c. 78.   | The Admiralty Suits Act,<br>1868.                                         | The whole Act.                                                                                                                                                                                                                                                                                            |
| 31 & 32 Vict.<br>c. 110.  | The Telegraph Act, 1868                                                   | In section six the words from<br>"in the same court" to the<br>end of the section.                                                                                                                                                                                                                        |
| 38 & 39 Vict.<br>c. 89.   | The Public Works Loans<br>Act, 1875.                                      | Paragraph (1) of section five,<br>and in section seven the<br>words from "Where the secre-<br>tary" to the end of the<br>section.                                                                                                                                                                         |
| 39 & 40 Vict.<br>c. 36.   | The Customs Consolida-<br>tion Act, 1876.                                 | Sections two hundred and nine-<br>teen, and two hundred and<br>forty-seven to two hundred<br>and fifty-four.                                                                                                                                                                                              |
| 41 & 42 Vict.<br>c. 76.   | The Telegraph Act, 1878                                                   | Section eleven.                                                                                                                                                                                                                                                                                           |
| 52 & 53 Vict.<br>c. 30    | The Board of Agriculture<br>Act, 1889.                                    | In subsection (1) of section<br>six the words "sue and be<br>sued and may".                                                                                                                                                                                                                               |
| 53 & 54 Vict.<br>c. 21.   | The Inland Revenue<br>Regulation Act, 1890.                               | In subsection (1) of section<br>twenty-one the words "and<br>in the name of an officer or in<br>England in the name of<br>the Attorney General for<br>England" so far as they<br>relate to proceedings in the<br>High Court, and in subsection<br>(1) of section twenty-three<br>the words "of subpoena". |
| 57 & 58 Vict.<br>c. 60.   | The Merchant Shipping<br>Act, 1894.                                       | Subsection (4) of section four<br>hundred and sixty.                                                                                                                                                                                                                                                      |
| 6 & 7 Geo. 5.<br>c. 65.   | The Ministry of Pensions<br>Act, 1916.                                    | In subsection (1) of section six<br>the words "sue and be sued<br>and may".                                                                                                                                                                                                                               |
| 7 & 8 Geo. 5.<br>c. 51.   | The Air Force (Constitu-<br>tion) Act, 1917.                              | In subsection (1) of section ten<br>the words "sue and be sued<br>and may".                                                                                                                                                                                                                               |
| 9 & 10 Geo. 5.<br>c. 21.  | The Ministry of Health<br>Act, 1919.                                      | In subsection (1) of section<br>seven the words from the<br>beginning to "the name of",<br>and the word "and", where<br>it secondly occurs.                                                                                                                                                               |
| 9 & 10 Geo. 5.<br>c. 58.  | The Forestry Act, 1919.                                                   | In subsection (3) of section<br>two, the words "may sue and<br>be sued and".                                                                                                                                                                                                                              |
| 23 & 24 Geo.<br>5. c. 36. | The Administration of<br>Justice (Miscellaneous<br>Provisions) Act, 1933. | Section four.                                                                                                                                                                                                                                                                                             |



| Session and Chapter.                | Title or Short Title.                                               | Extent of Repeal.                                                                                                                                                                                  |
|-------------------------------------|---------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 24 & 25 Geo.<br>5. c. 53.           | The County Courts Act,<br>1934.                                     | In subsection (1) of section seventy-five, the words from "and accordingly" to the end of the subsection.<br>In subsection (2) of section seventy-five, the words "instituted by writ of summons." |
| 26 Geo. 5. &<br>1 Edw. 8.<br>c. 43. | The Tithe Act, 1936.                                                | In paragraph 8 of the Second Schedule, the words "may sue and be sued and".                                                                                                                        |
| 26 Geo. 5. &<br>1 Edw. 8.<br>c. 44. | The Air Navigation Act,<br>1936.                                    | Subsection (5) of section twenty-six, paragraph (5) of section thirty-two, and Part II of the Fourth Schedule.                                                                                     |
| 2 & 3 Geo. 6.<br>c. 21.             | The Limitation Act, 1939                                            | In subsection (1) of section thirty, the words from "and for the purposes" to "presented".                                                                                                         |
| 3 & 4 Geo. 6.<br>c. 43.             | The Merchant Shipping<br>(Salvage) Act, 1940.                       | The whole Act.                                                                                                                                                                                     |
| 9 & 10 Geo. 6.<br>c. 31.            | The Ministers of the Crown<br>(Transfer of Functions)<br>Act, 1946. | In the Second Schedule, the amendments to subsection (1) of section twenty-six of the Ministry of Transport Act, 1919.                                                                             |

## CHAPTER 45.

An Act to make provision for the acquisition of a site for public offices in Westminster, to amend the Westminster Hospital Act, 1913, and for purposes connected with the matters aforesaid.

[31st July 1947.]

**W**HEREAS it is expedient that the Minister of Works (hereafter in this Act referred to as "the Minister") should be empowered to acquire compulsorily, as a site for public offices, certain lands and buildings (hereafter in this Act referred to as "the said site") situated on the northern side of the Broad Sanctuary in the parish of St. Margaret in the city of Westminster, being the former site of Westminster Hospital, and to erect buildings on the said site:

And whereas by the Westminster Hospital Act, 1913, certain provisions and restrictions were made to apply to the said site and to any new building erected thereon:

And whereas it is expedient that certain of the said restrictions should cease to apply after the acquisition of the said site by the Minister:

And whereas a plan showing the said site to be acquired by the Minister under this Act, with a book of reference containing the names of the owners or reputed owners and of the occupier of the said site (there being no lessees) have been deposited with the clerk of the London County Council (which plan and book of reference are in this Act respectively referred to as "the deposited plan" and "the deposited book of reference") :

And whereas the objects aforesaid cannot be effected without the authority of Parliament :

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 to  
acquire land.

1.—(1) Subject to the provisions of this Act, the Minister may, with the consent of the Treasury, acquire the said site, either by agreement or compulsorily, for the purposes of this Act.

(2) A person dealing with the Minister in respect of the said site shall not be bound or entitled to inquire whether the consent of the Treasury has been given to that dealing.

(3) The power to purchase land compulsorily under this Act shall cease on the expiration of three years from the passing of this Act.

Incorporation  
of Lands  
Clauses Acts.

2. The Lands Clauses Acts are, subject to the provisions of this Act, hereby incorporated with this Act with the following exceptions and modifications, that is to say :—

(a) in the construction of the Lands Clauses Acts as incorporated with this Act, this Act shall be deemed to be the special Act, and the Minister shall be deemed to be the promoter of the undertaking ;

(b) the following sections of the Lands Clauses Consolidation Act, 1845, that is to say, sections one hundred and twenty-seven to one hundred and thirty-two (which relate to sale of superfluous land), section one hundred and thirty-three (which relates to promoters making good deficiencies in land tax and rates) and sections one hundred and fifty and one hundred and fifty-one (which relate to access to the special Act), shall be excepted from incorporation with this Act ;

(c) at any time after notice to treat has been served, the Minister may, after giving not less than fourteen days' notice to the owners and occupier of the said site, enter on and take possession of the land specified in the notice without previous consent or compliance with sections eighty-four to ninety of the Lands Clauses Consolidation Act, 1845, but subject to the payment of

8 & 9 Vict.  
c 18.

the like compensation for the land of which possession is taken, and interest on the compensation awarded, as would have been payable if those provisions had been complied with.

3. In determining any question of disputed purchase money or compensation under this Act, no allowance shall be made on account of any improvement or alteration effected, or interest created, after the ninth day of December nineteen hundred and forty-six, which, in the opinion of the tribunal to whom the question is submitted, was not reasonably necessary or was effected or created with a view to obtaining or increasing compensation. Compensation in case of recent alterations.

4. The Minister or any person acting on his behalf may, at all reasonable times between ten o'clock in the forenoon and four o'clock in the afternoon after giving, on the first occasion twenty-four hours', and on subsequent occasions twelve hours' notice in writing to the owners and occupier thereof, enter on any part of the said site for the purpose of surveying or valuing the said site. Power to enter on lands for purpose of surveying.

5.—(1) It shall be lawful for the Minister, from time to time, upon, in, under, or over any part of the said site acquired by him to pull down and remove any existing buildings, structures or other works and to construct such other buildings, structures and works and do all such other things as, in his opinion, are necessary or expedient for the purpose of providing new buildings for public offices on the said site or of adapting the said site for use in connection with public offices and appropriating any part of the said site for that purpose. Power to erect buildings, etc.

(2) Paragraph (A) of subsection (1) of section seven of the Westminster Hospital Act, 1913, (which imposes certain restrictions as to the height and the building line of any new building erected on the said site) shall cease to have effect in relation to the northern boundary of the said site. 3 & 4 Geo. 5. c. cxiv.

(3) Without prejudice to the provisions of the last preceding subsection, the restrictions imposed by the said paragraph (A) on the height of a new building erected on the said site shall have effect only in relation to the outermost walls of any such building, the height of those walls being measured from pavement level to the top of the parapet, or to the top of the outermost wall, as the case may be.

(4) Section eight of the said Act of 1913 (which relates to the application of the London Building Acts) shall cease to apply to the said site and section thirteen thereof (which imposes certain restrictions on the use of the said site, subject to waiver by the Minister) shall cease to have effect.

(5) Subject to the provisions of subsections (2) to (4) of this section, the said Act of 1913 shall continue to apply in relation to the said site.

For protection  
of the London  
Passenger  
Transport  
Board.

6. For the protection of the London Passenger Transport Board (in this section called "the Board"), the following provisions of this section shall, notwithstanding anything in this Act contained, have effect unless otherwise agreed between the Minister and the Board (that is to say):—

(1) In this section—

"the said works" means any works executed by the Minister under the powers of section five of this Act on any part of the said site within twenty feet of the back of the retaining wall of the District Railway of the Board;

"the period of protection" means the period commencing on such date as shall be certified in writing to the Minister and the Board by the architect employed by the Minister in such execution as the date of completion of the said works and terminating on the expiration of twenty years from the date so certified;

"the Railway" means the said District Railway, and includes the tunnels thereof and works connected therewith.

(2) The Minister shall execute the said works in such a manner as to interfere as little as possible with the Railway.

(3) The said works shall be executed only according to plans, sections and specifications previously submitted to and approved by the Chief Engineer of the Board:

Provided that—

(i) such approval shall not be unreasonably withheld; and

(ii) unless the Board, within twenty-eight days after the submission of such plans, sections and specifications, give notice in writing to the Minister objecting thereto or making any requirement with respect thereto, the said plans, sections and specifications shall be deemed to have been approved on behalf of the Board and the work may be proceeded with accordingly.

(4) If, at any time during the execution of the said works or during the period of protection, any injury is caused to the Railway by such execution or by the maintenance or failure of the said works, the Board may restore the Railway or the part or parts thereof which may be so injured to as good a state and condition as they were in before such injury was occasioned, and the Board may recover from the Minister the amount of the expense reasonably incurred by them in so doing.

(5) The said works shall be so executed and maintained that the traffic upon the Railway shall not be impeded or interfered with.

(6) The Minister and his officers and contractors shall at all times during the execution of the said works afford reasonable facilities for the watching and inspection (at the expense of the Board) of such execution by any person authorised in writing by the Board for the purpose and, if so required by any such officer or contractor, producing his authority.

(7) The Minister shall be responsible for and make good to the Board all costs, losses, damages and expenses which may be occasioned to the Board or to the Railway or to the traffic thereon—

- (a) during the execution of the said works ; or
- (b) during the period of protection

by reason of such execution or by the maintenance or failure of the said works or by the acts or defaults of the Minister or of any persons in his employ or of his contractors, and the Minister shall effectually indemnify and hold harmless the Board from all claims and demands made upon or against them in respect of any matter arising during such execution or during the period of protection by reason of such execution, maintenance or failure or of any such act or default :

Provided that the said indemnity shall not apply to any such claim or demand of which the Board shall not have given to the Minister as soon as practicable notice of the making thereof and that no settlement or compromise of any such claim or demand shall be made except with the consent of the Minister.

(8) (a) If and whenever, during the execution of the said works or during the period of protection, any alteration or strengthening of the Railway is, in the opinion of the Board, rendered necessary by reason of such execution or by the maintenance or failure of the said works, the Board shall give the Minister twenty-eight days' notice (or in case of emergency such notice as may be reasonably practicable) before commencing to execute any such works of alteration or strengthening, and where or to such extent as such works are agreed between the Minister and the Board or (in default of agreement) determined by arbitration to be so rendered necessary as aforesaid, the reasonable costs and expenses of the Board of and incidental to such execution shall be paid by the Minister ;

(b) Upon the completion of any such works of alteration or strengthening as may be agreed or determined to be so rendered necessary as aforesaid, the Minister shall also pay to the Board such a sum as may be agreed between the Minister and the Board, or as (in default of agreement) shall be determined by arbitration, by way of compensation for and in satisfaction of all claims by the Board in respect of the additional expense (if any) of maintenance of the Railway arising from such alteration or strengthening.

(9) Any matter required by this section to be determined by arbitration and any other question or difference arising under this section between the Minister and the Board shall be referred to and determined by an arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers on the application of either party (made after notice in writing to the other party), and the provisions of the Arbitration Acts, 1889 to 1934, shall apply to any such reference.

Correction of errors, etc., in deposited plan and book of reference.

7.—(1) If any omission, misstatement or wrong description is found to have been made in the deposited plan or the deposited book of reference in respect of any part of the said site or the owners or occupier thereof, the Minister, after giving ten days' notice to the owners and occupier of the said site, may apply to two justices having jurisdiction in the county of London for the correction thereof.

(2) If on any such application it appears to the justices that the omission, misstatement or wrong description arose from mistake, the justices shall certify the fact accordingly and shall in their certificate state the particulars of the omission or in what respect any matter is misstated or wrongly described.

(3) Any such certificate or a copy thereof shall be deposited with the clerk of the London County Council and thereupon the deposited plan and the deposited book of reference shall be deemed to be corrected according to the certificate, and it shall be lawful for the Minister to acquire the said site in accordance with the certificate.

(4) Any certificate or copy deposited under this section with the clerk of the London County Council shall be kept by him with the other documents to which it relates.

Penalty for obstructing Minister.

8. If any person wilfully obstructs any person acting under the authority of the Minister in the lawful exercise of the power vested in the Minister under this Act, he shall in respect of each offence be liable on summary conviction to a fine not exceeding five pounds.

Provisions as to expenses, etc., of the Minister.

15 & 16 Vict. c. 28.

9.—(1) Any expenses incurred by the Minister under this Act shall be defrayed out of moneys provided by Parliament.

(2) The provisions of the Commissioners of Works Act, 1852, and any Act amending that Act, shall apply in the case of land acquired by the Minister under this Act in like manner as they apply in the case of land purchased by the Minister under that Act.

Short title.

10. This Act may be cited as the Public Offices (Site) Act, 1947.

## CHAPTER 46.

An Act to transfer to the Crown Apsley House and the site, forecourt and garden thereof and certain chattels formerly belonging to the first Duke of Wellington; to provide for the use of Apsley House partly as a museum for the preservation and exhibition of the said chattels and other chattels associated with the said first Duke or his times and for other public purposes, and partly as a residence for the Dukes of Wellington; to amend the enactments relating to the Wellington estates, so as to provide for the automatic devolution of the property subject to the trusts thereof whenever there is a change in the person holding office as First Lord of the Treasury, Chancellor of the Exchequer or Speaker of the House of Commons; and for purposes connected with the matters aforesaid. [31st July 1947.]

**W**HEREAS Apsley House, Piccadilly, in the City of Westminster (in this Act referred to as "Apsley House") is held for the benefit of the Dukes of Wellington, and certain chattels formerly owned by the first Duke of Wellington are held as heirlooms of the Duke of Wellington :

And whereas it is the desire of His Grace the seventh Duke of Wellington that Apsley House, and certain of the said chattels, and certain chattels which are his own property, may be presented to the nation, with a view to the formation of a Wellington museum, subject, however, to the provisions of this Act :

And whereas the trustees under the Acts specified in the First Schedule to this Act (in this Act referred to as "the Wellington Estate Acts") include the persons who for the time being hold the offices of First Lord of the Treasury, Chancellor of the Exchequer and Speaker of the House of Commons, and it is expedient that, on a change in the person holding any of the said offices, the trust property should devolve automatically without the need for any vesting deed or any other conveyance :

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.—(1) Apsley House, together with the site, forecourt and garden thereof, shall, by virtue of this Act, vest absolutely in the Minister of Works, free from any rights, claims or provisions which would or might exist or apply in relation thereto but for the provisions of this Act.

Transfer of  
Apsley House  
and certain  
Wellington  
heirlooms  
and other  
chattels.

(2) Such chattels as may be specified in any agreement in that behalf made between the Minister of Education of the one part and His Grace the seventh Duke of Wellington or any of his successors in the Dukedom of Wellington on the other part (being chattels held by virtue of the Wellington Estate Acts as heirlooms, or chattels formerly belonging to the first Duke of Wellington which are the property of His Grace the seventh Duke of Wellington or the successor in question) shall, as from the date of the making of the agreement, vest, by virtue of this Act, absolutely in the Minister of Education free from any rights, claims or provisions which would or might exist or apply in relation thereto but for the provisions of this Act.

Use of part of  
Apsley House  
as a museum,  
etc.

2.—(1) The portions of Apsley House described in Part I of the Second Schedule to this Act shall, subject to the provisions of this Act, be maintained and used as a museum for the preservation and exhibition to the public of the chattels which, by virtue of this Act, vest in the Minister of Education and such other chattels as His Grace the seventh Duke of Wellington or any other person may think fit from time to time to permit to be exhibited therein, being chattels associated with the first Duke of Wellington or his times which in the opinion of the Minister of Education should be so exhibited :

Provided that nothing in this subsection shall be construed as preventing the Minister of Education from temporarily removing from, or from exhibition in, the said museum any of the said chattels which for any reason it appears to him desirable should not for the time being be kept, or kept and exhibited, therein.

(2) The said portions of Apsley House may also be used—

- (a) for the purpose of any entertainment given on behalf of His Majesty's Government ;
- (b) with the consent of the Duke of Wellington for the time being, for any other public purpose not inconsistent with the continued use thereof as such a museum as aforesaid.

Right of  
Dukes of  
Wellington  
to occupy  
part of  
Apsley House.

3.—(1) So much of Apsley House as is not comprised within the portions thereof described in Part I of the Second Schedule to this Act shall at all times be available to the Duke of Wellington for the time being for occupation by him as a residence for himself, his family, his guests and his servants, but nothing in this section shall be construed as permitting any such Duke to assign, let or part with the possession of the whole or any part of the portions of Apsley House which he is entitled to occupy.

(2) The right of occupation conferred by subsection (1) of this section on the Duke of Wellington for the time being shall include a right of access to the portions of Apsley House which he is entitled to occupy, by the routes specified in Part II of the Second Schedule to this Act.



(3) The said right of occupation shall also include a right to carry out such internal alterations, renewals, repairs and decorations in the portions of Apsley House which the Duke for the time being is entitled to occupy as the Duke for the time being may from time to time think fit :

Provided that nothing shall be done under this subsection which affects the fabric of Apsley House except with the consent of the Minister of Works.

(4) The said right of occupation shall also include a right to occupy and maintain the garden of Apsley House :

Provided that nothing in this subsection shall be construed as permitting any Duke of Wellington to assign, let or part with the possession of the whole or any part of that garden.

(5) The Minister of Works may enter into and carry out such agreements with the Duke of Wellington or any of his successors in the Dukedom of Wellington as the Minister of Works thinks fit with respect to the heating or lighting of Apsley House.

(6) On the extinction of the Dukedom of Wellington, the provisions of subsections (1) to (4) of this section shall cease to have effect, and the portions of Apsley House not described in Part I of the Second Schedule to this Act, and the garden of Apsley House, may be used or dealt with in such manner as the Minister of Works thinks fit.

4.—(1) For the purposes of local rates, the whole of Apsley House, including the site, forecourt and garden thereof, shall be deemed to be property in the occupation of His Majesty : <sup>11</sup> Rates and taxes.

Provided that this subsection shall not apply to any part of Apsley House, or of the site, forecourt and garden thereof, which is sold or otherwise disposed of under any of the subsequent provisions of this Act.

(2) Save as aforesaid, nothing in this Act shall be construed as exempting the Duke of Wellington for the time being from any taxes or imposts of any nature in law falling to be paid by reason of any occupation by him of any portions of Apsley House other than those described in Part I of the Second Schedule to this Act, or of the garden of Apsley House.

(3) The enactments relating to estate duty shall have effect as if, during the continuance of the Dukedom of Wellington, the portions of Apsley House other than those described in Part I of the Second Schedule to this Act, together with the garden and the rights of access specified in Part II of the said Schedule, were settled by Act of Parliament so that the successive Dukes of Wellington had life interests therein but were incapable of alienating the same.

Duty of  
Minister and  
Duke as to  
maintenance.

5.—(1) Subject to the provisions of this section, it shall be the duty of the Minister of Works to maintain the forecourt of Apsley House in a proper condition, to maintain the whole of the fabric of the exterior of Apsley House in a proper state of repair, and to carry out and maintain such works as are necessary for separating the portions of Apsley House described in Part I of the Second Schedule to this Act from the remainder of Apsley House, and for adapting the portions of Apsley House described in the said Part I for use for the purposes specified in the preceding provisions of this Act.

(2) It shall be the duty of the Duke of Wellington for the time being to keep the portions of Apsley House which he is entitled to occupy in good and tenantable repair, and to maintain the garden of Apsley House in a proper condition as such.

(3) If any of the Dukes of Wellington fails to comply with the obligation imposed on him by subsection (2) of this section, the Minister of Works, on giving reasonable notice of his intention so to do, may himself do such repairs to the portions of Apsley House mentioned in that subsection, and do such work on the garden, as appear to him to be necessary, and any expenses reasonably incurred by that Minister in so doing shall be recoverable by him from the said Duke.

(4) The Minister of Works, his servants and agents may at all reasonable times enter and inspect the portions of Apsley House which the Duke of Wellington for the time being is entitled to occupy, and the garden of Apsley House.

Destruction of  
or damage to  
Apsley House.

6.—(1) If, owing to fire or any cause beyond the control of the Minister of Works, Apsley House is destroyed or so damaged that in the opinion of the Minister of Works it could not be restored so as to preserve the association thereof with the first Duke of Wellington, and the Minister of Works gives notice in writing to the Duke of Wellington for the time being to that effect—

- (a) the rights and duties conferred and imposed by the preceding provisions of this Act on the Dukes of Wellington, and the duties imposed on the Minister of Works by subsection (1) of the last preceding section, shall cease; and
- (b) there shall be paid to the Duke of Wellington for the time being out of moneys provided by Parliament such sums as may be agreed by him with the Minister of Works or as may, in default of agreement, be determined by an official arbitrator appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919, to be reasonable in view of the loss by the said Duke and his successors of the said rights; and

- (c) Apsley House, and the site, forecourt and garden thereof, may be used for such public purposes as the Minister of Works may think fit or may, if the Minister thinks fit, be sold or otherwise disposed of :

Provided that no sum shall be payable under paragraph (b) of this subsection if the destruction or damage is due to the negligence of the then Duke of Wellington or his servants or agents.

(2) If, owing to fire or any other cause, Apsley House is damaged or any of the contents thereof which are the property of the Crown (other than chattels which are being or have been or are to be exhibited in the museum) are damaged or destroyed, and the damage or destruction is due to the negligence of the Duke of Wellington for the time being or his servants or agents, and no notice is given under subsection (1) of this section by reason of the damage or destruction, the said Duke shall repay to the Minister of Works such expenses as may be reasonably incurred by that Minister in making good the damage or in replacing any of the said contents which are destroyed.

(3) Any fire originating in the portions of Apsley House which the Duke of Wellington for the time being is entitled to occupy shall be presumed for the purposes of this section to be due to his negligence or that of his servants or agents unless the contrary is proved.

7.—(1) Subject to the provisions of this section, the Minister of Works may by order made with the consent of the Duke of Wellington for the time being vary the provisions of the Second Schedule to this Act, and as from the date of the coming into force of that order the provisions of this Act shall have effect accordingly.

Power to vary  
the Second  
Schedule to  
this Act.

(2) Before making any order under this section, the Minister of Works shall lay a draft thereof before each House of Parliament, and the order shall not be made until the expiration of a period of forty days beginning with the day on which a copy of the draft is laid before each House of Parliament, or, if such copies are laid on different days, with the later of the two days, and if within that period either House resolves that the order be not made, no further proceedings shall be taken thereon, but without prejudice to the laying before Parliament of a new draft.

In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

8.—(1) Any expenses incurred by the Minister of Works or the Minister of Education in carrying out the provisions of this Act shall be paid out of moneys provided by Parliament.

Expenses.

(2) There shall be paid out of moneys provided by Parliament to His Grace the seventh Duke of Wellington such sums, not

exceeding one thousand pounds in all, as the Treasury may approve in respect of the expenses incurred by him in connection with, or with the negotiations previous and incidental to, the preparation and passing of the Bill for this Act, and otherwise in connection with the presentation to the nation of Apsley House and the chattels aforesaid.

Provisions  
as to  
trustees under  
Wellington  
Estate Acts.

9. On any change taking place in the person holding office as First Lord of the Treasury, Chancellor of the Exchequer or Speaker of the House of Commons, the interest vested under or by virtue of the Wellington Estate Acts in the person who ceases to hold office shall, by virtue of this Act, devolve on his successor without the need for any vesting deed or other conveyance.

Short title.

10. This Act may be cited as the Wellington Museum Act, 1947.

## SCHEDULES.

Preamble.

### FIRST SCHEDULE.

#### WELLINGTON ESTATE ACTS.

| <i>Session and Chapter.</i> | <i>Long Title.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 53 Geo. 3. c. 4 ...         | An Act for granting a sum of money for purchasing an estate for the Marquis of Wellington and his heirs, in consideration of the eminent and signal services performed by the said Marquis of Wellington to His Majesty and the public.                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 53 Geo. 3. c. 133 ...       | An Act to amend an Act of the present Session of Parliament, for granting a sum of money for purchasing an estate for the Marquis of Wellington and his heirs, in consideration of the eminent and signal services performed by the said Marquis of Wellington to His Majesty and the public.                                                                                                                                                                                                                                                                                                                                                                      |
| 54 Geo. 3. c. 161 ...       | An Act for settling and securing an annuity on Arthur Duke of Wellington and his heirs; and for empowering the Lord High Treasurer or Lords Commissioners of the Treasury to advance out of the Consolidated Fund of Great Britain a sum of money in lieu of such annuity, to purchase an estate in order to accompany the said title, in consideration of the eminent and signal services performed by the said Duke of Wellington to His Majesty and the public; and for making further provision for the disposal of a sum of money granted by an Act of the last Session of Parliament for purchasing an estate for the said Duke, then Marquis of Wellington. |

- 55 Geo. 3. c. 186 ... An Act for granting an additional sum of money for providing a suitable residence and estate for the Duke of Wellington and his heirs, in consideration of the eminent and signal services performed by the said Duke to His Majesty and the public.
- 59 Geo. 3. c. 21 ... An Act to amend several Acts for purchasing an estate for the Duke of Wellington.
- 59 Geo. 3. c. 63 ... An Act to explain an Act passed in the fifty-fifth year of His present Majesty, for purchasing an estate for the Duke of Wellington.
- 2 & 3 Vict. c. 4 ... An Act to alter the powers of jointuring contained in several Acts for purchasing and providing a residence and estates for the Duke of Wellington, and to settle certain articles to go as heirlooms with the said estates.

---

## SECOND SCHEDULE.

Sections 2, 3,  
4, 5 & 7.

---

### PART I.

#### *Portions of Apsley House to be used as museum.*

The portions of the ground and first floors of Apsley House and of the basement of Apsley House, shown in red on the plan in the possession of the Treasury Solicitor, identified by the signatures of the Treasury Solicitor on behalf of the Crown and of C. D. Webb, Esquire on behalf of His Grace the seventh Duke of Wellington, as being the plan indicating the portions of Apsley House which are to be used for the Wellington Museum.

### PART II.

#### *Rights of access to be enjoyed by the Dukes of Wellington to the portions of Apsley House which they are entitled to occupy.*

1. A right of access through the side door marked A on the plan mentioned in Part I of this Schedule, from the entrance marked B on the said plan through the west part of the forecourt and the garden.

2. A right of access through the door in the basement marked C on the said plan from the entrance marked B in the said plan through the west part of the forecourt.

The said rights in both cases include, so far as concerns the forecourt, a right of access for vehicles.

---

## CHAPTER 47.

### *Companies Act, 1947.*

#### ARRANGEMENT OF SECTIONS.

##### PART I.

##### MANAGEMENT AND ADMINISTRATION.

###### *Meetings and proceedings.*

###### Section.

1. Preliminary amendments as to annual general meeting.
2. Length of notice of meetings and of business thereat.
3. Circulation of members' resolutions, etc.
4. Right to demand a poll.
5. Voting at meetings.
6. Meetings attended by single member.
7. Exemption from obligation to print certain resolutions, etc.
8. Penalty for failure to keep minutes of proceedings.

###### *Minorities.*

9. Alternative remedy to winding up in cases of oppression.
10. Extension of time limit under s. 61 (2) of principal Act.
11. Acquisition of shares of shareholders, dissenting from scheme or contract approved by majority.

###### *Accounts, directors' report and audit.*

12. Books of account.
13. Contents of balance sheet and profit and loss account.
14. Obligation to lay group accounts before holding company.
15. Form of group accounts.
16. Contents of group accounts.
17. Financial year of holding company and subsidiary.
18. Meaning of "holding company" and "subsidiary."
19. Directors' report.
20. General provision as to liability of directors for defective accounts.
21. Signature and copies of accounts.
22. Extension of rights and duties of auditors.
23. Extension of disqualifications for appointment as auditor.
24. Appointment and remuneration of auditors.
25. Construction of references to documents annexed to accounts.

###### *Appointment, etc., of directors and secretary.*

26. Director and secretary.
27. Particulars of directors and secretaries.
28. Appointment of directors to be voted on individually.
29. Removal of directors.
30. Retirement of directors under age limit.
31. Duty to disclose age to company.
32. Amendment of s. 140 of principal Act.
33. Power to restrain fraudulent persons from managing companies.

###### *Payments to directors.*

34. Prohibition of tax free payments to directors.
35. Prohibition of loans to directors.
36. Payments received by directors for loss of office or on retirement.

*Disclosure of payments to and interest of officers.*

## Section.

37. Register of directors' shareholdings, etc.
38. Particulars in accounts of directors' salaries, pensions, etc.
39. Particulars in accounts of loans to officers.
40. Information as to compromises with creditors and members.
41. General duty to make disclosure.

*Investigations.*

42. Inspection of company's affairs on application of members.
43. Inspection of company's affairs in other cases.
44. Proceedings on inspector's report.
45. Expenses of inspection of company's affairs.
46. Appointment and powers of inspectors to investigate ownership of company.
47. Power to require information as to persons interested in shares or debentures.
48. Power to impose restrictions on shares or debentures.
49. Saving for solicitors and bankers.

*Register of members and annual return.*

50. Power to keep register where made up.
51. Contents of register of members.
52. Preparation, etc., of annual return.
53. Contents of annual return.
54. Inclusion in annual return of accounts of private companies.
55. Signature of annual return, etc., and penalty for false statements.

*Registered office and name.*

56. Establishment of registered office.
57. Amendments as to publication of name.
58. Extension of Registration of Business Names Act, 1916, to companies.

## PART II.

## SHARE CAPITAL AND DEBENTURES.

*Allotment.*

59. Applications for, and allotment of, shares and debentures.
60. Allotment of shares and debentures to be dealt in on stock exchange.

*Prospectus.*

61. Facts to be stated in prospectus to which s. 35 of principal Act applies.
62. Reports to be set out in prospectus to which s. 35 of the principal Act applies.
63. Issue and registration of prospectus.
64. Exclusion of s. 35 and relaxation of Fourth Schedule in case of certain prospectuses.
65. Civil liability for mis-statements in prospectus.
66. Criminal liability for mis-statements in prospectus.
67. Statements in lieu of prospectus.
68. Interpretation of provisions relating to prospectuses, etc.

*Other provisions as to shares and debentures.*

## Section.

- 69. Numbering of shares.
- 70. Certification of transfers.
- 71. Redeemable preference shares.
- 72. Application of premiums received on issue of shares.
- 73. Amendment of s. 45 of principal Act.
- 74. Register of debenture holders.
- 75. Liability of trustees for debenture holders.

## PART III.

CONSTITUTION OF COMPANIES AND MATTERS  
INCIDENTAL THERETO.

- 76. Alteration of company's objects.
- 77. Additional power to alter memorandum.
- 78. Prohibition of registration of companies by undesirable names.
- 79. Extension of s. 18 of principal Act to certain companies after formation.
- 80. Membership of holding company.
- 81. Fees on registration.
- 82. Documents of and relating to Scottish companies.

## PART IV.

## ENFORCEMENT AND REGISTRATION OF CHARGES.

*Receivers and managers.*

- 83. Disqualification of undischarged bankrupt from acting as receiver or manager.
- 84. Provisions as to information where receiver or manager appointed.
- 85. Special provisions as to statement submitted to receiver.
- 86. Enforcement of duty of receiver to make returns, etc.
- 87. Receivers appointed out of court.
- 88. Explanation of terms.

*Registration of charges.*

- 89. Registration of charges.

## PART V.

## WINDING UP.

- 90. Modification of grounds on which winding up order may be made.
- 91. Amendments as to preferential payments.
- 92. Amendments as to fraudulent preference.
- 93. Effect of floating charge.
- 94. Amendments as to declaration of solvency in voluntary winding up.
- 95. Miscellaneous amendments as to meetings in winding up.
- 96. Miscellaneous amendments as to proceedings in or in connection with winding up.
- 97. Miscellaneous amendments as to information relating to windings up.
- 98. Unclaimed assets while liquidation proceeding.
- 99. Liability for rentcharge on company's land after dissolution or disclaimer.
- 100. Property of dissolved company.
- 110. Miscellaneous amendments as to civil and criminal liability.



## PART VI.

## OFFENCES AND LEGAL PROCEEDINGS.

## Section.

- 102. Production and inspection of books where offence suspected.
- 103. Proceedings on indictment in Scotland against bodies corporate.
- 104. Extension of time limit for summary proceedings.
- 105. Amendments as to persons liable for certain offences.
- 106. Procedure on application for confirmation of, reduction of share capital.

## PART VII.

## COMPANIES NOT REGISTERED UNDER PRINCIPAL ACT.

*Companies incorporated in Great Britain.*

- 107. Application of this Act to certain companies not formed under principal Act.
- 108. Application of certain provisions to other unregistered companies.
- 109. Documents relating to companies wound up under repealed Acts.

*Companies incorporated outside Great Britain.*

- 110. Prospectus of foreign company.
- 111. Power of foreign companies to hold land.
- 112. Accounts of foreign companies.
- 113. List of directors.
- 114. Publication of name.

## PART VIII.

## AMENDMENTS, ETC., OF ACTS OTHER THAN PRINCIPAL ACT.

- 115. Bankruptcy.
- 116. Registration of business names.
- 117. Prevention of fraud (unit trusts).
- 118. Consequential amendments.

## PART IX.

## GENERAL.

- 119. Form of registers, etc.
- 120. Power to vary certain provisions by regulation or order.
- 121. Laying of regulations and orders.
- 122. Construction and application of principal Act and this Act.
- 123. Short title, citation, commencement and repeal.

## SCHEDULES :

## First Schedule—Accounts.

Part I—General provisions as to balance sheet and profit and loss account.

Part II—Special provisions where the company is a holding or subsidiary company.

Part III—Exceptions for special classes of company.

Part IV—Interpretation of Schedule.

Second Schedule—Matters to be expressly stated in auditors' report.

Third Schedule—Conditions as to interests in shares and debentures of exempt private company.

Fourth Schedule—Amendments of Third and Fifth Schedules to principal Act.

Fifth Schedule—Amendments as to persons liable for defaults under principal Act.

Sixth Schedule—Provisions applied to unregistered companies.

Seventh Schedule—Amendments of provisions of principal Act referring to officers.

Eighth Schedule—Enactments of principal Act applied.

Ninth Schedule—Enactments repealed.

An Act to amend the law relating to companies and unit trusts and to dealing in securities, and in connection therewith to amend the law of bankruptcy and the law relating to the registration of business names.

[6th August 1947.]

**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.

### MANAGEMENT AND ADMINISTRATION.

#### *Meetings and proceedings.*

Preliminary amendments as to annual general meeting.

1.—(1) For subsection (1) of section one hundred and twelve of the principal Act (which requires a company to hold a general meeting once at least in every year and not more than fifteen months after the holding of the last preceding general meeting) there shall be substituted the following subsection:—

“(1) Every company shall in each year hold a general meeting as its annual general meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it; and not more than fifteen months shall elapse between the date of one annual general meeting of a company and that of the next:

Provided that, so long as a company holds its first annual general meeting within eighteen months of its incorporation, it need not hold it in the year of its incorporation or in the following year.”

(2) The power conferred by subsection (3) of the said section one hundred and twelve, where there has been default in holding a company's annual general meeting, to call or direct the calling

of a general meeting of the company shall be exercisable by the Board of Trade instead of by the court and shall include power to give such ancillary or consequential directions as the Board think expedient, including directions modifying or supplementing, in relation to the calling, holding and conducting of the meeting, the operation of the company's articles.

(3) A general meeting held in pursuance of the said subsection (3) shall, subject to any directions of the Board of Trade, be deemed to be an annual general meeting of the company; but, where a meeting so held is not held in the year in which the default in holding the company's annual general meeting occurred, the meeting so held shall not be treated as the annual general meeting for the year in which it is held, unless at that meeting the company resolves that it shall be so treated.

(4) Where a company resolves that a meeting shall be so treated, a copy of the resolution shall, within fifteen days after the passing thereof, be forwarded to the registrar of companies and recorded by him, and if a company fails to comply with this subsection, the company and every officer of the company who is in default shall be liable to a default fine of two pounds.

(5) If default is made in complying with any directions of the Board of Trade under the said subsection (3), the company, and every officer of the company who is in default, shall be liable to a fine not exceeding fifty pounds.

2.—(1) For paragraph (a) of subsection (1) of section one hundred and fifteen of the principal Act (which, subject to the company's articles, provides that a meeting of a company other than a meeting for the passing of a special resolution may be called by seven days' notice in writing) there shall be substituted the following paragraph:—

Length of notice of meetings and of business thereat.

“(a) a company's annual general meeting may be called by twenty-one days' notice in writing, and a meeting of a company other than an annual general meeting or a meeting for the passing of a special resolution may be called by fourteen days' notice in writing or, in the case of an unlimited company, by seven days' notice in writing;”

and, notwithstanding anything in the said subsection (1), any provision of a company's articles shall be void in so far as it provides for the calling of a meeting of the company (other than an adjourned meeting) by shorter notice than that specified in this subsection.

(2) A meeting of a company shall, notwithstanding that it is called by shorter notice than that specified in the foregoing

PART I.  
—cont.

subsection or in the company's articles, as the case may be, be deemed to have been duly called if it is so agreed—

- (a) in the case of a meeting called as the annual general meeting, by all the members entitled to attend and vote thereat ; and
- (b) in the case of any other meeting, by a majority in number of the members having a right to attend and vote at the meeting, being a majority together holding not less than ninety-five per cent. in nominal value of the shares giving a right to attend and vote at the meeting, or, in the case of a company not having a share capital, together representing not less than ninety-five per cent. of the total voting rights at that meeting of all the members.

(3) In the proviso to subsection (2) of section one hundred and seventeen of the principal Act (which enables a resolution of which less than twenty-one days' notice has been given to be passed as a special resolution) for the words " if all the members entitled to attend and vote at any such meeting so agree " there shall be substituted the words " if it is so agreed by a majority in number of the members having the right to attend and vote at any such meeting, being a majority together holding not less than ninety-five per cent. in nominal value of the shares giving that right or, in the case of a company not having a share capital, together representing not less than ninety-five per cent. of the total voting rights at that meeting of all the members " ; and subsection (5) of the said section one hundred and seventeen (which provides for computing the majority on a poll by reference to the votes to which a member is entitled) shall not be taken as applying for the purposes of the said proviso.

(4) In the provisions of the principal Act hereafter mentioned in this subsection there shall be substituted the longer for the shorter time limit so mentioned, that is to say—

- (a) in subsection (2) of section one hundred and thirteen (which requires a directors' report to be sent to members at least seven days before the statutory meeting of a company which is entitled to commence business) fourteen days for seven days ;
- (b) in paragraph (a) of subsection (1) of section one hundred and thirty (which requires copies of the balance sheet and the documents required to be annexed thereto to be circulated not less than seven days before the meeting at which the balance sheet is to be laid before the company) twenty-one days for seven days ;
- (c) in proviso (a) to subsection (4) of section one hundred and thirty-two (which relates to notice of a proposal to appoint other auditors in place of a company's first auditors) fourteen days for seven days.

(5) Any document required to be circulated before a meeting by subsection (2) of the said section one hundred and thirteen, or by paragraph (a) of subsection (1) of the said section one hundred and thirty, shall, notwithstanding that it is circulated later than is thereby required, be deemed to have been duly circulated if it is so agreed by all the members entitled to attend and vote at the meeting.

(6) Where by any provision hereafter contained in this Act special notice is required of a resolution, the resolution shall not be effective unless notice of the intention to move it has been given to the company not less than twenty-eight days before the meeting at which it is moved, and the company shall give its members notice of any such resolution at the same time and in the same manner as it gives notice of the meeting or, if that is not practicable, shall give them notice thereof, either by advertisement in a newspaper having an appropriate circulation or in any other mode allowed by the articles, not less than twenty-one days before the meeting :

Provided that if, after notice of the intention to move such a resolution has been given to the company, a meeting is called for a date twenty-eight days or less after the notice has been given, the notice though not given within the time required by this subsection shall be deemed to have been properly given for the purposes thereof.

3.—(1) Subject to the following provisions of this section it shall be the duty of a company, on the requisition in writing of such number of members as is hereinafter specified and (unless the company otherwise resolves) at the expense of the requisitionists.

Circulation  
of members'  
resolutions,  
etc.

(a) to give to members of the company entitled to receive notice of the next annual general meeting notice of any resolution which may properly be moved and is intended to be moved at that meeting ;

(b) to circulate to members entitled to have notice of any general meeting sent to them any statement of not more than one thousand words with respect to the matter referred to in any proposed resolution or the business to be dealt with at that meeting.

(2) The number of members necessary for a requisition under the foregoing subsection shall be—

(a) any number of members representing not less than one twentieth of the total voting rights of all the members having at the date of the requisition a right to vote at the meeting to which the requisition relates ; or

(b) not less than one hundred members holding shares in the company on which there has been paid up an average sum, per member, of not less than one hundred pounds.

PART I.  
—cont.

(3) Notice of any such resolution shall be given, and any such statement shall be circulated, to members of the company entitled to have notice of the meeting sent to them by serving a copy of the resolution or statement on each such member in any manner permitted for service of notice of the meeting, and notice of any such resolution shall be given to any other member of the company by giving notice of the general effect of the resolution in any manner permitted for giving him notice of meetings of the company :

Provided that the copy shall be served, or notice of the effect of the resolution shall be given, as the case may be, in the same manner and, so far as practicable, at the same time as notice of the meeting and, where it is not practicable for it to be served or given at that time, it shall be served or given as soon as practicable thereafter.

(4) A company shall not be bound under this section to give notice of any resolution or to circulate any statement unless—

(a) a copy of the requisition signed by the requisitionists (or two or more copies which between them contain the signatures of all the requisitionists) is deposited at the registered office of the company—

(i) in the case of a requisition requiring notice of a resolution, not less than six weeks before the meeting ; and

(ii) in the case of any other requisition, not less than one week before the meeting ; and

(b) there is deposited or tendered with the requisition a sum reasonably sufficient to meet the company's expenses in giving effect thereto :

Provided that if, after a copy of a requisition requiring notice of a resolution has been deposited at the registered office of the company, an annual general meeting is called for a date six weeks or less after the copy has been deposited, the copy though not deposited within the time required by this subsection shall be deemed to have been properly deposited for the purposes thereof.

(5) The company shall also not be bound under this section to circulate any statement if, on the application either of the company or of any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter ; and the court may order the company's costs on an application under this section to be paid in whole or in part by the requisitionists, notwithstanding that they are not parties to the application.

(6) Notwithstanding anything in the company's articles, the business which may be dealt with at an annual general meeting shall include any resolution of which notice is given in accordance with this section, and for the purposes of this subsection notice shall be deemed to have been so given notwithstanding the accidental omission, in giving it, of one or more members.

(7) In the event of any default in complying with the provisions of this section, every officer of the company who is in default shall be liable to a fine not exceeding five hundred pounds.

4.—(1) Any provision contained in a company's articles shall be void in so far as it would have the effect either— Right to demand a poll.

(a) of excluding the right to demand a poll at a general meeting on any question other than the election of the chairman of the meeting or the adjournment of the meeting ; or

(b) of making ineffective a demand for a poll on any such question which is made either—

(i) by not less than five members having the right to vote at the meeting ; or

(ii) by a member or members representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting ; or

(iii) by a member or members holding shares in the company conferring a right to vote at the meeting, being shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the shares conferring that right.

(2) The instrument appointing a proxy to vote at a meeting of a company shall be deemed also to confer authority to demand or join in demanding a poll, and for the purposes of the foregoing subsection a demand by a person as proxy for a member shall be the same as a demand by the member.

(3) Subsection (4) of section one hundred and seventeen of the principal Act (which makes provision as respects the demanding of a poll at meetings for passing extraordinary and special resolutions), and in subsection (5) of that section (which provides that the three-fourths majority of the members needed for an extraordinary or special resolution shall, on a poll demanded in accordance with that section, be computed by reference to the number of votes to which each member is entitled) the words "in accordance with this section", shall cease to have effect.

5.—(1) Any member of a company entitled to attend and vote at a meeting of the company shall be entitled to appoint another person (whether a member or not) as his proxy to attend and vote instead of him, and a proxy appointed to attend and vote instead of a Voting at meetings.

PART I.  
-cont.

member of a private company shall also have the same right as the member to speak at the meeting :

Provided that, unless the articles otherwise provide,—

- (a) this subsection shall not apply in the case of a company not having a share capital ; and
- (b) a member of a private company shall not be entitled to appoint more than one proxy to attend on the same occasion ; and
- (c) a proxy shall not be entitled to vote except on a poll.

(2) In every notice calling a meeting of a company having a share capital there shall appear with reasonable prominence a statement that a member entitled to attend and vote is entitled to appoint a proxy or, where that is allowed, one or more proxies to attend and vote instead of him, and that a proxy need not also be a member ; and if default is made in complying with this subsection as respects any meeting, every officer of the company who is in default shall be liable to a fine not exceeding fifty pounds.

(3) Any provision contained in a company's articles shall be void in so far as it would have the effect of requiring the instrument appointing a proxy, or any other document necessary to show the validity of or otherwise relating to the appointment of a proxy, to be received by the company or any other person more than forty-eight hours before a meeting or adjourned meeting in order that the appointment may be effective thereat.

(4) If for the purpose of any meeting of a company invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the company's expense to some only of the members entitled to be sent a notice of the meeting and to vote thereat by proxy, every officer of the company who knowingly and wilfully authorises or permits their issue as aforesaid shall be liable to a fine not exceeding one hundred pounds :

Provided that an officer shall not be liable under this subsection by reason only of the issue to a member at his request in writing of a form of appointment naming the proxy or of a list of persons willing to act as proxy if the form or list is available on request in writing to every member entitled to vote at the meeting by proxy.

(5) On a poll taken at a meeting of a company, a member entitled to more than one vote need not, if he votes, use all his votes or cast all the votes he uses in the same way, and accordingly in subsection (5) of section one hundred and seventeen of the principal Act (which provides that the three-fourths majority of the members needed for an extraordinary or special resolution shall on a poll be computed by reference to the number



of votes to which each member is entitled) for the reference to the number of votes to which each member is entitled there shall be substituted a reference to the number of votes cast for and against the resolution.

PART I.  
—cont

(6) This section shall apply to meetings of any class of members of a company as it applies to general meetings of the company.

6. It is hereby declared that the directions which may be given—

(a) by the Board of Trade with respect to a general meeting of a company called by or in pursuance of directions of the Board by virtue of the provisions of this Act relating to the annual general meeting ; and

(b) by the court with respect to a general meeting of a company called in pursuance of an order of the court under subsection (2) of section one hundred and fifteen of the principal Act (which provides for the calling of meetings of a company where it is impracticable for them to be called in the ordinary way) ;

Meetings  
attended by  
single member

include a direction that one member present in person or by proxy shall be deemed to constitute a meeting.

7. Notwithstanding anything in subsection (1) of section one hundred and eighteen of the principal Act, an exempt private company, as defined in subsection (4) of section fifty-four of this Act, need not forward to the registrar of companies a printed copy of any resolution or agreement to which that section applies, if instead it forwards a copy in some other form approved by the registrar.

Exemption  
from obligation  
to print  
certain resolutions  
etc.

8. Where a company fails to make minutes of the proceedings of general meetings or of the proceedings at meetings of its directors or of its managers as required by section one hundred and twenty of the principal Act, the company and every officer of the company who is in default shall be liable to a default fine.

Penalty for  
failure to  
keep minutes  
of proceedings.

### *Minorities.*

9.—(1) Any member of a company who complains that the affairs of the company are being conducted in a manner oppressive to some part of the members (including himself), may make an application to the court by petition for an order under this section.

Alternative  
remedy to  
winding up  
in cases of  
oppression.

(2) If on any such petition the court is of opinion—

(a) that the company's affairs are being conducted as aforesaid ; and

(b) that to wind up the company would unfairly prejudice that part of the members, but otherwise the facts would

**PART I.**  
—cont.

justify the making of a winding up order on the ground that it was just and equitable that the company should be wound up ;

the court may, with a view to bringing to an end the matters complained of, make such order as it thinks fit, whether for regulating the conduct of the company's affairs in future, or for the purchase of the shares of any members of the company by other members of the company or by the company and, in the case of a purchase by the company, for the reduction accordingly of the company's capital, or otherwise.

(3) Where an order under this section makes any alteration in or addition to any company's memorandum or articles, then notwithstanding anything in the principal Act but subject to the provisions of the order the company concerned shall not have power without the leave of the court to make any further alteration in or addition to the memorandum or articles inconsistent with the provisions of the order ; but, subject to the foregoing provisions of this subsection, the alterations or additions made by the order shall be of the same effect as if duly made by resolution of the company and the principal Act shall apply to the memorandum or articles as so altered or added to accordingly.

(4) An office copy of any order under this section altering or adding to, or giving leave to alter or add to, a company's memorandum or articles shall, within fourteen days after the making thereof, be delivered by the company to the registrar of companies for registration ; and if a company makes default in complying with this subsection, the company and every officer of the company who is in default shall be liable to a default fine.

16 & 17 Geo. 5.  
c. 9.

(5) In relation to a petition under this section, section three hundred and five of the principal Act (which confers power among other things to regulate the procedure and fees on winding-up petitions) shall apply as it applies in relation to a winding-up petition and proceedings under this section shall, for the purposes of Part V of the Economy (Miscellaneous Provisions) Act, 1926 (which relates to the Bankruptcy and Companies Winding-up (Fees) Account), be deemed to be proceedings under the principal Act in relation to the winding-up of companies.

Extension of  
time limit  
under s. 61(2)  
of principal  
Act.

10. In subsection (2) of section sixty-one of the principal Act (which limits the time allowed a dissenting minority for applying to the court to cancel a variation of the rights attaching to any particular class of shares to seven days after the agreement of the majority is given) for the words " seven days " there shall be substituted the words " twenty-one days ":

Provided that this section shall not apply where the time allowed for applying to the court has already expired before this section comes into force.

11.—(1) In subsection (1) of section one hundred and fifty-five of the principal Act (which enables a company, where a scheme or contract involving the transfer to it of shares in another company has been approved by the holders of nine-tenths in value of the shares affected, to acquire the shares of the dissentients) the reference to the shares affected shall be taken as referring only to the shares whose transfer is involved, and as not including shares already held at the date of the offer by, or by a nominee for, the transferee company or its subsidiary.

PART I.  
—cont.  
Acquisition of shares of shareholders dissenting from scheme or contract approved by majority.

(2) Where shares in the transferor company of the same class or classes as the shares affected are held as aforesaid to a value greater than one-tenth of the aggregate of their value and that of the shares affected, the said subsection (1) shall apply only if—

- (a) the transferee company offers the same terms to all holders of the shares affected or, where those shares include shares of different classes, of each class of them ; and
- (b) the holders who approve the scheme or contract, besides holding not less than nine-tenths in value of the shares affected, are not less than three-fourths in number of the holders of those shares.

(3) Where, in pursuance of any such scheme or contract as is mentioned in the said section one hundred and fifty-five, shares in a company are transferred to another company or its nominee, and those shares together with any other shares in the first-mentioned company held by, or by a nominee for, the transferee company or its subsidiary at the date of the transfer comprise or include nine-tenths in value of the shares in the first-mentioned company or of any class of those shares, then—

- (a) the transferee company shall within one month from the date of the transfer (unless on a previous transfer in pursuance of the scheme or contract it has already complied with this requirement) give notice of that fact in the prescribed manner to the holders of the remaining shares or of the remaining shares of that class, as the case may be, who have not assented to the scheme or contract ; and
- (b) any such holder may within three months from the giving of the notice to him require the transferee company to acquire the shares in question.

(4) Where a shareholder gives notice under the last foregoing subsection with respect to any shares, the transferee company shall be entitled and bound to acquire those shares on the terms on which under the scheme or contract the shares of the approving shareholders were transferred to it, or on such other terms as may be agreed or as the court on the application of either the transferee company or the shareholder thinks fit to order.

PART I.  
—cont.

(5) In subsection (2) of the said section one hundred and fifty-five (which enables the transferee company, if dissenting shareholders after being given notice under subsection (1) of the company's desire to acquire their shares fail to transfer them, to become registered as holder thereof, without execution of any instrument of transfer, on transmitting to the transferor company a copy of the notice requiring the transfer and on complying with certain other requirements), after the words "transmit a copy of the notice to the transferor company" there shall be inserted the words "together with an instrument of transfer executed on behalf of the shareholder by any person appointed by the transferee company and on its own behalf by the transferor company", and at the end of the said subsection there shall be added the following proviso:—

"Provided that an instrument of transfer shall not be required for any share for which a share warrant is for the time being outstanding."

(6) Nothing in this section shall apply where the transferee company made its offer to shareholders of the transferor company before the coming into force thereof.

*Accounts, directors' report and audit.*Books of  
account.

12.—(1) For the purposes of subsection (1) of section one hundred and twenty-two of the principal Act (which imposes on a company the obligation to keep books of account) proper books of account shall not be deemed to be kept with respect to the matters specified in that subsection, if there are not kept such books of account as are necessary to give a true and fair view of the state of the company's affairs and to explain its transactions.

(2) A company shall not be deemed to comply with the requirements of the said section one hundred and twenty-two by keeping books of account at a place outside Great Britain, unless there are sent to, and kept at a place in, Great Britain and are at all times open to inspection by the directors such accounts and returns with respect to the business dealt with in the books of account kept outside Great Britain as will disclose with reasonable accuracy the financial position of that business at intervals not exceeding six months and will enable the company's balance sheet and profit and loss account to be prepared in accordance with the principal Act and this Act.

Contents of  
balance sheet  
and profit  
and loss  
account.

13.—(1) Every balance sheet of a company shall give a true and fair view of the state of affairs of the company as at the end of its financial year, and every profit and loss account of a company shall give a true and fair view of the profit or loss of the company for the financial year.

(2) A company's balance sheet and profit and loss account shall comply with the requirements of the First Schedule to this Act, so far as applicable thereto.

(3) Save as expressly provided in the following provisions of this section or in Part III of the said First Schedule, the requirements of the last foregoing subsection and the said First Schedule shall be without prejudice either to the general requirements of subsection (1) of this section or to any other requirements of the principal Act or this Act.

(4) The Board of Trade may, on the application or with the consent of a company's directors, modify in relation to that company any of the requirements of the principal Act or this Act as to the matters to be stated in a company's balance sheet or profit and loss account (except the requirements of subsection (1) of this section) for the purpose of adapting them to the circumstances of the company.

(5) Subsections (1) and (2) of this section shall not apply to a company's profit and loss account, if—

(a) the company has subsidiaries; and

(b) the profit and loss account is framed as a consolidated profit and loss account dealing with all or any of the company's subsidiaries as well as the company, and—

(i) complies with the requirements of this Act relating to consolidated profit and loss accounts; and

(ii) shows how much of the consolidated profit or loss for the financial year is dealt with in the accounts of the company.

(6) If any person being a director of a company fails to take all reasonable steps to secure compliance as respects any accounts laid before the company in general meeting with the provisions of this section and with the other requirements of the principal Act and this Act as to the matters to be stated in accounts, he shall, in respect of each offence, be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds:

Provided that a person shall not be sentenced to imprisonment for any such offence unless in the opinion of the court dealing with the case the offence was committed wilfully.

(7) The following provisions of the principal Act shall cease to have effect, that is to say—

(a) so much of section one hundred and twenty-four of that Act as relates to fixed and floating assets;

(b) section one hundred and twenty-six of that Act (which requires particulars as to subsidiaries); and

PART I.  
—cont.

- (c) any other provision of that Act in so far as it imposes a penalty for default in complying with any requirement of that Act as to the matters to be stated in a company's balance sheet or profit and loss account ;

and in subsection (2) of section one hundred and twenty-three of the principal Act for the reference to the reserve fund, general reserve or reserve account shown specifically on the balance sheet, or the reserve fund, general reserve or reserve account to be shown specifically on a subsequent balance sheet there shall be substituted a reference to reserves within the meaning of the First Schedule to this Act.

(8) For the purposes of this Act, except where the context otherwise requires,—

- (a) any reference to a balance sheet or profit and loss account shall include any notes thereon or document annexed thereto giving information which is required by the principal Act or this Act and is thereby allowed to be so given ; and
- (b) any reference to a profit and loss account shall be taken, in the case of a company not trading for profit, as referring to its income and expenditure account, and references to profit or to loss and, if the company has subsidiaries, references to a consolidated profit and loss account shall be construed accordingly.

Obligation to  
lay group  
accounts  
before holding  
company.

14.—(1) Where at the end of its financial year a company has subsidiaries, accounts or statements (in this Act referred to as "group accounts") dealing as hereinafter mentioned with the state of affairs and profit or loss of the company and the subsidiaries shall, subject to the next following subsection, be laid before the company in general meeting when the company's own balance sheet and profit and loss account are so laid.

(2) Notwithstanding anything in the foregoing subsection—

- (a) group accounts shall not be required where the company is at the end of its financial year the wholly owned subsidiary of another body corporate incorporated in Great Britain ; and
- (b) group accounts need not deal with a subsidiary of the company if the company's directors are of opinion that—
- (i) it is impracticable, or would be of no real value to members of the company, in view of the insignificant amounts involved, or would involve expense or delay out of proportion to the value to members of the company ; or
- (ii) the result would be misleading, or harmful to the business of the company or any of its subsidiaries ; or

(iii) the business of the holding company and that of the subsidiary are so different that they cannot reasonably be treated as a single undertaking ;

and, if the directors are of such an opinion about each of the company's subsidiaries, group accounts shall not be required :

Provided that the approval of the Board of Trade shall be required for not dealing in group accounts with a subsidiary on the ground that the result would be harmful or on the ground of the difference between the business of the holding company and that of the subsidiary.

(3) If any person being a director of a company fails to take all reasonable steps to secure compliance as respects the company with the provisions of this section, he shall, in respect of each offence, be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds :

Provided that a person shall not be sentenced to imprisonment for an offence under this section unless in the opinion of the court dealing with the case the offence was committed wilfully.

(4) For the purposes of this section a body corporate shall be deemed to be the wholly owned subsidiary of another if it has no members except that other and that other's wholly owned subsidiaries and its or their nominees.

15.—(1) Subject to the next following subsection, the group accounts laid before a holding company shall be consolidated accounts, Form of group accounts comprising—

- (a) a consolidated balance sheet dealing with the state of affairs of the company and all the subsidiaries to be dealt with in group accounts ;
- (b) a consolidated profit and loss account dealing with the profit or loss of the company and those subsidiaries.

(2) If the company's directors are of opinion that it is better for the purpose—

- (a) of presenting the same or equivalent information about the state of affairs and profit or loss of the company and those subsidiaries ; and
- (b) of so presenting it that it may be readily appreciated by the company's members ;

the group accounts may be prepared in a form other than that required by the foregoing subsection, and in particular may consist of more than one set of consolidated accounts dealing

**PART I.**  
—cont.

respectively with the company and one group of subsidiaries and with other groups of subsidiaries, or of separate accounts dealing with each of the subsidiaries, or of statements expanding the information about the subsidiaries in the company's own accounts, or any combination of these forms.

(3) The group accounts may be wholly or partly incorporated in the company's own balance sheet and profit and loss account.

Contents of  
group  
accounts.

**16.—(1)** The group accounts laid before a company shall give a true and fair view of the state of affairs and profit or loss of the company and the subsidiaries dealt with thereby as a whole, so far as concerns members of the company.

(2) Where the financial year of a subsidiary does not coincide with that of the holding company, the group accounts shall, unless the Board of Trade on the application or with the consent of the holding company's directors otherwise direct, deal with the subsidiary's state of affairs as at the end of its financial year ending with or last before that of the holding company, and with the subsidiary's profit or loss for that financial year.

(3) Without prejudice to subsection (1) of this section, the group accounts, if prepared as consolidated accounts, shall comply with the requirements of the First Schedule to this Act, so far as applicable thereto, and if not so prepared shall give the same or equivalent information :

Provided that the Board of Trade may, on the application or with the consent of a company's directors, modify the said requirements in relation to that company for the purpose of adapting them to the circumstances of the company.

Financial year  
of holding  
company and  
subsidiary.

**17.—(1)** A holding company's directors shall secure that, except where in their opinion there are good reasons against it, the financial year of each of its subsidiaries shall coincide with the company's own financial year.

(2) Where it appears to the Board of Trade desirable for a holding company or a holding company's subsidiary to extend its financial year so that the subsidiary's financial year may end with that of the holding company, and for that purpose to postpone the submission of the relevant accounts to a general meeting from one calendar year to the next, the Board may on the application or with the consent of the directors of the company whose financial year is to be extended direct that, in the case of that company, the submission of accounts to a general meeting, the holding of an annual general meeting or the making of an annual return shall not be required in the earlier of the said calendar years.



18.—(1) For the purposes of the principal Act and this Act, a company shall, subject to the provisions of subsection (3) of this section, be deemed to be a subsidiary of another if, but only if—

PART I.  
—cont.  
Meaning of  
"holding  
company" and  
"subsidiary".

(a) that other either—

(i) is a member of it and controls the composition of its board of directors ; or

(ii) holds more than half in nominal value of its equity share capital ; or

(b) the first mentioned company is a subsidiary of any company which is that other's subsidiary.

(2) For the purposes of the foregoing subsection, the composition of a company's board of directors shall be deemed to be controlled by another company if, but only if, that other company by the exercise of some power exercisable by it without the consent or concurrence of any other person can appoint or remove the holders of all or a majority of the directorships ; but for the purposes of this provision that other company shall be deemed to have power to appoint to a directorship with respect to which any of the following conditions is satisfied, that is to say—

(a) that a person cannot be appointed thereto without the exercise in his favour by that other company of such a power as aforesaid ; or

(b) that a person's appointment thereto follows necessarily from his appointment as director of that other company ; or

(c) that the directorship is held by that other company itself or by a subsidiary of it.

(3) In determining whether one company is a subsidiary of another—

(a) any shares held or power exercisable by that other in a fiduciary capacity shall be treated as not held or exercisable by it ;

(b) subject to the two following paragraphs, any shares held or power exercisable—

(i) by any person as a nominee for that other (except where that other is concerned only in a fiduciary capacity) ; or

(ii) by, or by a nominee for, a subsidiary of that other, not being a subsidiary which is concerned only in a fiduciary capacity ;

shall be treated as held or exercisable by that other ;

(c) any shares held or power exercisable by any person by virtue of the provisions of any debentures of the first mentioned company or of a trust deed for securing any issue of such debentures shall be disregarded ;

PART I.  
—cont.

(d) any shares held or power exercisable by, or by a nominee for, that other or its subsidiary (not being held or exercisable as mentioned in the last foregoing paragraph) shall be treated as not held or exercisable by that other if the ordinary business of that other or its subsidiary, as the case may be, includes the lending of money and the shares are held or power is exercisable as aforesaid by way of security only for the purposes of a transaction entered into in the ordinary course of that business.

(4) For the purposes of this Act, a company shall be deemed to be another's holding company if, but only if, that other is its subsidiary.

(5) In this section, the expression "company" includes any body corporate, and the expression "equity share capital" means, in relation to a company, its issued share capital excluding any part thereof which, neither as respects dividends nor as respects capital, carries any right to participate beyond a specified amount in a distribution.

Directors'  
report.

19. The report under subsection (2) of section one hundred and twenty-three of the principal Act of a company's directors shall deal, so far as is material for the appreciation of the state of the company's affairs by its members and will not in the directors' opinion be harmful to the business of the company or of any of its subsidiaries, with any change during the financial year in the nature of the company's business, or in the company's subsidiaries, or in the classes of business in which the company has an interest, whether as member of another company or otherwise.

General pro-  
vision as to  
liability of  
directors for  
defective  
accounts.

20. A director shall not be liable to fine or imprisonment under section one hundred and twenty-two or one hundred and twenty-three of the principal Act or any provision contained in the sections of this Act relating to a company's accounts for failing to take reasonable steps to comply or secure compliance with any provision of that Act or this Act, if he shows that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that that provision was complied with and was in a position to discharge that duty.

Signature  
and copies  
of accounts.

21.—(1) The profit and loss account and, so far as not incorporated in the balance sheet or profit and loss account, any group accounts laid before a company in general meeting shall be annexed to the balance sheet and approved by the board of directors before the balance sheet is signed on their behalf.

(2) If any copy of a balance sheet is issued, circulated, or published without having a copy annexed thereto of the profit and loss account or any group accounts required by this section

to be so annexed, the company and every officer of the company who is in default shall be liable to a fine not exceeding fifty pounds.

(3) Any member of a company having a share capital, whether he is or is not entitled to receive notices of general meetings of the company, shall be entitled under paragraph (a) of subsection (1) of section one hundred and thirty of the principal Act to have sent to him a copy of every balance sheet and of the other documents mentioned in that paragraph, and any holder of debentures of a company shall have the same right under that paragraph as a member of the company :

Provided that this subsection shall not require a copy of those documents to be sent to any person of whose address the company is not aware or to more than one of the joint holders of any shares or debentures.

(4) Subsection (1), and not subsection (2), of the said section one hundred and thirty shall apply in the case of a private company, as of any other company, except in relation to balance sheets laid before the company before the coming into force of this section.

**22.—(1)** The duties of a company's auditors as laid down by section one hundred and thirty-four of the principal Act shall be extended as follows :—

Extension  
of rights  
and duties  
of auditors.

(a) they shall report on every profit and loss account and all group accounts laid before the company in general meeting during their tenure of office (as well as on every balance sheet so laid and on the accounts examined by them); and

(b) their report shall contain (in lieu of the statements required by subsection (1) of the said section one hundred and thirty-four) statements as to the matters mentioned in the Second Schedule to this Act ;

and section three-hundred and sixty-two of the principal Act (which penalises false statements) shall apply to the auditors' report, as if the reference in the Eleventh Schedule to that Act to subsection (1) of the said section one hundred and thirty-four included a reference to this subsection.

(2) The rights of a company's auditors as laid down by the said section one hundred and thirty-four shall be extended as follows :—

(a) as respects their right under subsection (2) of that section to any information or explanation necessary for the performance of their duties, it shall be for them to judge what is necessary for that purpose ;

PART I  
—cont.

- (b) as respects their right under that subsection of access to the books and accounts and vouchers of the company, any limitation imposed by the proviso to that subsection (which relates to branches outside Europe of certain banks) shall cease to have effect ;
- (c) they shall be entitled to attend any general meeting of the company (and not merely the meetings mentioned in subsection (3) of that section) and to receive all notices of and other communications relating to any general meeting which any member of the company is entitled to receive and to be heard at any general meeting which they attend on any part of the business of the meeting which concerns them as auditors.

Extension of  
disqualifi-  
cations for  
appointment  
as auditor.

**23.—(1)** A person shall not be qualified for appointment as auditor of a company unless either—

- (a) he is a member of a body of accountants established in the United Kingdom and for the time being recognised for the purposes of this provision by the Board of Trade ; or
- (b) he is for the time being authorised by the Board of Trade to be so appointed either as having similar qualifications obtained outside the United Kingdom or as having obtained adequate knowledge and experience in the course of his employment by a member of a body of accountants recognised for the purposes of the foregoing paragraph or as having before the passing of this Act practised in Great Britain as an accountant :

Provided that this subsection shall not apply in the case of a private company which at the time of the auditor's appointment is an exempt private company, as defined in subsection (4) of section fifty-four of this Act.

(2) In subsection (1) of section one hundred and thirty-three of the principal Act (which disqualifies, among others, directors and officers of a company and partners and employees of officers of a company from appointment as auditors of the company)—

- (a) references to an officer of the company shall include any servant of the company, but not an auditor ; and
- (b) paragraph (b) (which relates to partners and employees of officers of the company) shall apply in like manner to partners and employees of directors of the company ; and
- (c) the exception in the said paragraph (b) for private companies shall apply only in the case of a private company which at the time of the auditor's appointment is an exempt private company, as defined in subsection (4) of section fifty-four of this Act.

Nothing in this subsection shall be taken to exclude the application, in relation to the said subsection (1), of the definition of " officer " hereafter contained in this Act.

PART I.  
—cont.

(3) A person shall also not be qualified for appointment as auditor of any company if he is, by virtue of the said subsection (1), disqualified for appointment as auditor of any other body corporate which is that company's subsidiary or holding company, or a subsidiary of that company's holding company, or would be so disqualified if the body corporate were a company.

(4) Notwithstanding anything in the foregoing provisions of this section, a Scottish firm shall be qualified for appointment as auditor of a company if, but only if, all the partners are qualified for appointment as auditor thereof.

24.—(1) The auditors of a company appointed at any annual general meeting shall be appointed to hold office from the conclusion of that, until the conclusion of the next, annual general meeting ; and at any annual general meeting a retiring auditor, however appointed, shall be reappointed without any resolution being passed, unless—

Appointment  
and remuneration  
of  
auditors.

- (a) he is not qualified for reappointment ; or
- (b) a resolution has been passed at that meeting appointing somebody instead of him or providing expressly that he shall not be reappointed ; or
- (c) he has given the company notice in writing of his unwillingness to be reappointed ;

and, where at an annual general meeting no auditors are appointed or reappointed, the Board of Trade may appoint a person to fill the vacancy.

(2) The company shall, within one week of the Board's power under the foregoing subsection becoming exercisable, give them notice of that fact, and if a company fails to give notice as required by this subsection the company and every officer of the company who is in default shall be liable to a default fine.

(3) Special notice shall be required for a resolution at a company's annual general meeting appointing as auditor a person other than a retiring auditor or providing expressly that a retiring auditor shall not be reappointed.

(4) On receipt of notice of such an intended resolution as aforesaid the company shall forthwith send a copy thereof to the retiring auditor (if any).

(5) Where notice is given of such an intended resolution as aforesaid, and the retiring auditor makes with respect thereto representations in writing to the company (not exceeding a reasonable length) and requests their notification to members of

PART I.  
—cont.

the company, the company shall, unless the representations are received by it too late for it to do so,—

- (a) in any notice of the resolution given to members of the company state the fact of the representations having been made ; and
- (b) send a copy of the representations to every member of the company to whom notice of the meeting is sent (whether before or after receipt of the representations by the company) ;

and if a copy of the representations is not sent as aforesaid because received too late or because of the company's default, the auditor may (without prejudice to his right to be heard orally) require that the representations shall be read out at the meeting :

Provided that copies of the representations need not be sent out and the representations need not be read out at the meeting if, on the application either of the company or of any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter ; and the court may order the company's costs on an application under this section to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application.

(6) Where notice is given of an intended resolution to appoint some person or persons instead of a retiring auditor, and by reason of the death, incapacity or disqualification of that person or of all those persons, as the case may be, the resolution cannot be proceeded with, the retiring auditor shall not be automatically reappointed by virtue of subsection (1) of this section.

(7) In relation to the first auditors of a company—

- (a) subsection (4) of section one hundred and thirty-two of the principal Act (which relates to the appointment and term of office of the first auditors) shall have effect with the substitution for the words " until that meeting " of the words " until the conclusion of that meeting " ;
- (b) subsection (5) of this section shall apply to a resolution to remove the first auditors by virtue of subsection (4) of the said section one hundred and thirty-two as it applies in relation to a resolution that a retiring auditor shall not be reappointed.

(8) The remuneration of the auditors of a company—

- (a) in the case of an auditor appointed by the directors or by the Board of Trade, may be fixed by the directors or by the Board, as the case may be ;
- (b) subject to the foregoing paragraph shall be fixed by the company in general meeting or in such manner as the company in general meeting may determine ;

but where the remuneration is not fixed by the company in general meeting, the amount shall be shown under a separate heading in the company's profit and loss account.

For the purposes of this subsection, any sums paid by the company in respect of the auditors' expenses shall be deemed to be included in the expression "remuneration."

25. References in the principal Act and this Act to a document annexed or required to be annexed to a company's accounts or any of them shall not include the directors' report or the auditors' report (which are by the principal Act required to be attached to the balance sheet):

Construction of references to documents annexed to accounts.

Provided that any information which is required by the principal Act or this Act to be given in accounts and is thereby allowed to be given in a statement annexed may be given in the directors' report instead of the accounts and, if any such information is so given, the report shall be annexed to the accounts and the principal Act and this Act shall apply in relation thereto accordingly, except that the auditors shall report thereon only so far as it gives the said information.

*Appointment, etc., of directors and secretary.*

26.—(1) Every company shall have a director and a secretary and a sole director shall not also be secretary nor shall any company—

Director and secretary.

- (a) have as secretary to the company a corporation the sole director of which is a sole director of the company ; or
- (b) have as sole director of the company a corporation the sole director of which is secretary to the company.

(2) For any reference in the principal Act to a company's secretary or other chief officer there shall accordingly be substituted a reference to the company's secretary.

(3) Anything required or authorised to be done by or to the secretary may, if the office is vacant or there is for any other reason no secretary capable of acting, be done by or to any assistant or deputy secretary or, if there is no assistant or deputy secretary capable of acting, by or to any officer of the company authorised generally or specially in that behalf by the directors.

(4) A provision requiring or authorising a thing to be done by or to a director and the secretary shall not be satisfied by its being done by or to the same person acting both as director and as, or in place of, the secretary.

PART I.  
—cont.  
Particulars of  
directors and  
secretaries.

27.—(1) Every company shall, in the register of its directors required to be kept by section one hundred and forty-four of the principal Act, include with respect to the secretary of the company the following particulars, that is to say—

- (a) in the case of an individual, his present christian name and surname, any former christian name and surname and his usual residential address ; and
- (b) in the case of a corporation or a Scottish firm, its corporate or firm name and registered or principal office ;

and accordingly—

- (i) for any reference in the principal Act to a company's register of directors there shall be substituted a reference to its register of directors and secretaries ; and
- (ii) in subsection (2) of the said section one hundred and forty-four any reference to directors shall include a reference to the secretary, and in subsection (4) thereof the references to subsections (1) and (2) thereof shall include a reference to this subsection.

(2) Where there are joint secretaries, the particulars required by the foregoing subsection shall be given with respect to each of them, except that where all the partners in a firm are joint secretaries, the name and principal office of the firm may be stated instead of the said particulars.

(3) The period within which a company is required to make a return to the registrar of companies under the said subsection (2) of the particulars specified in the said register shall, in relation to the particulars so specified with respect to any person who is the company's secretary at the date of the coming into force of subsection (1) of this section, be fourteen days from that date.

(4) Any notification to the registrar of companies under the said subsection (2) of a change among the company's directors and secretary or in any of the particulars contained in the said register shall specify the date of the change.

(5) In subsection (1) of the said section one hundred and forty-four the words " or managers " shall cease to have effect.

(6) The particulars required by subsection (1) of the said section one hundred and forty-four in the case of an individual who is a director within the meaning of that section—

- (a) shall, in the case of a company subject to section thirty of this Act, include the date of his birth and shall, in the case of any company, include particulars of any other directorships held by him, except as mentioned in the following paragraph ;
- (b) need not in any case include—



(i) particulars of directorships held by him in companies of which the company is the wholly-owned subsidiary, or which are the wholly-owned subsidiaries either of the company or of another company of which the company is the wholly-owned subsidiary ;  
or

(ii) his nationality of origin, if his nationality is not his nationality of origin ;

and paragraph (d) of subsection (1) of section one hundred and forty-five of the principal Act (by which every company to which that section applies is required in all trade catalogues, trade circulars, show cards and business letters to state with respect to every director his nationality of origin, if his nationality is not the nationality of origin) shall cease to have effect.

(7) Paragraphs (b), (d) and (e) of subsection (4) of section one hundred and forty-five of the principal Act (which relate to the construction for the purposes of that section of references to christian names, surnames and former christian names and surnames) shall apply also for the purposes of the said section one hundred and forty-four and of this section, and for the purposes of paragraph (b) of the last foregoing subsection—

(a) the expression "company," shall include any body corporate incorporated in Great Britain ; and

(b) a body corporate shall be deemed to be the wholly-owned subsidiary of another if it has no members except that other and that other's wholly-owned subsidiaries and its or their nominees.

(8) For sub-paragraph (ii) of the said paragraph (e) (which excludes, in the case of natural born British subjects, names changed or disused at an age less than eighteen) there shall be substituted the following sub-paragraph :—

"(ii) in the case of any person, a former christian name or surname where that name or surname was changed or disused before the person bearing the name attained the age of eighteen years or has been changed or disused for a period of not less than twenty years ; or"

**28.—(1)** At a general meeting of a company other than a private company, a motion for the appointment of two or more persons as directors of the company by a single resolution shall not be made, unless a resolution that it shall be so made has first been agreed to by the meeting without any vote being given against it. Appointment of directors to be voted on individually.

(2) A resolution moved in contravention of this section shall be void, whether or not its being so moved was objected to at the time.:

**PART I.**  
—*cont.*

Provided that—

- (a) this subsection shall not be taken as excluding the operation of section one hundred and forty-three of the principal Act (which relates to the validity of a director's acts where a defect is discovered in his appointment); and
  - (b) where a resolution so moved is passed, no provision for the automatic reappointment of retiring directors in default of another appointment shall apply.
- (3) For the purposes of this section, a motion for approving a person's appointment or for nominating a person for appointment shall be treated as a motion for his appointment.
- (4) Nothing in this section shall apply to a resolution altering the company's articles.

**Removal of  
directors.**

**29.—(1)** A company may by ordinary resolution remove a director before the expiration of his period of office, notwithstanding anything in its articles or in any agreement between it and him :

Provided that this subsection shall not, in the case of a private company, authorise the removal of a director holding office for life on the eighteenth day of July, nineteen hundred and forty-five, whether or not subject to retirement under an age limit by virtue of the articles or otherwise.

(2) Special notice shall be required of any resolution to remove a director under this section or to appoint somebody instead of a director so removed at the meeting at which he is removed, and on receipt of notice of an intended resolution to remove a director under this section the company shall forthwith send a copy thereof to the director concerned, and the director (whether or not he is a member of the company) shall be entitled to be heard on the resolution at the meeting.

(3) Where notice is given of an intended resolution to remove a director under this section and the director concerned makes with respect thereto representations in writing to the company (not exceeding a reasonable length) and requests their notification to members of the company, the company shall, unless the representations are received by it too late for it to do so—

- (a) in any notice of the resolution given to members of the company state the fact of the representations having been made ; and
- (b) send a copy of the representations to every member of the company to whom notice of the meeting is sent (whether before or after receipt of the representations by the company) ;

and if a copy of the representations is not sent as aforesaid because received too late or because of the company's default, the director may (without prejudice to his right to be heard orally) require that the representations shall be read out at the meeting :

PART I.  
—cont.

Provided that copies of the representations need not be sent out and the representations need not be read out at the meeting if, on the application either of the company or of any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter ; and the court may order the company's costs on an application under this section to be paid in whole or in part by the director, notwithstanding that he is not a party to the application.

(4) A vacancy created by the removal of a director under this section, if not filled at the meeting at which he is removed, may be filled as a casual vacancy.

(5) A person appointed director in place of a person removed under this section shall be treated, for the purpose of determining the time at which he or any other director is to retire, as if he had become director on the day on which the person in whose place he is appointed was last appointed a director.

(6) Nothing in this section shall be taken as depriving a person removed thereunder of compensation or damages payable to him in respect of the termination of his appointment as director or of any appointment terminating with that as director or as derogating from any power to remove a director which may exist apart from this section.

30.—(1) Subject to the provisions of this section, no person shall be capable of being appointed a director of a company which is subject to this section if at the time of his appointment he has attained the age of seventy.

Retirement  
of directors  
under age  
limit.

(2) Subject as aforesaid, a director of a company which is subject to this section shall vacate his office at the conclusion of the annual general meeting commencing next after he attains the age of seventy :

Provided that acts done by a person as director shall be valid notwithstanding that it is afterwards discovered that his appointment had terminated by virtue of this subsection.

(3) Where a person retires by virtue of the last foregoing subsection, no provision for the automatic reappointment of retiring directors in default of another appointment shall apply ; and if at the meeting at which he retires the vacancy is not filled, it may be filled as a casual vacancy.

(4) Subsection (2) of this section shall not apply to a director who is in office at the date when it comes into force so as to terminate his then appointment before the conclusion of the

PART I.  
—cont.

third annual general meeting commencing after that date, but shall apply so as to terminate it at the conclusion of that meeting if he has attained the age of seventy before the commencement of the meeting.

(5) Nothing in the foregoing provisions of this section shall prevent the appointment of a director at any age, or require a director to retire at any time, if his appointment is or was made or approved by the company in general meeting, but special notice shall be required of any resolution appointing or approving the appointment of a director for it to have effect for the purposes of this subsection and the notice thereof given to the company and by the company to its members must state or must have stated the age of the person to whom it relates.

(6) A person reappointed director on retiring by virtue of subsection (2) of this section, or appointed in place of a director so retiring, shall be treated, for the purpose of determining the time at which he or any other director is to retire, as if he had become director on the day on which the retiring director was last appointed before his retirement; but, except as provided by this subsection, the retirement of a director out of turn by virtue of the said subsection (2) shall be disregarded in determining when any other directors are to retire.

(7) In the case of a company first registered under the principal Act after the beginning of the year nineteen hundred and forty-seven, this section shall have effect subject to the provisions of the company's articles; and in the case of a company first so registered before the beginning of that year—

(a) this section shall have effect subject to any alterations of the company's articles made after the beginning thereof; and

(b) if at the beginning thereof the company's articles contained provision for retirement of directors under an age limit or for preventing or restricting appointments of directors over a given age, this section shall not apply to directors to whom that provision applies.

(8) A company shall be subject to this section if it is not a private company or if, being a private company, it is the subsidiary of a body corporate incorporated in the United Kingdom which is neither a private company nor a company registered under the law relating to companies for the time being in force in Northern Ireland and having provisions in its constitution which would, if it had been registered in Great Britain, entitle it to rank as a private company; and for the purposes of any other section of this Act which refers to a company subject to this section, a company shall be deemed to be subject to this section notwithstanding that all or any of the provisions thereof are excluded or modified by the company's articles.

31.—(1) Any person who is appointed or to his knowledge proposed to be appointed director of a company subject to the last foregoing section at a time when he has attained any retiring age applicable to him as director either under this Act or under the company's articles shall give notice of his age to the company :

PART I.  
—cont.  
Duty to disclose age to company.

Provided that this subsection shall not apply in relation to a person's reappointment on the termination of a previous appointment as director of the company.

(2) Any person who—

- (a) fails to give notice of his age as required by this section ; or
- (b) acts as director under any appointment which is invalid or has terminated by reason of his age ;

shall be liable to a fine not exceeding five pounds for every day during which the failure continues or during which he continues to act as aforesaid.

(3) For the purposes of the last foregoing subsection, a person who has acted as director under an appointment which is invalid or has terminated shall be deemed to have continued so to act throughout the period from the invalid appointment or the date on which the appointment terminated, as the case may be, until the last day on which he is shown to have acted thereunder.

32. References in section one hundred and forty of the principal Act (which restricts the appointment or advertisement of a director) to the share qualification of a director or proposed director shall be construed as including only a share qualification required on appointment or within a period determined by reference to the time of appointment, and references in that section to qualification shares shall be construed accordingly.

Amendment  
of s. 140 of  
principal Act.

33.—(1) Where—

- (a) a person is convicted on indictment of any offence in connection with the promotion, formation or management of a company ; or
- (b) in the course of winding up a company it appears that a person—

Power to  
restrain  
fraudulent  
persons  
from  
managing  
companies.

(i) has been guilty of any offence for which he is liable (whether he has been convicted or not) under section two hundred and seventy-five of the principal Act (which relates to the responsibility of directors for fraudulent trading) ; or

(ii) has otherwise been guilty, while an officer of the company, of any fraud in relation to the company or of any breach of his duty to the company ;

the court may make an order that that person shall not, without the leave of the court, be a director of or in any way, whether

PART I.  
—cont.

directly or indirectly, be concerned or take part in the management of a company for such period, not exceeding five years, as may be specified in the order.

(2) In the foregoing subsection the expression "the court", in relation to the making of an order against any person by virtue of paragraph (a) thereof, includes the court before which he is convicted, as well as any court having jurisdiction to wind up the company, and in relation to the granting of leave means any court having jurisdiction to wind up the company as respects which leave is sought.

(3) A person intending to apply for the making of an order under this section by the court having jurisdiction to wind up a company shall give not less than ten days' notice of his intention to the person against whom the order is sought, and on the hearing of the application the last mentioned person may appear and himself give evidence or call witnesses.

(4) An application for the making of an order under this section by the court having jurisdiction to wind up a company may be made by the official receiver, or by the liquidator of the company, or by any person who is or has been a member or creditor of the company; and on the hearing of any application for an order under this section by the official receiver or the liquidator, or of any application for leave under this section by a person against whom an order has been made on the application of the official receiver or the liquidator, the official receiver or liquidator shall appear and call the attention of the court to any matters which seem to him to be relevant, and may himself give evidence or call witnesses.

(5) An order may be made by virtue of sub-paragraph (ii) of paragraph (b) of subsection (1) of this section notwithstanding that the person concerned may be criminally liable in respect of the matters on the ground of which the order is to be made, and for the purposes of the said sub-paragraph (ii) the expression "officer" shall include any person in accordance with whose directions or instructions the directors of the company have been accustomed to act.

(6) If any person acts in contravention of an order made under this section, he shall, in respect of each offence, be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding five hundred pounds or to both.

*Payments to directors.*

34.—(1) It shall not be lawful for a company to pay a director remuneration (whether as director or otherwise) free of income tax or of income tax other than surtax, or otherwise calculated by reference to or varying with the amount of his income tax or his income tax other than surtax, or to or with the rate or

Prohibition  
of tax-free  
payments to  
directors.

standard rate of income tax, except under a contract which was in force on the eighteenth day of July, nineteen hundred and forty-five, and provides expressly, and not by reference to the articles, for payment of remuneration as aforesaid.

(2) Any provision contained in a company's articles, or in any contract other than such a contract as aforesaid, or in any resolution of a company or a company's directors, for payment to a director of remuneration as aforesaid shall have effect as if it provided for payment, as a gross sum subject to income tax and surtax, of the net sum for which it actually provides.

(3) This section shall not apply to remuneration due before it comes into force or in respect of a period before it comes into force.

35.—(1) It shall not be lawful for a company to make a loan to any person who is its director or a director of its holding company, or to enter into any guarantee or provide any security in connection with a loan made to such a person as aforesaid by any other person :

Prohibition  
of loans to  
directors.

Provided that nothing in this section shall apply either—

- (a) to anything done by a company which is for the time being an exempt private company as defined in subsection (4) of section fifty-four of this Act ; or
- (b) to anything done by a subsidiary, where the director is its holding company ; or
- (c) subject to the next following subsection, to anything done to provide any such person as aforesaid with funds to meet expenditure incurred or to be incurred by him for the purposes of the company or for the purpose of enabling him properly to perform his duties as an officer of the company ; or
- (d) in the case of a company whose ordinary business includes the lending of money or the giving of guarantees in connection with loans made by other persons, to anything done by the company in the ordinary course of that business.

(2) Proviso (c) to the foregoing subsection shall not authorise the making of any loan, or the entering into any guarantee, or the provision of any security, except either—

- (a) with the prior approval of the company given at a general meeting at which the purposes of the expenditure and the amount of the loan or the extent of the guarantee or security, as the case may be, are disclosed ; or
- (b) on condition that, if the approval of the company is not given as aforesaid at or before the next following annual general meeting, the loan shall be repaid or the liability under the guarantee or security shall be discharged, as the case may be, within six months from the conclusion of that meeting.

PART I.  
—cont.

(3). Where the approval of the company is not given as required by any such condition, the directors authorising the making of the loan, or the entering into the guarantee, or the provision of the security, shall be jointly and severally liable to indemnify the company against any loss arising therefrom.

Payments received by directors for loss of office or on retirement.

36.—(1) It shall not be lawful for a company to make to any director of the company any payment by way of compensation for loss of office, or as consideration for or in connection with his retirement from office, without particulars with respect to the proposed payment (including the amount thereof) being disclosed to the members of the company and the proposal being approved by the company.

(2) In subsection (3) of section one hundred and fifty of the principal Act (which requires a director to disclose payments to be made to him as aforesaid, whether by the company or others, where the payments are to be made in connection with the transfer of shares in the company as a result of an offer made to the general body of shareholders) any reference to an offer made to the general body of shareholders shall include a reference to any offer made—

- (a) by or on behalf of some other body corporate with a view to the company's becoming its subsidiary or a subsidiary of its holding company ; or
- (b) by or on behalf of an individual with a view to his obtaining the right to exercise or control the exercise of not less than one third of the voting power at any general meeting of the company ;

and to any other offer which is conditional on acceptance to a given extent.

(3) In subsection (4) of the said section one hundred and fifty (which provides among other things that where a director fails to disclose any such payment as aforesaid as required by the said subsection (3) he shall account therefor to the persons who have sold their shares as a result of the offer) after the words " if the requirements of the last foregoing subsection are not complied with in relation to any such payment as is mentioned in the said subsection " there shall be inserted the words " or if the making of the proposed payment is not approved before the transfer of any shares in pursuance of the offer by a meeting of the shareholders concerned summoned for the purpose ".

(4) After the said subsection (4) there shall be inserted the following subsections :—

" (4A) The reference in the last foregoing subsection to the shareholders concerned shall be taken as including not only the holders of shares to which the offer relates but



also all other holders of shares of the same class as any of the said shares ; and where the shareholders concerned are not all the members of the company and no provision is made by the articles for summoning or regulating such a meeting as is mentioned in the last foregoing subsection, the provisions of this Act and of the company's articles relating to general meetings of the company shall for that purpose apply to the meeting either without modification or with such modifications as the Board of Trade on the application of any person concerned may direct for the purpose of adapting them to the circumstances of the meeting.

(4B) If at a meeting summoned for the purpose of approving any payment as required by the said subsection (4) a quorum is not present and, after the meeting has been adjourned to a later date, a quorum is again not present, the payment shall be deemed for the purposes of that subsection to have been approved."

(5) A director's expenses of distributing any sum among persons entitled thereto by virtue of the said subsection (4) shall be borne by him and not retained out of that sum.

(6) Where in proceedings for the recovery of any payment as having, by virtue of subsections (1) and (2) or subsections (3) and (4) of the said section one hundred and fifty, been received by any person in trust, it is shown that—

(a) the payment was made in pursuance of any arrangement entered into as part of the agreement for the transfer in question, or within one year before or two years after that agreement or the offer leading thereto ; and

(b) the company or any person to whom the transfer was made was privy to that arrangement ;

the payment shall be deemed, except in so far as the contrary is shown, to be one to which the subsections apply.

(7) It is hereby declared that references in this section and in the said section one hundred and fifty to payments made to any director of a company by way of compensation for loss of office, or as consideration for or in connection with his retirement from office, do not include any bona fide payment by way of damages for breach of contract or by way of pension in respect of past services, and for the purposes of this subsection the expression " pension " includes any superannuation allowance, superannuation gratuity or similar payment.

#### *Disclosure of payments to and interest of officers.*

37.—(1) Every company shall keep a register showing as respects each director of the company (not being its holding company) the number, description and amount of any shares Register of directors' shareholdings, etc.

**PART I.**  
—*cont.*

in or debentures of the company or any other body corporate, being the company's subsidiary or holding company, or a subsidiary of the company's holding company, which are held by or in trust for him or of which he has any right to become the holder (whether on payment or not) :

Provided that the register need not include shares in any body corporate which is the wholly-owned subsidiary of another body corporate, and for this purpose a body corporate shall be deemed to be the wholly-owned subsidiary of another if it has no members but that other and that other's wholly-owned subsidiaries and its or their nominees.

(2) Where any shares or debentures fall to be or cease to be recorded in the said register in relation to any director by reason of a transaction entered into after the coming into force of this section and while he is a director, the register shall also show the date of, and price or other consideration for, the transaction :

Provided that where there is an interval between the agreement for any such transaction and the completion thereof, the date shall be that of the agreement.

(3) The nature and extent of a director's interest or right in or over any shares or debentures recorded in relation to him in the said register shall, if he so requires, be indicated in the register.

(4) The company shall not, by virtue of anything done for the purposes of this section, be affected with notice of, or put upon inquiry as to, the rights of any person in relation to any shares or debentures.

(5) The said register shall, subject to the provisions of this section, be kept at the company's registered office and shall be open to inspection during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose, so that not less than two hours in each day be allowed for inspection) as follows :—

- (a) during the period beginning fourteen days before the date of the company's annual general meeting and ending three days after the date of its conclusion it shall be open to the inspection of any member or holder of debentures of the company ; and
- (b) during that or any other period, it shall be open to the inspection of any person acting on behalf of the Board of Trade.

In computing the fourteen days and the three days mentioned in this subsection, any day which is a Saturday or Sunday or a bank holiday shall be disregarded.

(6) Without prejudice to the rights conferred by the last foregoing subsection, the Board of Trade may at any time require a copy of the said register, or any part thereof.

(7) The said register shall also be produced at the commencement of the company's annual general meeting and remain open and accessible during the continuance of the meeting to any person attending the meeting.

(8) If default is made in complying with the last foregoing subsection, the company and every officer of the company who is in default shall be liable to a fine not exceeding fifty pounds; and if default is made in complying with subsection (1) or (2) of this section, or if any inspection required under this section is refused or any copy required thereunder is not sent within a reasonable time, the company and every officer of the company who is in default shall be liable to a fine not exceeding five hundred pounds and further to a default fine of two pounds.

(9) In the case of any such refusal, the court may by order compel an immediate inspection of the register.

(10) For the purposes of this section—

- (a) any person in accordance with whose directions or instructions the directors of a company are accustomed to act shall be deemed to be a director of the company; and
- (b) a director of a company shall be deemed to hold, or to have any interest or right in or over, any shares or debentures if a body corporate other than the company holds them or has that interest or right in or over them, and either—
  - (i) that body corporate or its directors are accustomed to act in accordance with his directions or instructions; or
  - (ii) he is entitled to exercise or control the exercise of one third or more of the voting power at any general meeting of that body corporate.

38.—(1) In any accounts of a company laid before it in general meeting, or in a statement annexed thereto, there shall, subject to and in accordance with the provisions of this section, be shown so far as the information is contained in the company's books and papers or the company has the right to obtain it from the persons concerned—

Particulars  
in accounts of  
directors'  
salaries,  
pensions, etc.

- (a) the aggregate amount of the directors' emoluments;
- (b) the aggregate amount of directors' or past directors' pensions; and
- (c) the aggregate amount of any compensation to directors or past directors in respect of loss of office.

PART I.  
—cont.

(2) The amount to be shown under paragraph (a) of subsection (1) of this section—

- (a) shall include any emoluments paid to or receivable by any person in respect of his services as director of the company or in respect of his services, while director of the company, as director of any subsidiary thereof or otherwise in connection with the management of the affairs of the company or any subsidiary thereof; and
- (b) shall distinguish between emoluments in respect of services as director, whether of the company or its subsidiary, and other emoluments;

and for the purposes of this section the expression "emoluments", in relation to a director, includes fees and percentages, any sums paid by way of expenses allowance in so far as those sums are charged to United Kingdom income tax, any contribution paid in respect of him under any pension scheme and the estimated money value of any other benefits received by him otherwise than in cash.

(3) The amount to be shown under paragraph (b) of the said subsection (1)—

- (a) shall not include any pension paid or receivable under a pension scheme if the scheme is such that the contributions thereunder are substantially adequate for the maintenance of the scheme, but save as aforesaid shall include any pension paid or receivable in respect of any such services of a director or past director of the company as are mentioned in the last foregoing subsection, whether to or by him or, on his nomination or by virtue of dependence on or other connection with him, to or by any other person; and
- (b) shall distinguish between pensions in respect of services as director, whether of the company or its subsidiary, and other pensions;

and for the purposes of this section the expression "pension" includes any superannuation allowance, superannuation gratuity or similar payment, and the expression "pension scheme" means a scheme for the provision of pensions in respect of services as director or otherwise which is maintained in whole or in part by means of contributions, and the expression "contribution" in relation to a pension scheme means any payment (including an insurance premium) paid for the purposes of the scheme by or in respect of persons rendering services in respect of which pensions will or may become payable under the scheme, except that it does not include any payment in respect of two or more persons if the amount paid in respect of each of them is not ascertainable.

(4) The amount to be shown under paragraph (c) of the said subsection (1)—

- (a) shall include any sums paid to or receivable by a director or past director by way of compensation for the loss of office as director of the company or for the loss, while director of the company or on or in connection with his ceasing to be a director of the company, of any other office in connection with the management of the company's affairs or of any office as director or otherwise in connection with the management of the affairs of any subsidiary thereof; and
- (b) shall distinguish between compensation in respect of the office of director, whether of the company or its subsidiary, and compensation in respect of other offices;

and for the purposes of this section references to compensation for loss of office shall include sums paid as consideration for or in connection with a person's retirement from office.

(5) The amounts to be shown under each paragraph of the said subsection (1)—

- (a) shall include all relevant sums paid by or receivable from—
  - (i) the company; and
  - (ii) the company's subsidiaries; and
  - (iii) any other person;

except sums to be accounted for to the company or any of its subsidiaries or, by virtue of section one hundred and fifty of the principal Act, to past or present members of the company or any of its subsidiaries or any class of those members; and

- (b) shall distinguish, in the case of the amount to be shown under paragraph (c) of the said subsection (1), between the sums respectively paid by or receivable from the company, the company's subsidiaries and persons other than the company and its subsidiaries.

(6) The amounts to be shown under this section for any financial year shall be the sums receivable in respect of that year, whenever paid, or, in the case of sums not receivable in respect of a period, the sums paid during that year, so, however, that where—

- (a) any sums are not shown in the accounts for the relevant financial year on the ground that the person receiving them is liable to account therefor as mentioned in paragraph (a) of the last foregoing subsection, but the liability is thereafter wholly or partly released or is not enforced within a period of two years; or

PART I.  
—cont.

- (b) any sums paid by way of expenses allowance are charged to United Kingdom income tax after the end of the relevant financial year ;

those sums shall, to the extent to which the liability is released or not enforced or they are charged as aforesaid, as the case may be, be shown in the first accounts in which it is practicable to show them or in a statement annexed thereto and shall be distinguished from the amounts to be shown therein apart from this provision.

(7) Where it is necessary so to do for the purpose of making any distinction required by this section in any amount to be shown thereunder, the directors may apportion any payments between the matters in respect of which they have been paid or are receivable in such manner as they think appropriate.

(8) If in the case of any accounts the requirements of this section are not complied with, it shall be the duty of the auditors of the company by whom the accounts are examined to include in their report thereon, so far as they are reasonably able to do so, a statement giving the required particulars.

(9) In this section any reference to a company's subsidiary—

(a) in relation to a person who is or was, while a director of the company, a director also, by virtue of the company's nomination, direct or indirect, of any other body corporate, shall, subject to the following paragraph, include that body corporate, whether or not it is or was in fact the company's subsidiary ; and

(b) shall for the purposes of subsections (2) and (3) be taken as referring to a subsidiary at the time the services were rendered, and for the purposes of subsection (4) be taken as referring to a subsidiary immediately before the loss of office as director of the company.

(10) Section one hundred and twenty-eight of the principal Act, so far as it relates to directors' remuneration, and section one hundred and forty-eight thereof shall cease to have effect.

Particulars in  
accounts of  
loans to  
officers.

39.—(1) Section one hundred and twenty-eight of the principal Act (which requires loans to officers to be shown in the accounts) shall apply to a loan to any person who has during the company's financial year been an officer of the company made before he became an officer, as it applies to a loan made to an officer of the company.

(2) The said section one hundred and twenty-eight shall apply to loans made to an officer of the company or to any such person as aforesaid by a subsidiary of the company, or by any person

other than the company under a guarantee from or on a security provided by a subsidiary of the company, as it applies to loans made by the company or by any other person under a guarantee from or on a security provided by the company, but as if any reference in subsection (2) of that section to the company were a reference to the subsidiary.

(3) References in this section to a subsidiary shall be taken as referring to a subsidiary at the end of the company's financial year (whether or not a subsidiary at the date of the loan).

40.—(1) Where a meeting of creditors or any class of creditors or of members or any class of members is summoned under section one hundred and fifty-three of the principal Act for the purpose of agreeing to a compromise or arrangement, there shall—

Information  
as to  
compromises  
with creditors  
and members.

(a) with every notice summoning the meeting which is sent to a creditor or member, be sent also a statement explaining the effect of the compromise or arrangement and in particular stating any material interests of the directors of the company, whether as directors or as members or as creditors of the company or otherwise, and the effect thereon of the compromise or arrangement, in so far as it is different from the effect on the like interests of other persons ; and

(b) in every notice summoning the meeting which is given by advertisement, be included either such a statement as aforesaid or a notification of the place at which and the manner in which creditors or members entitled to attend the meeting may obtain copies of such a statement as aforesaid.

(2) Where the compromise or arrangement affects the rights of debenture holders of the company, the said statement shall give the like explanation as respects the trustees of any deed for securing the issue of the debentures as it is required to give as respects the company's directors.

(3) Where a notice given by advertisement includes a notification that copies of a statement explaining the effect of the compromise or arrangement proposed can be obtained by creditors or members entitled to attend the meeting, every such creditor or member shall, on making application in the manner indicated by the notice, be furnished by the company free of charge with a copy of the statement.

(4) Where a company makes default in complying with any requirement of this section, the company and every officer of the company who is in default shall be liable to a fine not exceeding five hundred pounds, and for the purpose of this subsection any liquidator of the company and any trustee of a deed for securing the issue of debentures of the company shall be deemed to be an officer of the company :

PART I.  
—cont.

Provided that a person shall not be liable under this subsection if that person shows that the default was due to the refusal of any other person, being a director or trustee for debenture holders, to supply the necessary particulars as to his interests.

(5) In this section, the expressions "company" and "arrangement" have the same meanings as in the said section one hundred and fifty-three.

General  
duty to  
make  
disclosure.

41.—(1) It shall be the duty of any director of a company to give notice to the company of such matters relating to himself as may be necessary for the purposes of the four last foregoing sections.

(2) Any such notice given for the purposes of the first of the said sections shall be in writing and if it is not given at a meeting of the directors, the director giving it shall take reasonable steps to secure that it is brought up and read at the next meeting of the directors after it is given.

(3) Subsection (1) of this section shall apply—

- (a) for the purposes of the third of the said sections, in relation to officers other than directors; and
- (b) for the purposes of the second and third of them, in relation to persons who are or have at any time during the preceding five years been officers; and
- (c) for the purposes of the last of them, in relation to trustees for debenture holders;

as it applies in relation to directors.

(4) Any person who makes default in complying with the foregoing provisions of this section shall be liable to a fine not exceeding fifty pounds.

(5) Where a director, for the purpose of declaring his interest in contracts with the company as required by section one hundred and forty-nine of the principal Act, gives such a general notice of his membership of a specified company or firm as is mentioned in subsection (3) of that section, that notice shall be of no effect unless either it is given at a meeting of the directors or he takes reasonable steps to secure that it is brought up and read at the next meeting of the directors after it is given.

*Investigations.*Inspection of  
company's  
affairs on  
application  
of members.

42.—(1) The powers of the Board of Trade under section one hundred and thirty-five of the principal Act in relation to the appointment, on the application of members of a company, of inspectors to investigate the company's affairs shall in the case of an application made after the coming into force of this section be exercisable—

- (a) in the case of a banking company having a share capital, on the like application as if the company were not a banking company; and



- (b) in the case of any company having a share capital, on the application of not less than two hundred members of the company notwithstanding that they hold less than one-tenth of the issued shares as required by subsection (1) of the said section one hundred and thirty-five ;

and the power of the Board under subsection (2) of that section to require evidence for the purpose of showing that the applicants are not actuated by malicious motives in requiring the investigation shall not be exercisable in the case of any application made after the coming into force of this section.

(2) For subsection (3) of the said section one hundred and thirty-five (which requires officers and agents of the company to produce books and documents) there shall be substituted the following subsection—

“(3) It shall be the duty of all officers and agents of the company to produce to the inspectors all books and documents of or relating to the company which are in their custody or power and otherwise to give to the inspectors all assistance in connection with the investigation which they are reasonably able to give.”

(3) In the said section one hundred and thirty-five, any reference to officers or to agents shall include past, as well as present, officers or agents as the case may be, and for the purposes of that section the expression “agents” in relation to a company shall include the bankers and solicitors of the company and any persons employed by the company as auditors, whether those persons are or are not officers of the company.

(4) If an inspector appointed under the said section one hundred and thirty-five thinks it necessary for the purpose of his investigation that a person whom he has no power to examine on oath should be so examined, he may apply to the court and the court may if it sees fit order that person to attend and be examined on oath before it on any matter relevant to the investigation, and on any such examination—

- (a) the inspector may take part therein either personally or by solicitor or counsel ;
- (b) the court may put such questions to the person examined as the court thinks fit ;
- (c) the person examined shall answer all such questions as the court may put or allow to be put to him, but may at his own cost employ a solicitor with or without counsel, who shall be at liberty to put to him such questions as the court may deem just for the purpose of enabling him to explain or qualify any answers given by him ;

PART I.  
—cont.

and notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, and may thereafter be used in evidence against him :

Provided that, notwithstanding anything in paragraph (c) of this subsection, the court may allow the person examined such costs as in its discretion it may think fit, and any costs so allowed shall be paid as part of the expenses of the investigation.

(5) If an inspector appointed under the said section one hundred and thirty-five to investigate the affairs of a company thinks it necessary for that purpose to investigate also the affairs of any other body corporate which is or has at any relevant time been the company's subsidiary or holding company or a subsidiary of its holding company or a holding company of its subsidiary, he shall have power so to do, and shall report on the affairs of the other body corporate so far as he thinks the results of his investigation thereof are relevant to the investigation of the affairs of the first mentioned company.

(6) Where by virtue of the last foregoing subsection an inspector appointed to investigate the affairs of a company investigates also the affairs of another body corporate, any reference in subsections (3) to (5) of the said section one hundred and thirty-five (which relate to the powers of the inspector) and in subsections (1) and (2) of section one hundred and thirty-six of the principal Act (which relate to proceedings on the inspector's report) to the company shall include a reference to the other body corporate.

(7) The Board of Trade, in addition to furnishing copies of the report of an inspector appointed under the said section one hundred and thirty-five to the company and, if requested, to the applicants for the investigation as required by subsection (6) of that section, shall, if they think fit, furnish a copy thereof on request and on payment of the prescribed fee to any other person who is a member of the company or of any other body corporate dealt with in the report by virtue of subsection (5) of this section, or whose interests as a creditor of the company or of any such other body corporate as aforesaid appear to the Board to be affected, and the Board may also cause any such report to be printed and published.

(8) In addition to the final report required by the said subsection (6) an inspector so appointed may and, if so directed by the Board of Trade, shall make interim reports to the Board, and the provisions of the principal Act and this Act shall apply in relation thereto as they apply in relation to the final report.

Inspection of  
company's  
affairs in  
other cases.

43.—(1) Without prejudice to their powers under the said section one hundred and thirty-five of the principal Act, the Board of Trade—

(a) shall appoint one or more competent inspectors to investigate the affairs of a company and to report thereon in such manner as the Board direct, if—

- (i) the company by special resolution ; or
- (ii) the court by order ;

declares that its affairs ought to be investigated by an inspector appointed by the Board ; and

- (b) may do so, if it appears to the Board that there are circumstances suggesting—

- (i) that its business is being conducted with intent to defraud its creditors or the creditors of any other person or otherwise for a fraudulent or unlawful purpose or in a manner oppressive of any part of its members or that it was formed for any fraudulent or unlawful purpose ; or

- (ii) that persons concerned with its formation or the management of its affairs have in connection therewith been guilty of fraud, misfeasance or other misconduct towards it or towards its members ; or

- (iii) that its members have not been given all the information with respect to its affairs which they might reasonably expect.

(2) The principal Act and this Act shall apply in relation to an inspector appointed under this section and to his report as they apply in relation to an inspector appointed under the said section one hundred and thirty-five and to his report.

(3) Where an inspector is appointed under this section in pursuance of an order of the court, the Board of Trade shall furnish a copy of his report to the court as well as to the persons required by subsection (6) of the said section one hundred and thirty-five.

(4) Section one hundred and thirty-seven of the principal Act (which relates to a company's power itself to appoint inspectors to investigate its affairs) shall cease to have effect, except as respects inspectors appointed before the coming into force of this section or appointed to continue an investigation begun by inspectors appointed before the coming into force thereof.

44.—(1) If, in the case of any body corporate liable to be wound up under the principal Act, it appears to the Board of Trade, from any report on its affairs made to them by an inspector appointed by them under the principal Act or under the last foregoing section, that it is expedient so to do by reason of any such circumstances as are referred to in sub-paragraph (i) or (ii) of paragraph (b) of subsection (1) of the last foregoing section, the Board may, unless the body corporate is already being wound up by the court, present a petition for it to be so wound up if the court thinks it just and equitable that it should be wound up or a petition for an order under section nine of this Act, or both.

Proceedings on  
inspector's  
report.

PART I.  
—cont.

(2) If from any report so made it appears to the Board of Trade that proceedings ought in the public interest to be brought by any body corporate dealt with by the report for the recovery of damages in respect of any fraud, misfeasance or other misconduct in connection with the promotion or formation of that body corporate or the management of its affairs, or for the recovery of any property of the body corporate which has been misapplied or wrongfully retained, they may themselves bring proceedings for that purpose in the name of the body corporate.

(3) The Board of Trade shall indemnify the body corporate against any costs or expenses incurred by it in or in connection with any proceedings brought by virtue of the last foregoing subsection.

(4) In subsection (2) of section one hundred and thirty-six of the principal Act (which requires the Director of Public Prosecutions to take criminal proceedings on the inspector's report if he considers that the case requires it) the words "and, further, that it is desirable in the public interest that the proceedings in the prosecution should be conducted by him" shall cease to have effect.

Expenses of  
inspection of  
company's  
affairs.

45.—(1) The expenses of and incidental to an investigation by an inspector appointed by the Board of Trade under the principal Act or under the last but one foregoing section shall be defrayed in the first instance by the Board of Trade, but the following persons shall, to the extent mentioned, be liable to repay the Board :—

- (a) any person who is convicted on a prosecution instituted as a result of the investigation by the Director of Public Prosecutions or by or on behalf of the Lord Advocate, or who is ordered to pay damages or restore any property in proceedings brought by virtue of subsection (2) of the last foregoing section, may in the same proceedings be ordered to pay the said expenses to such extent as may be specified in the order ;
- (b) any body corporate in whose name proceedings are brought as aforesaid shall be liable to the amount or value of any sums or property recovered by it as a result of those proceedings ; and
- (c) unless as a result of the investigation a prosecution is instituted by the Director of Public Prosecutions or by or on behalf of the Lord Advocate—
  - (i) any body corporate dealt with by the report, where the inspector was appointed otherwise than of the Board's own motion, shall be liable, except so far as the Board otherwise direct ; and
  - (ii) the applicants for the investigation, where the inspector was appointed under section one hundred

and thirty-five of the principal Act, shall be liable to such extent (if any) as the Board may direct ;

and any amount for which a body corporate is liable by virtue of paragraph (b) of this subsection shall be a first charge on the sums or property mentioned in that paragraph.

(2) The report of an inspector appointed otherwise than of the Board of Trade's own motion may, if he thinks fit, and shall, if the Board so direct, include a recommendation as to the directions (if any) which he thinks appropriate, in the light of his investigation, to be given under paragraph (c) of the last foregoing subsection.

(3) For the purposes of this section, any costs or expenses incurred by the Board of Trade in or in connection with proceedings brought by virtue of subsection (2) of the last foregoing section (including expenses incurred by virtue of subsection (3) thereof) shall be treated as expenses of the investigation giving rise to the proceedings.

(4) Any liability to repay the Board of Trade imposed by paragraphs (a) and (b) of subsection (1) of this section shall, subject to satisfaction of the Board's right to repayment, be a liability also to indemnify all persons against liability under paragraph (c) thereof, and any such liability imposed by the said paragraph (a) shall, subject as aforesaid, be a liability also to indemnify all persons against liability under the said paragraph (b); and any person liable under the said paragraph (a) or (b) or either sub-paragraph of the said paragraph (c) shall be entitled to contribution from any other person liable under the same paragraph or sub-paragraph, as the case may be, according to the amount of their respective liabilities thereunder.

(5) The expenses to be defrayed by the Board of Trade under this section shall, so far as not recovered thereunder, be paid out of moneys provided by Parliament, but subsection (3) of section thirteen of the Economy (Miscellaneous Provisions) Act, 1926 (which provides for the issue out of the Bankruptcy and Companies Winding-up (Fees) Account of sums towards meeting the charges estimated by the Board of Trade in respect of salaries and expenses under the principal Act in relation to the winding-up of companies in England) shall have effect as if the said expenses were expenses incurred by the Board under the principal Act in relation to the winding-up of companies in England.

46.—(1) Where it appears to the Board of Trade that there is good reason so to do, they may appoint one or more competent inspectors to investigate and report on the membership of any company and otherwise with respect to the company for the purpose of determining the true persons who are or have been financially interested in the success or failure (real or apparent) of the company or able to control or materially to influence the policy of the company.

Appointment and powers of inspectors to investigate ownership of company.

PART I.  
—*cont.*

(2) The appointment of an inspector under this section may define the scope of his investigation, whether as respects the matters or the period to which it is to extend or otherwise, and in particular may limit the investigation to matters connected with particular shares or debentures.

(3) Where an application for an investigation under this section with respect to particular shares or debentures of a company is made to the Board of Trade by members of the company, and the number of applicants or the amount of the shares held by them is not less than that required for an application for the appointment of an inspector under section one hundred and thirty-five of the principal Act, the Board of Trade shall appoint an inspector to conduct the investigation, unless they are satisfied that the application is vexatious, and the inspector's appointment shall not exclude from the scope of his investigation any matter which the application seeks to have included therein, except in so far as the Board of Trade are satisfied that it is unreasonable for that matter to be investigated.

(4) Subject to the terms of an inspector's appointment his powers shall extend to the investigation of any circumstances suggesting the existence of an arrangement or understanding which, though not legally binding, is or was observed or likely to be observed in practice and which is relevant to the purposes of his investigation.

(5) For the purposes of any investigation under this section, subsections (3) to (6) of section one hundred and thirty-five of the principal Act, and subsections (4) to (8) of section forty-two of this Act (which relates to the appointment and functions of inspectors under the said section one hundred and thirty-five) shall apply with the necessary modifications of references to the affairs of the company or to those of any other body corporate, so, however, that—

- (a) the said subsections shall apply in relation to all persons who are or have been, or whom the inspector has reasonable cause to believe to be or have been, financially interested in the success or failure or the apparent success or failure of the company or any other body corporate whose membership is investigated with that of the company, or able to control or materially to influence the policy thereof, including persons concerned only on behalf of others, as they apply in relation to officers and agents of the company or of the other body corporate, as the case may be ; and
- (b) the Board of Trade shall not be bound to furnish the company or any other person with a copy of any report by an inspector appointed under this section or with a complete copy thereof if they are of opinion that there is good reason for not divulging the contents of the

report or of parts thereof, but shall cause to be kept by the registrar a copy of any such report or, as the case may be, the parts of any such report, as respects which they are not of that opinion.

PART I.  
—cont.

(6) The expenses of any investigation under this section shall be defrayed by the Board of Trade out of moneys provided by Parliament.

47.—(1) Where it appears to the Board of Trade that there is good reason to investigate the ownership of any shares in or debentures of a company and that it is unnecessary to appoint an inspector for the purpose, they may require any person whom they have reasonable cause to believe—

Power to require information as to persons interested in shares or debentures.

- (a) to be or to have been interested in those shares or debentures ; or
- (b) to act or to have acted in relation to those shares or debentures as the solicitor or agent of someone interested therein ;

to give them any information which he has or can reasonably be expected to obtain as to the present and past interests in those shares or debentures and the names and addresses of the persons interested and of any persons who act or have acted on their behalf in relation to the shares or debentures.

(2) For the purposes of this section, a person shall be deemed to have an interest in a share or debenture if he has any right to acquire or dispose of the share or debenture or any interest therein or to vote in respect thereof, or if his consent is necessary for the exercise of any of the rights of other persons interested therein, or if other persons interested therein can be required or are accustomed to exercise their rights in accordance with his instructions.

(3) Any person who fails to give any information required of him under this section, or who in giving any such information makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding five hundred pounds or to both.

48.—(1) Where in connection with an investigation under either of the two last foregoing sections it appears to the Board of Trade that there is difficulty in finding out the relevant facts about any shares (whether issued or to be issued), and that the difficulty is due wholly or mainly to the unwillingness of the persons concerned or any of them to assist the investigation as required by this Act, the Board may by order direct that the shares shall until further order be subject to the restrictions imposed by this section.

Power to impose restrictions on shares or debentures.

PART I.  
—cont.

(2) So long as any shares are directed to be subject to the restrictions imposed by this section—

- (a) any transfer of those shares, or in the case of unissued shares any transfer of the right to be issued therewith and any issue thereof, shall be void ;
- (b) no voting rights shall be exercisable in respect of those shares ;
- (c) no further shares shall be issued in right of those shares or in pursuance of any offer made to the holder thereof ;
- (d) except in a liquidation, no payment shall be made of any sums due from the company on those shares, whether in respect of capital or otherwise.

(3) Where the Board of Trade make an order directing that shares shall be subject to the said restrictions, or refuse to make an order directing that shares shall cease to be subject thereto, any person aggrieved thereby may apply to the court, and the court may, if it sees fit, direct that the shares shall cease to be subject to the said restrictions.

(4) Any order (whether of the Board of Trade or of the court) directing that shares shall cease to be subject to the said restrictions which is expressed to be made with a view to permitting a transfer of those shares may continue the restrictions mentioned in paragraphs (c) and (d) of subsection (2) of this section, either in whole or in part, so far as they relate to any right acquired or offer made before the transfer.

(5) Any person who—

- (a) exercises or purports to exercise any right to dispose of any shares which, to his knowledge, are for the time being subject to the said restrictions or of any right to be issued with any such shares ; or
- (b) votes in respect of any such shares, whether as holder or proxy, or appoints a proxy to vote in respect thereof ; or
- (c) being the holder of any such shares, fails to notify of their being subject to the said restrictions any person whom he does not know to be aware of that fact but does know to be entitled, apart from the said restrictions, to vote in respect of those shares whether as holder or proxy ;

shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding five hundred pounds or to both.

(6) Where shares in any company are issued in contravention of the said restrictions, the company and every officer of the company who is in default shall be liable to a fine not exceeding five hundred pounds.

(7) A prosecution shall not be instituted in England under this section except by or with the consent of the Board of Trade.



(8) This section shall apply in relation to debentures as it applies in relation to shares.

PART I.  
—cont.

49. Nothing in the foregoing provisions of this Act shall require disclosure to the Board of Trade or to an inspector appointed by them—

Saving for  
solicitors and  
bankers.

- (a) by a solicitor of any privileged communication made to him in that capacity, except as respects the name and address of his client ; or
- (b) by a company's bankers as such of any information as to the affairs of any of their customers other than the company.

*Register of members and annual return.*

50.—(1) A company's register of members may be kept at any office of the company where the work of making it up is done, instead of at the company's registered office, and where a company arranges with some other person (in this section referred to as "the agent") for the making up of its register of members to be undertaken on behalf of the company by the agent, the register may be kept at the office of the agent at which the work is done instead of at an office of the company :

Power to  
keep  
register  
where made  
up.

Provided that the register shall not be kept—

- (i) in the case of a company registered in England, at a place outside England ; or
- (ii) in the case of a company registered in Scotland, at a place outside Scotland.

(2) Where the company keeps an index of the names of its members under section ninety-six of the principal Act, the index shall be at all times kept at the same place as the register of members, and where the company keeps a dominion register under section one hundred and three of the principal Act, the duplicate of the dominion register required by subsection (3) of section one hundred and four of that Act to be kept at the company's registered office shall, notwithstanding anything in the said subsection (3), be at all times kept at the same place as the company's principal register.

(3) Every company shall send notice to the registrar of companies of the place where its register of members is kept and of any change in that place :

Provided that a company shall not be bound to send notice under this subsection where the register has, at all times since it came into existence or, in the case of a register in existence at the coming into force of this section, at all times since then, been kept at the registered office of the company.

(4) Where a company makes default in complying with subsection (2) of this section or makes default for fourteen days in complying with the last foregoing subsection, the company and

**PART I.**  
—cont.

every officer of the company who is in default shall be liable to a default fine.

(5) Where the register of members is kept at the agent's office, and by reason of any default of his the company fails to comply with the requirements of subsection (2) or (3) of this section, or with any requirements of the principal Act or this Act as to the inspection or production of the register or as to furnishing copies of the register or any part thereof, the agent shall be liable to the same penalties as if he were an officer of the company who was in default, and any power of the court under the principal Act to make orders for enforcing compliance with the requirements thereof as to inspection and copies shall extend to the making of orders against the agent and the agent's officers and servants.

Contents of  
register of  
members.

**51.** A company's register of members need not state their occupations.

Preparation,  
etc., of  
annual return.

**52.—(1)** A company need not make an annual return, whether under section one hundred and eight of the principal Act (which relates to companies having a share capital) or under section one hundred and nine thereof (which relates to other companies) either in the year of its incorporation or, if it is not required by this Act to hold an annual general meeting during the following year, in that year.

(2) The date of a company's annual return under the said section one hundred and eight shall be the fourteenth day after its annual general meeting for the year, and the period within which a company's annual return under either of the said sections one hundred and eight and one hundred and nine must, by virtue of subsection (1) of section one hundred and ten of the principal Act, be completed shall be forty-two days after the said meeting, whether or not that meeting is the first or only ordinary general meeting, or the first or only general meeting, of the company in the year.

(3) So much of the said section one hundred and ten as requires the annual return to be contained in a separate part of the register of members and applies thereto section ninety-eight of the principal Act (which relates to inspection and copies of the register of members) shall cease to have effect.

Contents of  
annual return.

**53.—(1)** A company's annual return shall—

- (a) where the register of members is, under the provisions of this Act, not kept at its registered office, state where the register is kept ;
- (b) specify all such particulars with respect to any person who at the date of the return is secretary of the company as are by this Act required to be contained with respect to the secretary in the register of the directors and

secretaries of a company, and in the said sections one hundred and eight and one hundred and nine references to the particulars required by that Act to be contained with respect to directors in the said register shall be construed as referring to the particulars required by that Act and this Act to be contained therein with respect to the company's directors.

PART I.  
—cont.

(2) Subsection (3) of the said section one hundred and ten (under which, subject to exceptions, the annual return must include a copy of the last balance sheet and the documents required to be annexed thereto, together with the auditors' report thereon)—

(a) shall apply to every balance sheet laid before the company in general meeting during the period to which the return relates, instead of to the last balance sheet audited by the company's auditors; and

(b) shall require a copy of the directors' report accompanying any such balance sheet, certified in the same way as the balance sheet, to be included in the return;

and every reference in that subsection to a balance sheet, and not only the first reference, shall be taken as including the documents required by law to be annexed thereto.

(3) The annual return of a company having a share capital may, in any year, if the return for either of the two immediately preceding years has given as at the date of that return the full particulars required by subsections (1) and (2) of the said section one hundred and eight as to past and present members and the shares and stock held and transferred by them, give only such of the particulars required by those subsections as relate to persons ceasing to be or becoming members since the date of the last return and to shares transferred since that date or to changes as compared with that date in the amount of stock held by a member.

(4) In the case of a company keeping a dominion register—

(a) references in the last foregoing subsection to the particulars required by subsections (1) and (2) of the said section one hundred and eight shall be taken as not including any such particulars contained in the dominion register, in so far as copies of the entries containing those particulars are not received at the registered office of the company before the date when the return in question is made; and

(b) where an annual return is made between the date when any entries are made in the dominion register and the date when copies of those entries are received at the registered office of the company, the particulars contained in those entries, so far as relevant to an annual

**PART I.**  
—cont.

return, shall be included in the next or a subsequent annual return as may be appropriate having regard to the particulars included in that return with respect to the company's principal register.

(5) The annual return of a company made next after the expiry of paragraph (1) of regulation two of the Defence (Companies) Regulations, 1940, (under which the annual return of a company having a share capital need not contain any list of members, except in the case of a company's first annual return or of a private company), need not, if that paragraph applied to the annual return last made by the company, give the particulars required by subsections (1) and (2) of the said section one hundred and eight as to past members of the company or as to shares transferred.

(6) The annual return of a company having a share capital need not in any case state the occupations of the past and present members therein mentioned.

Inclusion in  
annual  
return of  
accounts  
of private  
companies.

54.—(1) A private company shall not after the coming into force of this section be exempt from the obligation to include in its annual return a copy of the balance sheet and other documents required by subsection (3) of section one hundred and ten of the principal Act, unless—

- (a) the conditions mentioned in the next following subsection are satisfied at the date of the return and have been satisfied at all times since the coming into force of this section; and
- (b) there is sent with the return a certificate signed by the persons signing the certificates required to be so sent by section one hundred and eleven of the principal Act, that to the best of their knowledge and belief the said conditions are and have been satisfied as aforesaid:

Provided that if at any time it is shown that the said conditions are then satisfied in the case of any private company, the Board of Trade may on the application of the company's directors direct that, in relation to any subsequent annual returns of the company, it shall not be necessary for the said conditions to have been satisfied before that time, and the certificates sent with those returns shall in that event relate only to the period since that time.

(2) The said conditions are—

- (a) that the conditions contained in the Third Schedule to this Act are satisfied as to the persons interested in the company's shares and debentures; and
- (b) that the number of persons holding debentures of the company is not more than fifty (joint holders being treated as a single person); and

- (c) that no body corporate is a director of the company and neither the company nor any of the directors is party or privy to any arrangement whereby the policy of the company is capable of being determined by persons other than the directors, members and debenture holders or trustees for debenture holders.

PART I.  
—cont.

(3) A prosecution shall not be instituted in England in respect of any failure of a private company to comply with subsection (3) of section one hundred and ten of the principal Act except by or with the consent of the Board of Trade.

(4) Any reference in this Act to an exempt private company shall be construed as referring to a company with respect to which the conditions mentioned in subsection (2) of this section are satisfied and have been satisfied at all times since the coming into force of this section or since the giving by the Board of Trade of a direction under the proviso to subsection (1) of this section.

(5) References in this section to the said conditions having been satisfied since the coming into force of this section shall, in relation to a company first registered under the principal Act after the coming into force of this section, be construed as referring to the conditions having been satisfied since the company's registration.

55.—(1) The following documents, that is to say,—

- (a) the copy forwarded to the registrar of a company's annual return ;
- (b) the certificate as to any balance sheet included in the annual return ; and
- (c) any certificate as to the annual return of a private company ;

Signature of  
annual return  
etc. and  
penalty for  
false  
statements.

shall be signed both by a director and by the secretary of the company, instead of by one of the persons respectively mentioned in subsections (1) and (3) of section one hundred and ten and section one hundred and eleven of the principal Act.

(2) Section three hundred and sixty-two of the principal Act (which penalises false statements) shall apply in relation to subsection (1) of each of the two last foregoing sections and in relation to paragraph (b) of subsection (1) and subsection (2) of section one hundred and nine and the said section one hundred and eleven of the principal Act as it applies in relation to paragraphs (n) and (o) of subsection (3) of section one hundred and eight of the principal Act.

## PART I.

—cont.

*Registered office and name.*

Establishment  
of registered  
office.

56. In section ninety-two of the principal Act (which requires a company to have a registered office not later than the twenty-eighth day after its incorporation, and to give notice of the situation of and of any change in its registered office within twenty-eight days of its incorporation or of the change) for the words "twenty-eighth" and "twenty-eight" there shall respectively be substituted the words "fourteenth" and "fourteen".

Amendments  
as to  
publication  
of name.

57. Section ninety-three of the principal Act (which relates to the publication by a company of its name) shall have effect as if it had been enacted with—

- (a) in paragraph (c) of subsection (1) thereof, the words "in all business letters of the company and in all notices and other official publications of the company" for the words "in all notices, advertisements and other official publications of the company"; and
- (b) in paragraph (b) of subsection (4) thereof, the words "any business letter of the company or any notice or other official publication of the company" for the words "any notice, advertisement, or other official publication of the company."

Extension of  
Registration of  
Business  
Names Act,  
1916, to  
companies.

58.—(1) In section one of the Registration of Business Names Act, 1916 (which requires registration under that Act of all individuals and firms carrying on business under a business name), there shall be inserted after paragraph (c) thereof the following paragraph:—

6 & 7 Geo. 5.  
c. 58.

"(d) every company as defined in the Companies Act, 1929, carrying on business under a business name which does not consist of its corporate name without any addition;"

(2) Subsection (1) of section three (which relates to the particulars to be registered), and the proviso to section five (which relates to the time for registration), of the first-mentioned Act shall apply in relation to registration by virtue of this section as if references therein to the passing of that Act were references to the coming into force of this section.

(3) Section thirteen of that Act (which relates to the removal of names from the register where a firm or individual ceases to carry on business) shall apply in relation to a company registered under that Act by virtue of this section, which ceases to carry on business in such circumstances as to require registration thereunder, as it applies in relation to a firm which ceases to carry on business, but with the substitution for the reference to the partners in the firm of a reference to the directors and any liquidator of the company.

## PART II.

## SHARE CAPITAL AND DEBENTURES.

*Allotment.*

59.—(1) No allotment shall be made of any shares in or debentures of a company in pursuance of a prospectus issued generally (that is to say issued to persons who are not existing members or debenture holders of the company), and no proceedings shall be taken on applications made in pursuance of a prospectus so issued, until the beginning of the third day after that on which the prospectus is first so issued or such later time (if any) as may be specified in the prospectus.

Applications for, and allotment of, shares and debentures.

The beginning of the said third day or such later time as aforesaid is hereafter in this Act referred to as "the time of the opening of the subscription lists".

(2) In the foregoing subsection, the reference to the day on which the prospectus is first issued generally shall be construed as referring to the day on which it is first so issued as a newspaper advertisement :

Provided that, if it is not so issued as a newspaper advertisement before the third day after that on which it is first so issued in any other manner, the said reference shall be construed as referring to the day on which it is first so issued in any manner.

(3) The validity of an allotment shall not be affected by any contravention of the foregoing provisions of this section but, in the event of any such contravention, the company and every officer of the company who is in default shall be liable to a fine not exceeding five hundred pounds.

(4) In the application of this section to a prospectus offering shares or debentures for sale, the foregoing subsections shall have effect with the substitution of references to sale for references to allotment, and with the substitution for the reference to the company and every officer of the company who is in default of a reference to any person by or through whom the offer is made and who knowingly and wilfully authorises or permits the contravention.

(5) An application for shares in or debentures of a company which is made in pursuance of a prospectus issued generally shall not be revocable until after the expiration of the third day after the time of the opening of the subscription lists, or the giving before the expiration of the said third day, by some person responsible under section thirty-seven of the principal Act for the prospectus, of a public notice having the effect under that section of excluding or limiting the responsibility of the person giving it.

(6) In reckoning for the purposes of this and the next succeeding section the third day after another day, any intervening day

PART II  
—cont.

which is a Saturday or Sunday or which is a bank holiday in any part of Great Britain shall be disregarded, and if the third day (as so reckoned) is itself a Saturday or Sunday or such a bank holiday there shall for the said purposes be substituted the first day thereafter which is none of them.

Allotment of shares and debentures to be dealt in on stock exchange.

60.—(1) Where a prospectus, whether issued generally or not, states that application has been or will be made for permission for the shares or debentures offered thereby to be dealt in on any stock exchange, any allotment made on an application in pursuance of the prospectus shall, whenever made, be void if the permission has not been applied for before the third day after the first issue of the prospectus or if the permission has been refused before the expiration of three weeks from the date of the closing of the subscription lists or such longer period not exceeding six weeks as may, within the said three weeks, be notified to the applicant for permission by or on behalf of the stock exchange.

(2) Where the permission has not been applied for as aforesaid, or has been refused as aforesaid, the company shall forthwith repay without interest all money received from applicants in pursuance of the prospectus, and, if any such money is not repaid within eight days after the company becomes liable to repay it, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of five per cent. per annum from the expiration of the eighth day :

Provided that a director shall not be liable if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

(3) All money received as aforesaid shall be kept in a separate bank account so long as the company may become liable to repay it under the last foregoing subsection ; and, if default is made in complying with this subsection, the company and every officer of the company who is in default shall be liable to a fine not exceeding five hundred pounds.

(4) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section shall be void.

(5) Section ninety-four of the principal Act shall have effect as if in subsection (1) thereof (which restricts the right of a company to commence business or exercise borrowing powers in cases where the company has issued a prospectus inviting the public to subscribe for its shares) there were inserted after paragraph (b) thereof the following paragraph :—

“(bb) no money is or may become liable to be repaid to applicants for any shares or debentures which have been offered for public subscription by reason of any



failure to apply for or obtain permission for the shares or debentures to be dealt in on any stock exchange and ”.

PART II.  
—cont.

(6) For the purposes of this section, permission shall not be deemed to be refused if it is intimated that the application for it, though not at present granted, will be given further consideration.

(7) This section shall have effect—

(a) in relation to any shares or debentures agreed to be taken by a person underwriting an offer thereof by a prospectus as if he had applied therefor in pursuance of the prospectus ; and

(b) in relation to a prospectus offering shares for sale with the following modifications, that is to say—

(i) references to sale shall be substituted for references to allotment ;

(ii) the persons by whom the offer is made, and not the company, shall be liable under subsection (2) to repay money received from applicants, and references to the company's liability under that subsection shall be construed accordingly ; and

(iii) for the reference in subsection (3) to the company and every officer of the company who is in default there shall be substituted a reference to any person by or through whom the offer is made and who knowingly and wilfully authorises or permits the default.

### *Prospectus.*

61.—(1) The matters required by section thirty-five of the principal Act together with Part I of the Fourth Schedule thereto to be stated in any prospectus issued generally shall not include the contents of the company's memorandum or the other particulars specified in paragraph 1 of the said Part I, but shall include—

Facts to be stated in prospectus to which s. 53 of principal Act applies.

(a) the time of the opening of the subscription lists ;

(b) the number, description and amount of any shares in or debentures of the company which any person has, or is entitled to be given, an option to subscribe for, together with the following particulars of the option, that is to say—

(i) the period during which it is exercisable ;

(ii) the price to be paid for shares or debentures subscribed for under it ;

(iii) the consideration (if any) given or to be given for it or for the right to it ;

PART II.  
—cont.

(iv) the names and addresses of the persons to whom it or the right to it was given or, if given to existing shareholders or debenture holders as such, the relevant shares or debentures ;

and references in this paragraph to subscribing for shares or debentures shall include acquiring them from a person to whom they have been allotted or agreed to be allotted with a view to his offering them for sale ;

- (c) as respects any such property purchased or acquired, or proposed to be purchased or acquired, by the company as is mentioned in paragraph 8 of the said Part I, short particulars of any transaction relating to that property completed within the two preceding years in which any vendor of the property to the company or any person who is, or was at the time of the transaction, a promoter or a director or proposed director of the company had any interest direct or indirect ;
- (d) the amount or estimated amount of the expenses of the issue and the persons by whom any preliminary expenses stated in pursuance of paragraph 11 of the said Part I or any expenses of the issue stated in pursuance of this paragraph have been paid or are payable ;
- (e) any benefit given within the two preceding years or intended to be given to any promoter and not required to be stated by paragraph 12 of the said Part I, and the consideration for the giving of any such benefit ;
- (f) the general nature of all contracts required to be stated by paragraph 13 of the said Part I.

(2) The said paragraph 8 shall not apply to any property if—

- (a) the contract for its purchase or acquisition was entered into in the ordinary course of the company's business, the contract not being made in contemplation of the issue nor the issue in consequence of the contract; or
- (b) the amount of the purchase money is not material ;

and in paragraph 9 of Part I of the said Fourth Schedule the expression "any such property as aforesaid" shall be construed accordingly.

(3) The requirements of the said paragraph 13 as to the inspection of the contracts referred to in that paragraph shall cease to have effect.

(4) In paragraph (c) of subsection (1) of this section, the expression "vendor" in relation to any property has the same meaning as it has in relation thereto in the said paragraph 8 by virtue of paragraphs 2, 3 and 4 of Part III of the said Fourth Schedule ; but the operation of the said paragraph (c) shall not

be limited by paragraph 1 of the said Part III (which excludes, in the case of a prospectus issued more than two years after the company is entitled to commence business, the operation of the provisions of that Schedule relating, among other things, to the interest of directors).

PART II.  
—cont.

62.—(1) Part II of the said Fourth Schedule to the principal Act (which specifies the reports as to the finances of the company and of any business proposed to be purchased which are to be set out in any prospectus issued generally) and, so far as it relates to the said Part II, Part III of that Schedule shall have effect with the amendments for which provision is made by this section.

Reports to be set out in prospectus to which s. 35 of principal Act applies.

(2) The said reports shall be required to relate to five, instead of three, years and accordingly—

- (a) for the word “ three ”, wherever used in the expression “ three financial years ” or in the expression “ three years ” in the said Part II and in paragraph 5 of the said Part III there shall be substituted the word “ five ” ;
- (b) in the said paragraph 5 immediately before the words “ two years or one year ” in both places where those words occur there shall be inserted the words “ four, years, three years ”.

(3) The report by the auditors of the company required by paragraph 1 of the said Part II shall relate to the assets and liabilities of the company at the last date to which the accounts of the company were made up as well as to profits and dividends as provided by that paragraph, and the report by accountants required by paragraph 2 thereof shall relate to the assets and liabilities of the business to be purchased at the last date to which the accounts of the business were made up as well as to profits as provided by that paragraph ; and references in those paragraphs to profits, shall be construed as referring to profits or losses, as the case may be.

(4) Where the company has subsidiaries, the said auditors' report shall be required—

- (a) in addition to dealing separately with the company's profits or losses, to deal either—
  - (i) as a whole with the combined profits or losses of its subsidiaries, so far as they concern members of the company ; or
  - (ii) individually with the profits or losses of each subsidiary, so far as they concern members of the company ;

or, instead of dealing separately with the company's profits or losses, to deal as a whole with the profits or losses of the company and, so far as they concern members of the company, with the combined profits or losses of its subsidiaries ; and

**PART II.**  
—*cont.*

(b) in addition to dealing separately with the company's assets and liabilities, to deal either—

(i) as a whole with the combined assets and liabilities of its subsidiaries, with or without the company's assets and liabilities ; or

(ii) individually with the assets and liabilities of each subsidiary ;

and to indicate as respects the assets and liabilities of the subsidiaries the allowance to be made for persons other than the members of the company.

(5) If—

(a) the proceeds, or any part of the proceeds, of the issue of the shares or debentures are or is to be applied directly or indirectly in any manner resulting in the acquisition by the company of shares in any other body corporate ; and

(b) by reason of that acquisition or anything to be done in consequence thereof or in connection therewith that body corporate will become a subsidiary of the company ;

paragraph 2 of the said Part II shall apply as if the said proceeds were to be applied in the purchase of the business of the body corporate ; and a report set out in the prospectus by virtue of this subsection—

(i) shall indicate how the profits or losses of the other body corporate dealt with by the report would, in respect of the shares to be acquired, have concerned members of the company and what allowance would have fallen to be made, in relation to assets and liabilities so dealt with, for holders of other shares, if the company had at all material times held the shares to be acquired ; and

(ii) where the other body corporate has subsidiaries, shall deal with the profits or losses and the assets and liabilities of the body corporate and its subsidiaries in manner provided by the last foregoing subsection in relation to the company and its subsidiaries.

(6) Any report by accountants required by the said paragraph 2 shall be made by accountants qualified under this Act for appointment as auditors of a company which is not an exempt private company as defined in subsection (4) of section fifty-four of this Act and shall not be made by any accountant who is an officer or servant, or a partner of or in the employment of an officer or servant, of the company or of the company's subsidiary or holding company or of a subsidiary of the company's holding company ; and for the purposes of this subsection the expression " officer " shall include a proposed director but not an auditor.

(7) Any report required by the said Part II shall either indicate by way of note any adjustments as respects the figures of any

profits or losses or assets and liabilities dealt with by the report which appear to the persons making the report necessary or shall make those adjustments and indicate that adjustments have been made.

PART II.  
—cont.

63.—(1) A prospectus inviting persons to subscribe for shares in or debentures of a company and including a statement purporting to be made by an expert shall not be issued unless— Issue and registration of prospectus.

- (a) he has given and has not, before delivery of a copy of the prospectus for registration, withdrawn his written consent to the issue thereof with the statement included in the form and context in which it is included; and
- (b) a statement that he has given and has not withdrawn his consent as aforesaid appears in the prospectus;

and if any prospectus is issued in contravention of this subsection, the company and every person who is knowingly a party to the issue thereof shall be liable to a fine not exceeding five hundred pounds.

(2) No prospectus issued by or on behalf of a company or in relation to an intended company shall be issued unless the copy thereof delivered for registration under section thirty-four of the principal Act has endorsed thereon or attached thereto—

- (a) any consent to the issue of the prospectus required by this section from any person as an expert; and
- (b) in the case of a prospectus issued generally, also—

(i) a copy of any contract required by paragraph 13 of Part I of the Fourth Schedule to the principal Act to be stated in the prospectus or, in the case of a contract not reduced into writing, a memorandum giving full particulars thereof; and

(ii) where the persons making any report required by Part II of that Schedule have made therein, or have without giving the reasons indicated therein, any such adjustments as are mentioned in the provisions of this Act relating to such reports, a written statement signed by those persons setting out the adjustments and giving the reasons therefor.

(3) Where any such contract as is mentioned in the last foregoing subsection is wholly or partly in a foreign language, the reference in that subsection to a copy of the contract shall be taken as a reference to a copy of a translation thereof in English or a copy embodying a translation in English of the parts in a foreign language, as the case may be, being a translation certified in the prescribed manner to be a correct translation.

(4) The statement required by subsection (4) of the said section thirty-four to appear on the face of the prospectus, that a copy has been delivered for registration, shall also specify, or

PART II  
—cont.

refer to statements included in the prospectus which specify, any documents required by this section to be endorsed on or attached to that copy, and the registrar shall not register any prospectus unless it has endorsed thereon or attached thereto the documents (if any) so specified.

(5) Failure to endorse on or attach to the copy of any prospectus delivered for registration under the said section thirty-four any document required by this section to be so endorsed or attached shall be punishable in the same manner as failure to deliver a copy of the prospectus is punishable under that section, and accordingly in subsection (5) thereof—

- (a) after the words “without a copy thereof being so delivered” there shall be inserted the words “or without the copy so delivered having endorsed thereon or attached thereto the required documents”; and
- (b) after the words “until a copy thereof is so delivered” there shall be inserted the words “with the required documents endorsed thereon or attached thereto.”

(6) The right under subsection (1) of section three hundred and fourteen of the principal Act of inspecting, or of requiring copies or extracts of, documents kept by the registrar of companies shall in relation to documents registered by virtue of sub-paragraph (i) of paragraph (b) of subsection (2) of this section be exercisable only—

- (a) during the fourteen days beginning with the date of publication of the prospectus; or
- (b) with the permission of the Board of Trade.

Exclusion of s. 35 and relaxation of Fourth Schedule in case of certain prospectuses.

**64.**—(1) Section thirty-five of the principal Act shall not apply to the issue of a prospectus or form of application relating to shares or debentures which are or are to be in all respects uniform with shares or debentures previously issued and for the time being dealt in or quoted on a prescribed stock exchange.

(2) Where—

- (a) it is proposed to offer any shares in or debentures of a company to the public by a prospectus issued generally; and
- (b) application is made to a prescribed stock exchange for permission for those shares or debentures to be dealt in or quoted on that stock exchange;

there may on the request of the applicant be given by or on behalf of that stock exchange a certificate of exemption, that is to say, a certificate that, having regard to the proposals (as stated in the request) as to the size and other circumstances of the issue of shares or debentures and as to any limitations on the number and class of persons to whom the offer is to be made, compliance with the requirements of the Fourth Schedule to the principal Act would be unduly burdensome.

(3) If a certificate of exemption is given, and if the proposals aforesaid are adhered to and the particulars and information required to be published in connection with the application for permission made to the stock exchange are so published, then—

- (a) a prospectus giving the particulars and information aforesaid in the form in which they are so required to be published shall be deemed to comply with the requirements of the Fourth Schedule to the principal Act; and
- (b) section thirty-five of the principal Act shall not apply to any issue, after the permission applied for is granted, of a prospectus or form of application relating to the shares or debentures;

and the section of this Act relating to applications for and allotment of shares and debentures in pursuance of a prospectus issued generally shall not apply in relation to a prospectus to which either paragraph of this subsection applies.

(4) Where a prospectus is deemed by virtue of a certificate of exemption to comply with the said requirements, the provisions of this Act relating to the registration and inspection of a copy or memorandum of any contract required by the Fourth Schedule to the principal Act to be stated in the prospectus shall apply in relation to any contract which, or a copy or memorandum of which, is required to be available for inspection in connection with the application for permission made to the stock exchange.

References in this subsection to a copy of a contract include references to a copy of a translation thereof or a copy embodying a translation of parts thereof.

65.—(1) Where under the last but one foregoing section the consent of any person is required to the issue of a prospectus, and he has given that consent—

Civil liability  
for  
mis-statements  
in prospectus.

- (a) he shall not, by reason of his having given it, be liable as a person who has authorised the issue of the prospectus either—
  - (i) under subsection (1) of section thirty-seven of the principal Act to compensate persons subscribing on the faith of the prospectus, except in respect of any untrue statement purporting to be made by him as an expert; or
  - (ii) under subsection (2) of that section to indemnify any person against liability under the said subsection (1); but

- (b) in respect of any untrue statement purporting to be made by him as an expert, he shall be liable under the said subsection (1), unless one of the following things (which shall in his case be in lieu of the grounds of

**PART II.**  
—cont

defence available to others by virtue of paragraphs (i) to (iv) of the said subsection (1) ) is proved, namely—

(i) that having given his consent as aforesaid he withdrew it in writing before delivery of a copy of the prospectus for registration ; or

(ii) that after delivery of a copy of the prospectus for registration and before allotment thereunder, he, on becoming aware of the untrue statement, withdrew his consent in writing and gave reasonable public notice of the withdrawal, and of the reason therefor ; or

(iii) that he was competent to make the statement and that he had reasonable ground to believe and did up to the time of the allotment of the shares or debentures, as the case may be, believe that the statement was true.

(2) Where under the last but one foregoing section the consent of any person is required to the issue of a prospectus, and he either has not given that consent or has withdrawn it before the issue of the prospectus, he shall be entitled to indemnity under subsection (2) of the said section thirty-seven as if he had without his consent been named in the prospectus as a director of the company.

(3) A person otherwise liable under the said section thirty-seven for an untrue statement included in a prospectus shall not be entitled to rely on the ground of defence made available by paragraph (iv) (b) of subsection (1) thereof (which entitles the defendant to rely on the statement being that of an expert) unless it is proved, in addition to the matters required to be proved by that paragraph, that—

(a) the defendant had reasonable ground to believe and did up to the time of the issue of the prospectus believe that the person making the statement was competent to make it ; and

(b) that person had given the consent required by this Act to the issue of the prospectus and had not withdrawn that consent before delivery of a copy of the prospectus for registration or, to the defendant's knowledge, before allotment thereunder ;

and accordingly the proviso to the said subsection (1) (which takes away the benefit of the said paragraph (iv) (b) from a defendant where the contrary of paragraph (a) of this subsection is proved against him) shall cease to have effect.

(4) The right to recover contribution in respect of untrue statements included in any prospectus issued after the coming into force of this section shall be that conferred by Part II of the



Law Reform (Married Women and Tortfeasors) Act, 1935, or in Scotland by section three of the Law Reform (Miscellaneous Provisions) (Scotland) Act, 1940, and not that conferred by subsection (3) of section thirty-seven of the principal Act.

PART II.

—cont.

25 & 26  
Geo. 5. c. 30.  
3 & 4 Geo. 6.  
c. 42.

66.—(1) Where a prospectus issued after the coming into force of this section includes any untrue statement, any person who authorised the issue of the prospectus shall be liable—

Criminal  
liability for  
mis-statements  
in prospectus.

(a) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine not exceeding five hundred pounds, or both ; or

(b) on summary conviction, to imprisonment for a term not exceeding three months, or a fine not exceeding one hundred pounds, or both ;

unless he proves either that the statement was immaterial or that he had reasonable ground to believe and did up to the time of the issue of the prospectus believe that the statement was true.

(2) A person shall not be deemed for the purposes of this section to have authorised the issue of a prospectus by reason only of his having given the consent required by this Act to the inclusion therein of a statement purporting to be made by him as an expert.

67.—(1) In subsection (1) of section twenty-seven of the principal Act (which requires a company ceasing to be a private company to deliver to the registrar of companies a prospectus or a statement in lieu of prospectus complying with the Third Schedule to that Act) the words " a prospectus or " shall cease to have effect ; but a statement in lieu of prospectus need not be delivered under that subsection if within the period allowed for its delivery a prospectus relating to the company which complies, or is deemed to comply by virtue of a certificate of exemption under this Act, with the Fourth Schedule to the principal Act is issued and is delivered to the registrar of companies as required by section thirty-four of that Act.

Statements  
in lieu of  
prospectus.

(2) A statement in lieu of prospectus delivered to the registrar of companies under the principal Act—

(a) where, in the case of a statement delivered under the said section twenty-seven, unissued shares or debentures of the company—

(i) are to be applied in the purchase of a business ; or

(ii) are to be applied directly or indirectly in any manner resulting in the acquisition of shares in a body corporate which by reason of the acquisition or anything to be done in consequence thereof or in connection therewith will become a subsidiary of the company ; or

PART II.  
—cont.

- (b) where, in the case of a statement delivered under section forty of the principal Act (which relates to companies allotting shares or debentures without having issued a prospectus on their formation or without having proceeded to allot the shares offered by any prospectus so issued), it is proposed to acquire a business or shares in such a body corporate as aforesaid ;

shall set out the like reports as would be required by paragraph 2 of Part II of the Fourth Schedule to the principal Act, if the statement were a prospectus issued on the date on which the statement is delivered to the registrar and if the said paragraph 2 applied to it and to the purchase or acquisition.

So much of the Third and Fifth Schedules to the principal Act as requires a statement in lieu of prospectus to contain particulars with respect to businesses to be purchased or acquired shall cease to have effect.

(3) Every statement in lieu of a prospectus which is delivered as aforesaid shall, if it sets out any such report as aforesaid, have endorsed thereon or attached thereto the like statement by the persons making the report as to the adjustments (if any) made or indicated therein as is required by this Act to be endorsed on or attached to the copy of a prospectus delivered for registration under section thirty-four of the principal Act.

(4) In the said Third and Fifth Schedules to the principal Act there shall be made the amendments shown in the Fourth Schedule to this Act, being amendments corresponding to certain of those made by the foregoing provisions of this Act in Part I of the Fourth Schedule to the principal Act.

(5) Where a statement in lieu of a prospectus delivered to the registrar of companies under the said subsection (1) of section twenty-seven or the said subsection (1) of section forty includes any untrue statement, the last foregoing section shall apply in relation thereto as if references therein to its being issued were references to its being delivered for registration.

(6) Subsection (2) of the said section twenty-seven and subsection (3) of the said section forty (which penalise contraventions of those sections) shall apply in relation to subsections (2) and (3) of this section as they apply in relation to the provisions respectively mentioned therein.

(7) Section three hundred and sixty-two of the principal Act (which penalises false statements in certain documents) shall apply in relation to the said section twenty-seven as it applies in relation to the said section forty.

Interpretation  
of provisions  
relating to  
prospectuses,  
etc.

68.—(1) In the principal Act and this Act, any reference to offering shares or debentures to the public shall, subject to any provision to the contrary contained therein, be construed as including a reference to offering them to any section of the

public, whether selected as members or debenture holders of the company concerned or as clients of the person issuing the prospectus or in any other manner, and references in the principal Act or this Act, or in a company's articles, to invitations to the public to subscribe for shares or debentures shall, subject as aforesaid, be similarly construed.

(2) The foregoing subsection shall not be taken as requiring any offer or invitation to be treated as made to the public if it can properly be regarded, in all the circumstances, as not being calculated to result, directly or indirectly, in the shares or debentures becoming available for subscription or purchase by persons other than those receiving the offer or invitation, or otherwise as being a domestic concern of the persons making and receiving it, and in particular—

- (a) a provision in a company's articles prohibiting invitations to the public to subscribe for shares or debentures shall not be taken as prohibiting the making to members or debenture holders of an invitation which can properly be regarded as aforesaid; and
- (b) the provisions of the principal Act relating to private companies shall be construed accordingly.

(3) For the purpose of the provisions of the principal Act and this Act relating to prospectuses, a statement included in a prospectus shall be deemed to be untrue if it is misleading in the form and context in which it is included.

(4) For the purposes of the provisions of this Act relating to prospectuses—

- (a) the expression "expert" has the same meaning as in section thirty-seven of the principal Act; and
- (b) a statement shall be deemed to be included in a prospectus or statement in lieu of prospectus if it is contained therein or in any report or memorandum appearing on the face thereof or by reference incorporated therein or issued therewith.

*Other provisions as to shares and debentures.*

69.—(1) If at any time all the issued shares in a company, or all the issued shares therein of a particular class, are fully paid up and rank *pari passu* for all purposes, none of those shares need thereafter have a distinguishing number (as required by subsection (2) of section sixty-two of the principal Act) so long as it remains fully paid up and ranks *pari passu* for all purposes with all shares of the same class for the time being issued and fully paid up.

Numbering  
of shares.

(2) Accordingly in subsection (1) of section ninety-five and subsection (1) of section ninety-seven of the principal Act (which relate to the particulars to be entered in the register of

PART II.  
—cont.

members as to registered and bearer shares respectively) after the words "distinguishing each share by its number," there shall be inserted the words "so long as the share has a number."

Certification  
of transfers.

70.—(1) The certification by a company of any instrument of transfer of shares in or debentures of the company shall be taken as a representation by the company to any person acting on the faith of the certification that there have been produced to the company such documents as on the face of them show a prima facie title to the shares or debentures in the transferor named in the instrument of transfer, but not as a representation that the transferor has any title to the shares or debentures.

(2) Where any person acts on the faith of a false certification by a company made negligently, the company shall be under the same liability to him as if the certification had been made fraudulently.

(3) For the purposes of this section—

(a) an instrument of transfer shall be deemed to be certificated if it bears the words "certificate lodged" or words to the like effect ;

(b) the certification of an instrument of transfer shall be deemed to be made by a company if—

(i) the person issuing the instrument is a person authorised to issue certificated instruments of transfer on the company's behalf ; and

(ii) the certification is signed by a person authorised to certificate transfers on the company's behalf or by any officer or servant either of the company or of a body corporate so authorised ;

(c) a certification shall be deemed to be signed by any person if—

(i) it purports to be authenticated by his signature or initials (whether handwritten or not) ; and

(ii) it is not shown that the signature or initials was or were placed there neither by himself nor by any person authorised to use the signature or initials for the purpose of certificating transfers on the company's behalf.

Redeemable  
preference  
shares.

71.—(1) Where a company redeems any redeemable preference shares otherwise than out of the proceeds of a fresh issue, the amount which is under proviso (c) to subsection (1) of section forty-six of the principal Act to be transferred to the capital redemption reserve fund out of profits otherwise available for dividend shall be a sum equal to the nominal amount of the shares redeemed, instead of to the amount applied in redeeming the shares ; and accordingly proviso (d)

to that subsection (which requires the premium, if any, payable on redemption to be provided for out of the profits of the company) shall apply not only where the shares are redeemed out of the proceeds of a fresh issue, but in all cases.

(2) The redemption of any redeemable preference shares shall not be taken as reducing the amount of a company's authorised share capital.

(3) For the requirement contained in—

- (a) subsection (2) of the said section forty-six;
- (b) the Third Schedule to the principal Act (which relates to the statement in lieu of prospectus to be delivered by a private company becoming a public company); and
- (c) the Fifth Schedule to the principal Act (which relates to the statement in lieu of prospectus to be delivered by a company not issuing a prospectus);

that there shall be stated the date on or before which any redeemable preference shares issued by the company are, or are to be liable, to be redeemed there shall be substituted a requirement that there shall be stated the earliest date on which the company has power to redeem the shares.

(4) The power conferred by subsection (5) of the said section forty-six to apply the capital redemption reserve fund in paying up unissued shares of the company to be issued as bonus shares shall be exercisable whether or not new shares have been issued in pursuance of subsection (4) of that section and shall not be limited by reference to the amount of any shares issued in pursuance of that subsection.

72.—(1) Where a company issues shares at a premium, whether for cash or otherwise, a sum equal to the aggregate amount or value of the premiums on those shares shall be transferred to an account, to be called "the share premium account", and the provisions of the principal Act relating to the reduction of the share capital of a company shall, except as provided in this section, apply as if the share premium account were paid up share capital of the company.

Application  
of premiums  
received on  
issue of  
shares.

(2) The amount of the share premium account shall be shown in every balance sheet of the company.

(3) The share premium account may, notwithstanding anything in subsection (1) of this section, be applied by the company in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares, in writing off—

- (a) the preliminary expenses of the company;

PART II.  
—cont.

(b) the expenses of, or the commission paid or discount allowed on, any issue of shares or debentures of the company;

or in providing for the premium payable on redemption of any redeemable preference shares or of any debentures of the company.

(4) Accordingly in proviso (d) to subsection (1) of section forty-six of the principal Act (which requires the premium, if any, payable on redemption of redeemable preference shares to be provided for out of the profits of the company) after the words "the profits of the company" there shall be inserted the words "or out of the company's share premium account."

(5) Where a company has before the coming into force of this section issued any shares at a premium, this section shall apply as if the shares had been issued after the coming into force thereof:

Provided that any part of the premiums which has been so applied that it does not at the coming into force of this section form an identifiable part of the company's reserves within the meaning of the First Schedule to this Act shall be disregarded in determining the sum to be included in the share premium account.

-Amendment  
of s. 45 of  
principal Act.

73.—(1) Section forty-five of the principal Act (which prohibits the provision of financial assistance by a company for the purchase of its own shares) shall apply to shares in a company's holding company as it applies to shares in the company itself.

(2) The said section forty-five shall also apply in relation to a subscription for shares in a company or its holding company as it applies in relation to a purchase of such shares.

Register of  
debenture  
holders.

74.—(1) The provisions of the principal Act and this Act as to the place where the register of members is to be kept including those relating to giving information to the registrar and in the annual return of the place where it is kept shall apply also to any register of holders of debentures of a company which is kept in Great Britain, including a duplicate kept in Great Britain of any such register or part of any such register which is kept outside Great Britain and for the purposes of the said provisions, where part of any such register is kept in and part outside Great Britain, the part kept in Great Britain shall be treated as the company's principal register and the part kept outside shall be treated as a dominion register.

(2) Any person shall have the same right under section seventy-three of the principal Act to inspect any register of holders of debentures of a company and receive a copy of

the register or any part thereof as a registered holder of the debentures or a holder of shares in the company has, except that a person who is neither a registered holder of the debentures nor a holder of shares in the company shall only be entitled to make an inspection of the register on payment of a fee of one shilling or such less sum as may be prescribed by the company.

75.—(1) Subject to the following provisions of this section, any provision contained in a trust deed for securing an issue of debentures, or in any contract with the holders of debentures secured by a trust deed, shall be void in so far as it would have the effect of exempting a trustee thereof from or indemnifying him against liability for breach of trust where he fails to show the degree of care and diligence required of him as trustee, having regard to the provisions of the trust deed conferring on him any powers, authorities, or discretions.

Liability  
of trustees  
for debenture  
holders

(2) The foregoing subsection shall not invalidate—

- (a) any release otherwise validly given in respect of anything done or omitted to be done by a trustee before the giving of the release; or
- (b) any provision enabling such a release to be given—
  - (i) on the agreement thereto of a majority of not less than three-fourths in value of the debenture holders present and voting in person or, where proxies are permitted, by proxy at a meeting summoned for the purpose; and
  - (ii) either with respect to specific acts or omissions or on the trustee dying or ceasing to act.

(3) Subsection (1) of this section shall not operate—

- (a) to invalidate any provision in force at the coming into force of this section so long as any person then entitled to the benefit of that provision or afterwards given the benefit thereof under the next following subsection remains a trustee of the deed in question; or
- (b) to deprive any person of any exemption or right to be indemnified in respect of anything done or omitted to be done by him while any such provision was in force.

(4) While any trustee of a trust deed remains entitled to the benefit of a provision saved by the last foregoing subsection, the benefit of that provision may be given either—

- (a) to all trustees of the deed, present and future; or

PART II.  
—cont.

(b) to any named trustees or proposed trustees thereof; by a resolution passed by a majority of not less than three-fourths in value of the debenture holders present in person or, where proxies are permitted, by proxy at a meeting summoned for the purpose in accordance with the provisions of the deed or, if the deed makes no provision for summoning meetings, a meeting summoned for the purpose in any manner approved by the court.

## PART III.

CONSTITUTION OF COMPANIES AND MATTERS INCIDENTAL  
THERETO.

Alteration of  
company's  
objects.

76.--(1) A resolution under section five of the principal Act passed after the coming into force of this section for altering the provisions of a company's memorandum with respect to the objects of the company shall not require confirmation by the court, unless an application is made to the court in accordance with this section for the alteration to be cancelled.

(2) If an application is so made, the alteration shall not have effect except in so far as it is confirmed by the court.

(3) An application under this section may be made—

(a) by the holders of not less in the aggregate than fifteen per cent. in nominal value of the company's issued share capital or any class thereof or, if the company is not limited by shares not less than fifteen per cent. of the company's members; or

(b) by the holders of not less than fifteen per cent. of the company's debentures entitling the holders to object to alterations of its objects:

Provided that an application shall not be made by any person who has consented to or voted in favour of the alteration.

(4) An application under this section must be made within twenty-one days after the date on which the resolution altering the company's objects was passed, and may be made on behalf of the persons entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

(5) On an application under this section the court may make an order confirming the alteration either wholly or in part and on such terms and conditions as it thinks fit, and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the court for the purchase of the interests of dissentient members, and may give



such directions and make such orders as it may think expedient for facilitating or carrying into effect any such arrangement:

PART III.  
—cont.

Provided that no part of the capital of the company shall be expended in any such purchase.

(6) The debentures entitling the holders to object to alterations of a company's objects shall be any debentures secured by a floating charge which were issued or first issued before the coming into force of this section or form part of the same series as any debentures so issued, and a special resolution altering a company's objects shall require the same notice to the holders of any such debentures as to members of the company.

In default of any provisions regulating the giving of notice to any such debenture holders, the provisions of the company's articles regulating the giving of notice to members shall apply.

(7) In the case of a company which is, by virtue of a licence from the Board of Trade, exempt from the obligation to use the word " Limited " as part of its name, a resolution altering the company's objects shall also require the same notice to the Board of Trade as to members of the company, and where such a company alters its objects the Board may (unless they see fit to revoke the licence) vary the licence by making it subject to such conditions and regulations as the Board think fit, in lieu of or in addition to the conditions and regulations (if any) to which the licence was formerly subject.

(8) Where a company passes a resolution altering its objects—

- (a) if no application is made with respect thereto under this section, it shall within fifteen days from the end of the period for making such an application deliver to the registrar of companies a printed copy of its memorandum as altered; and
- (b) if such an application is made it shall—
  - (i) forthwith give notice of that fact to the registrar; and
  - (ii) within fifteen days from the date of any order cancelling or confirming the alteration, deliver to the registrar an office copy of the order and, in the case of an order confirming the alteration, a printed copy of the memorandum as altered.

The court may by order at any time extend the time for the delivery of documents to the registrar under paragraph (b) of this subsection for such period as the court may think proper.

PART III.  
—cont.

(9) If a company makes default in giving notice or delivering any document to the registrar of companies as required by the last foregoing subsection, the company and every officer of the company who is in default shall be liable to a default fine of ten pounds.

(10) Where a resolution purporting to alter the provisions of a company's memorandum with respect to the objects of the company is passed after the coming into force of this section, the validity of the alteration shall not be questioned on the ground that it was not authorised by subsection (1) of section five of the principal Act, except in proceedings taken for the purpose (whether under this section or otherwise) before the expiration of twenty-one days after the date of the resolution; and where any such proceedings are taken otherwise than under this section the two last foregoing subsections shall apply in relation thereto as if they had been taken under this section and as if an order declaring the alteration invalid were an order cancelling it and as if an order dismissing the proceedings were an order confirming the alteration.

Additional  
power to alter  
memorandum.

77.—(1) Notwithstanding anything in section four of the principal Act (which prohibits the alteration, except in accordance with that Act, of the conditions contained in a company's memorandum), any condition so contained which could lawfully have been contained in articles of association instead of in the memorandum may, subject to the provisions of this section, be altered by the company by special resolution.

(2) This section shall not apply where the memorandum itself provides for or prohibits the alteration of all or any of the said conditions, and shall not authorise any variation or abrogation of the special rights of any class of members.

(3) An application may be made to the court for any alteration made by virtue of this section in the conditions of a company's memorandum to be cancelled, and in relation to any such alteration and to any application made under this section subsection (2), subsection (3) (except paragraph (b)) and subsections (4), (5), (8) and (9) of section seventy-six of this Act shall apply as they apply in relation to alterations of a company's objects and to applications made under that section.

(4) This section shall have effect subject to the provisions of section nine of this Act and of section twenty-two of the principal Act (which provides that certain alterations of a company's memorandum or articles imposing a liability on members shall not bind existing members without their consent).

(5) This section shall apply to a company's memorandum whether registered before or after the section comes into force.

78.--(1) No company shall be registered by a name which in the opinion of the Board of Trade is undesirable.

PART III.  
—cont.

(2) For subsection (2) of section nineteen of the principal Act (which authorises a company to change its name if the name is identical with that by which a company in existence is previously registered or so closely resembles it as to be calculated to deceive) there shall be substituted the following subsection:—

Prohibition of registration of companies by undesirable names.

“(2) If, through inadvertence or otherwise, a company on its first registration or on its registration by a new name is registered by a name which in the opinion of the Board of Trade is too like the name by which a company in existence is previously registered, the first mentioned company may change its name with the sanction of the Board and, if they so direct within six months of its being registered by that name, shall change it within a period of six weeks from the date of the direction or such longer period as the Board may think fit to allow.

If a company makes default in complying with a direction under this subsection, it shall be liable to a fine not exceeding five pounds for every day during which the default continues.”

(3) Where the name of a company seeking registration in pursuance of Part IX of the principal Act (which relates to the registration under that Act of companies not formed thereunder) is one by which it may not be so registered by reason of the name being in the opinion of the Board of Trade undesirable, it may, with the approval of the Board of Trade signified in writing, change its name with effect from its registration as aforesaid:

Provided that the like assent of the members of the company shall be required to the change as is by section three hundred and twenty-one of the principal Act required to the registration under that Act.

(4) Section seventeen of the principal Act (which contains specific provisions as to the use of particular phrases in a company's name), shall cease to have effect.

79.—(1) Where it is proved to the satisfaction of the Board of Trade—

Extension of s. 18 of principal Act to certain companies after formation.

(a) that the objects of a company registered under the principal Act as a limited company are restricted to those specified in subsection (1) of section eighteen

PART III  
—cont.

of that Act (which relates to charitable and other companies not formed for profit) and to objects incidental or conducive thereto; and

- (b) that by its constitution the company is required to apply its profits, if any, or other income in promoting its objects and is prohibited from paying any dividend to its members;

then, notwithstanding anything in that Act, the Board may by licence authorise the company to make by special resolution a change in its name including or consisting of the omission of the word " Limited ".

(2) Any enactment relating to a licence under the said section eighteen or to an association to which such a licence is granted shall apply to a licence under this section and to a company to which such a licence is granted, so far as applicable in the case of a company already registered; and subsections (4) and (5) of section nineteen of the principal Act (which relate to the registration and effect of a change of name) shall apply to a change under this section.

Membership of  
holding  
company.

80.—(1) Except in the cases hereafter in this section mentioned, a body corporate cannot be a member of a company which is its holding company, and any allotment or transfer of shares in a company to its subsidiary shall be void.

(2) Nothing in this section shall apply where the subsidiary is concerned as personal representative, or where it is concerned as trustee, unless the holding company or a subsidiary thereof is beneficially interested under the trust and is not so interested only by way of security for the purposes of a transaction entered into by it in the ordinary course of a business which includes the lending of money.

(3) This section shall not prevent a subsidiary which is, at the coming into force thereof, a member of its holding company, from continuing to be a member but, subject to the last foregoing subsection, the subsidiary shall have no right to vote at meetings of the holding company or any class of members thereof.

(4) Subject to subsection (2) of this section, subsections (1) and (3) thereof shall apply in relation to a nominee for a body corporate which is a subsidiary, as if references in the said subsections (1) and (3) to such a body corporate included references to a nominee for it.

(5) In relation to a company limited by guarantee or unlimited which is a holding company, the reference in this section to shares, whether or not it has a share capital, shall be construed as including a reference to the interest of its members as such, whatever the form of that interest.

81.—(1) The fees (if any) payable under section three hundred and thirteen of and the Tenth Schedule to the principal Act for registration of a company limited by guarantee and having a share capital, or of an unlimited company having a share capital, shall be those based on the number of its members as laid down in the second part of the said Tenth Schedule for companies not having a share capital, if higher than those based on the amount of its share capital as laid down by the first part thereof, and accordingly the articles of an unlimited company or a company limited by guarantee shall, notwithstanding that it has a share capital, state the number of members with which it proposes to be registered, as required in the case of such a company not having a share capital by subsection (2) of section seven of the principal Act.

(2) In the case of companies registered after the coming into force of this section, subsection (3) of the said section seven (which requires registration of any increase above the registered number in the membership of a company not having a share capital) shall apply also to a company limited by guarantee and having a share capital, and an unlimited company having a share capital, and the company shall for registration of an increase of membership as well as for registration of an increase of share capital pay the appropriate fee (if any) under the said Tenth Schedule:

Provided that where an increase of share capital is made at the same time as an increase of membership, the company shall pay whichever fee is the higher, but not both.

(3) The fees payable under the said section three hundred and thirteen on registration of an increase in the share capital or in the membership of any company shall be an amount equal to the difference (if any) between the fee which would have been payable by reference to its capital or membership, as the case may be, on registration with the amount or number thereof as increased and that which would have been payable as aforesaid on registration with the amount or number immediately before the increase:

Provided that the total of the fees payable by any company by reference to its membership shall in no case exceed the amount payable immediately before the coming into force of this section for first registration with unlimited membership, and the total of the fees payable by any company by reference to its share capital, or of the fees payable by it by reference to its membership and the fees payable by it by reference to its share capital, shall in no case exceed the maximum amount payable at the time aforesaid for first registration of a company having a share capital.

PART III.  
—cont.  
Documents of  
and relating to  
Scottish  
companies

82.—(1) In subsection (4) of section twenty-nine of the principal Act (which provides that a deed to which a company is a party shall be held to be validly executed in Scotland if sealed with the common seal and subscribed by two directors and the secretary) for the words "in Scotland" there shall be substituted the words "according to the law of Scotland," and for the words "and the secretary" there shall be substituted the words "or by a director and the secretary".

(2) The proviso to subsection (1) of section three hundred and fourteen of the principal Act (which relates to the disposal of documents kept by the registrar) shall not extend to Scotland.

#### PART IV.

#### ENFORCEMENT AND REGISTRATION OF CHARGES.

##### *Receivers and managers.*

Disqualifica-  
tion of  
undischarged  
bankrupt  
from acting as  
receiver or  
manager.

83.—(1) If any person being an undischarged bankrupt acts as receiver or manager of the property of a company on behalf of debenture holders, he shall, subject to the following subsection, be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding five hundred pounds, or to both.

(2) The foregoing subsection shall not apply to a receiver or manager where—

- (a) the appointment under which he acts and the bankruptcy were both prior to the coming into force thereof; or
- (b) he acts under an appointment made by order of a court.

Provisions as  
to information  
where receiver  
or manager  
appointed.

84.—(1) Where, in the case of a company registered in England, a receiver or manager of the whole or substantially the whole of the property of the company (hereafter in this section and in the next following section referred to as "the receiver") is appointed on behalf of the holders of any debentures of the company secured by a floating charge, then subject to the provisions of this and the next following section—

- (a) the receiver shall forthwith send notice to the company of his appointment; and
- (b) there shall, within fourteen days after receipt of the notice, or such longer period as may be allowed by the court or by the receiver, be made out and submitted to the receiver in accordance with the next following section a statement in the prescribed form as to the affairs of the company; and

(c) the receiver shall within two months after receipt of the said statement send—

(i) to the registrar of companies and to the court, a copy of the statement and of any comments he sees fit to make thereon and in the case of the registrar of companies also a summary of the statement and of his comments (if any) thereon; and

(ii) to the company, a copy of any such comments as aforesaid or, if he does not see fit to make any comments, a notice to that effect; and

(iii) to any trustees for the debenture holders on whose behalf he was appointed and, so far as he is aware of their addresses, to all such debenture holders, a copy of the said summary.

(2) The receiver shall within two months or such longer period as the court may allow after the expiration of the period of twelve months from the date of his appointment and of every subsequent period of twelve months, and within two months or such longer period as the court may allow after he ceases to act as receiver or manager of the property of the company, send to the registrar of companies, to any trustees for the debenture holders of the company on whose behalf he was appointed, to the company and (so far as he is aware of their addresses) to all such debenture holders an abstract in the prescribed form showing his receipts and payments during that period of twelve months or, where he ceases to act as aforesaid, during the period from the end of the period to which the last preceding abstract related up to the date of his so ceasing, and the aggregate amounts of his receipts and of his payments during all preceding periods since his appointment.

(3) Where the receiver is appointed under the powers contained in any instrument, this section shall have effect—

(a) with the omission of the references to the court in subsection (1); and

(b) with the substitution for the references to the court in subsection (2) of references to the Board of Trade;

and in any other case references to the court shall be taken as referring to the court by which the receiver was appointed.

(4) Subsection (1) of this section shall not apply in relation to the appointment of a receiver or manager to act with an existing receiver or manager or in place of a receiver or manager dying or ceasing to act, except that, where that subsection applies to a receiver or manager who dies or ceases

**PART IV.**  
—*cont.*

to act before it has been fully complied with, the references in paragraphs (b) and (c) thereof to the receiver shall (subject to the next following subsection) include references to his successor and to any continuing receiver or manager.

Nothing in this subsection shall be taken as limiting the meaning of the expression "the receiver" where used in, or in relation to, subsection (2) of this section.

(5) This and the next following section, where the company is being wound up, shall apply notwithstanding that the receiver or manager and the liquidator are the same person, but with any necessary modifications arising from that fact.

(6) Nothing in subsection (2) of this section shall be taken to prejudice the duty of the receiver to render proper accounts of his receipts and payments to the persons to whom, and at the times at which, he may be required to do so apart from that subsection, but, in any case to which that subsection applies, it shall have effect in lieu of section three hundred and ten of the principal Act.

(7) If the receiver makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding five pounds for every day during which the default continues, and section three hundred and sixty-two of the principal Act (which penalises false statements) shall apply in relation to subsection (2) of this section as it applies in relation to the said section three hundred and ten.

Special provisions as to statement submitted to receiver.

**85.—(1)** The statement as to the affairs of a company required by the last foregoing section to be submitted to the receiver (or his successor) shall show as at the date of the receiver's appointment the particulars of the company's assets, debts and liabilities, the names, residences and occupations of its creditors, the securities held by them respectively, the dates when the securities were respectively given and such further or other information as may be prescribed.

(2) The said statement shall be submitted by, and be verified by affidavit of, one or more of the persons who are at the date of the receiver's appointment the directors and by the person who is at that date the secretary of the company, or by such of the persons hereafter in this subsection mentioned as the receiver (or his successor), subject to the direction of the court, may require to submit and verify the statement, that is to say, persons—

- (a) who are or have been officers of the company;
- (b) who have taken part in the formation of the company at any time within one year before the date of the receiver's appointment;



- (c) who are in the employment of the company, or have been in the employment of the company within the said year, and are in the opinion of the receiver capable of giving the information required;
- (d) who are or have been within the said year officers of or in the employment of a company, which is, or within the said year was, an officer of the company to which the statement relates.

(3) Any person making the statement and affidavit shall be allowed, and shall be paid by the receiver (or his successor) out of his receipts, such costs and expenses incurred in and about the preparation and making of the statement and affidavit as the receiver (or his successor) may consider reasonable, subject to an appeal to the court.

(4) Where the receiver is appointed under the powers contained in any instrument, this section shall have effect with the substitution for references to the court of references to the Board of Trade and for references to an affidavit of references to a statutory declaration; and in any other case references to the court shall be taken as referring to the court by which the receiver was appointed.

(5) If any person, without reasonable excuse, makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding ten pounds for every day during which the default continues.

(6) The right under section three hundred and fourteen of the principal Act to inspect documents kept by the registrar of companies shall not extend to any copy sent to the registrar under the last foregoing section of a statement as to the affairs of the company or of any comments of the receiver (or his successor) thereon, but only to the summary thereof, except where the person claiming the right either is or is the agent of a person stating himself in writing to be a member or creditor of the company to which the statement relates; and the right under that section to copies or extracts of any such statement or comments shall be similarly limited.

(7) Any person untruthfully stating himself in writing for the purposes of the last foregoing subsection to be a member or creditor of a company shall be liable to a fine not exceeding fifty pounds.

(8) References in this section to the receiver's successor shall include a continuing receiver or manager.

86.—(1) Section three hundred and eleven of the principal Act (which provides for the making of orders by the court to enforce the duty of a receiver or manager to render accounts to a liquidator) shall be amended as follows:—

Enforcement of duty of receiver to make returns etc.

PART IV.  
—cont.

- (a) the powers conferred by paragraph (a) of subsection (1) in relation to receivers shall be exercisable also in relation to managers of the property of a company;
- (b) the power conferred by subsection (2) for an order under the said paragraph (a) against a receiver to provide for costs to be borne by him shall extend also to orders against managers and to orders under paragraph (b) of subsection (1);
- (c) subsection (3) (which provides that the section shall not prejudice enactments imposing penalties) shall apply in relation to such default as is mentioned in the said paragraph (b) as well as in relation to such default as is mentioned in the said paragraph (a).

(2) In paragraph (b) of subsection (1) of the said section three hundred and eleven after the words "proper accounts of his receipts and payments" there shall be inserted the words "and to vouch the same".

Receivers  
appointed out  
of court.

87.—(1) A receiver or manager of the property of a company appointed under the powers contained in any instrument may apply to the court for directions in relation to any particular matter arising in connection with the performance of his functions, and on any such application the court may give such directions, or may make such order declaring the rights of persons before the court or otherwise, as the court thinks just.

(2) A receiver or manager of the property of a company appointed as aforesaid shall, to the same extent as if he had been appointed by order of a court, be personally liable on any contract entered into by him in the performance of his functions, except in so far as the contract otherwise provides, and entitled in respect of that liability to indemnity out of the assets; but nothing in this subsection shall be taken as limiting any right to indemnity which he would have apart from this subsection, or as limiting his liability on contracts entered into without authority or as conferring any right to indemnity in respect of that liability.

(3) The power of the court under section three hundred and nine of the principal Act by order to fix the remuneration of a receiver or manager of the property of a company appointed as aforesaid shall, where no previous order has been made with respect thereto under that section,—

- (a) extend to fixing the remuneration for any period before the making of the order or the application therefor; and
- (b) be exercisable notwithstanding that the receiver or manager has died or ceased to act before the making of the order or the application therefor; and

(c) where the receiver or manager has been paid or has retained for his remuneration for any period before the making of the order any amount in excess of that so fixed for that period, extend to requiring him or his personal representatives to account for the excess or such part thereof as may be specified in the order, so, however, that the power conferred by this paragraph shall not be exercised as respects any period before the making of the application for the order unless in the opinion of the court there are special circumstances making it proper for the power to be so exercised.

(4) This section shall apply whether the receiver or manager was appointed before or after the coming into force thereof, and subsection (3) thereof shall apply to periods before, as well as to periods after, the coming into force of this section; but subsection (2) thereof shall not apply to contracts entered into before the coming into force of this section.

88. It is hereby declared that, except where the context otherwise requires— Explanation  
of terms.

(a) any reference in the principal Act or this Act to a receiver or manager of the property of a company, or to a receiver thereof, includes a reference to a receiver or manager, or (as the case may be) to a receiver, of part only of that property and to a receiver only of the income arising from that property or from part thereof; and

(b) any reference in the principal Act or this Act to the appointment of a receiver or manager under powers contained in any instrument includes a reference to an appointment made under powers which, by virtue of any enactment, are implied in and have effect as if contained in an instrument.

### *Registration of Charges.*

89.—(1) Paragraph (d) of subsection (2) of section seventy-nine of the principal Act (by virtue of which charges on land require registration under Part III of that Act) shall not apply, and that paragraph and the corresponding provisions of the Companies Act, 1907, and of the Companies (Consolidation) Act, 1908, shall be deemed never to have applied, to a charge for any rent or other periodical sum issuing out of the land. Registration  
of charges.  
  
7 Edw. 7. c. 50.  
8 Edw. 7. c. 69.

(2) In subsection (3) of section seventy-nine of the principal Act (which provides that in the case of a charge created out of the United Kingdom comprising solely property situate outside the United Kingdom, a copy, instead of the original, of

PART IV.  
—cont.

the instrument of charge may be delivered for registration) the word "solely" shall be omitted.

(3) The registrar of companies may, on evidence being given to his satisfaction as respects any charge registered under Part III of the principal Act that—

- (a) part of the property or undertaking charged has been released from the charge or has ceased to form part of the company's property or undertaking; or
- (b) the debt for which the charge was given has been partly paid or satisfied;

enter a memorandum of that fact on the register.

(4) Subsection (4) of section eighty-two of the principal Act (which requires a chronological index to be kept of the charges registered by each company under Part III thereof) shall cease to have effect.

PART V  
WINDING UP.

Modification of grounds on which winding up order may be made.

90. If, on a winding up petition presented by members of the company as contributories on the ground that it is just and equitable that the company should be wound up, the court is of opinion—

- (a) that the petitioners are entitled to relief either by winding up the company or by some other means; and
- (b) that in the absence of any other remedy it would be just and equitable that the company should be wound up;

it shall make a winding up order, unless it is also of the opinion both that some other remedy is available to the petitioners and that they are acting unreasonably in seeking to have the company wound up instead of pursuing that other remedy.

Amendments as to preferential payments.

91.—(1) The maximum amount to which, under subsection (1) of section two hundred and sixty-four of the principal Act, priority is to be given—

- (a) to a debt for the wages or salary of a clerk or servant; or
- (b) to a debt for the wages of a workman or labourer; or
- (c) to any sum ordered under the Reinstatement in Civil Employment Act, 1944, to be paid by way of compensation;

7 & 8 Geo. 6.  
c. 15.

shall be two hundred pounds (instead of being fifty pounds in the cases referred to in paragraphs (a) and (c) of this subsection or twenty-five pounds in the case referred to in paragraph (b) thereof).

(2) The period within which services must have been rendered by a workman or labourer for his wages in respect thereof to have priority under the said subsection (1) shall be the same as in the case of a clerk or servant, that is to say, four months (instead of two months).

(3) In section two hundred and ninety-eight of the principal Act (which modifies the said section two hundred and sixty-four in relation to companies within the stannaries), so much of paragraph (1) as reduces the said period of four months in the case of a clerk or servant to three months shall cease to have effect, and in paragraph (2) (which in the case of a miner, artisan or labourer substitutes for the maximum amount specified in the said section two hundred and sixty-four an amount equal to three months wages) for the reference to three months there shall be substituted a reference to four months.

(4) For the purposes of the said sections two hundred and sixty-four and two hundred and ninety-eight any remuneration in respect of a period of holiday or of absence from work through sickness or other good cause shall be deemed to be wages in respect of services rendered to the company during that period.

(5) The debts which are to be paid in priority under the said section two hundred and sixty-four shall include all accrued holiday remuneration becoming payable to a clerk, servant, workman or labourer (or in the case of his death to any other person in his right) on the termination of his employment with the company before or by the effect of the winding up order or resolution; and in relation to any sums payable in priority by virtue of this subsection, subsection (3) of the said section two hundred and sixty-four and paragraphs (3) and (5) of the said section two hundred and ninety-eight shall apply as they apply in relation to wages.

(6) For the purposes of this section—

- (a) the expression "accrued holiday remuneration" includes in relation to any person, all sums which, by virtue either of his contract of employment or of any enactment (including any order made or direction given under any Act), are payable on account of the remuneration which would in the ordinary course have become payable to him in respect of a period of holiday had his employment with the company continued until he became entitled to be allowed the holiday; and
- (b) references to remuneration in respect of a period of holiday include any sums which, if they had been paid, would have been treated for the purposes of

PART V.  
—cont.—  
9 & 10 Geo. 6.  
c. 67.

the National Insurance Act, 1946, or any enactment repealed by that Act as remuneration in respect of that period.

(7) For the definition in subsection (7) of the said section two hundred and sixty-four of the expression "the relevant date" (that is to say the date by reference to which the debts payable in priority under that section are to be ascertained) there shall be substituted the following definition:—

"In this section the expression 'the relevant date'—

(a) in the case of a company ordered to be wound up compulsorily, means—

(i) the date of the appointment (or first appointment) of a provisional liquidator; or

(ii) if no such appointment was made, the date of the winding up order;

unless in either case the company had commenced to be wound up voluntarily before that date; and

(b) in any case where the foregoing paragraph does not apply, means the date of the passing of the resolution for the winding up of the company."

(8) The amendments made by subsections (1) to (6) of this section shall have effect also for the purposes of section seventy-eight of the principal Act (which applies the said section two hundred and sixty-four where a receiver is appointed or possession is taken of any property by or on behalf of debenture holders) with the substitution in subsection (5) for the reference to the winding up order or resolution of a reference to the appointment of the receiver or possession being taken, by or on behalf of the debenture holders, of the company's property; but nothing in this section shall apply where the date referred to in subsection (7) of the said section two hundred and sixty-four (as originally enacted) or, in a case to which the said section seventy-eight applies, the corresponding date referred to in subsection (2) of that section, occurred before the coming into force of this section.

Amendments  
as to fraudulent  
preference.

92.—(1) Anything which, if made or done within three months before the commencement of a company's winding up, would be void under section two hundred and sixty-five of the principal Act as a fraudulent preference shall be void also if made or done after the coming into force of this section and within six months before the commencement of the winding up:

In the application of this provision to Scotland, for the reference to three months there shall be substituted a reference to sixty days.

(2) Where, in the case of a company wound up in England, anything made or done after the coming into force of this section is void under the said section two hundred and sixty-five as a fraudulent preference of a person interested in property mortgaged or charged to secure the company's debt, then (without prejudice to any rights or liabilities arising apart from this provision) the person preferred shall be subject to the same liabilities, and shall have the same rights, as if he had undertaken to be personally liable as surety for the debt to the extent of the charge on the property or the value of his interest, whichever is the less.

(3) The value of the said person's interest shall be determined as at the date of the transaction constituting the fraudulent preference, and shall be determined as if the interest were free of all incumbrances other than those to which the charge for the company's debt was then subject.

(4) On any application made to the court with respect to any payment on the ground that the payment was a fraudulent preference of a surety or guarantor, the court shall have jurisdiction to determine any questions with respect to the payment arising between the person to whom the payment was made and the surety or guarantor and to grant relief in respect thereof, notwithstanding that it is not necessary so to do for the purposes of the winding up, and for that purpose may give leave to bring in the surety or guarantor as a third party as in the case of an action for the recovery of the sum paid. This subsection shall apply, with the necessary modifications, in relation to transactions other than the payment of money as it applies in relation to payments.

93.—(1) In section two hundred and sixty-six of the principal Act (which invalidates, in whole or in part, certain floating charges created within six months before the commencement of a winding up) for the words "six months" there shall be substituted the words "twelve months".

Effect of floating charge.

(2) This section shall not apply to a charge created more than six months before the coming into force thereof.

94.—(1) A statutory declaration under section two hundred and thirty of the principal Act by directors of a company proposed to be wound up voluntarily, that they have made a full inquiry into the affairs of the company and have formed the opinion that it will be able to pay its debts in full within a period not exceeding twelve months from the commencement of the winding up, (which declaration is under that section required for the winding up to be a members' voluntary winding up instead of a creditors' voluntary winding up

Amendments as to declaration of solvency in voluntary winding up.

**PART V.**  
— *cont.*

within the meaning of that Act) shall have no effect for the purposes of that Act unless—

- (a) it is made within the five weeks immediately preceding the passing of the resolution for winding up the company; and
- (b) it embodies a statement of the company's assets and liabilities as at the latest practicable date before the making of the declaration;

but the meeting of directors at which the said declaration is made need not be held, as required by subsection (1) of that section, before the date on which the notices of the meeting at which the said resolution is to be proposed are sent out, and for the reference to the said date in subsection (2) of that section (which requires the declaration to be registered before that date) there shall be substituted a reference to the date of the passing of the resolution.

(2) Any director of a company making a declaration under the said section two hundred and thirty without having reasonable grounds for the opinion that the company will be able to pay its debts in full within the period specified in the declaration shall be liable to imprisonment for a period not exceeding six months or to a fine not exceeding five hundred pounds or to both; and if the company is wound up in pursuance of a resolution passed within the period of five weeks after the making of the declaration, but its debts are not paid or provided for in full within the period stated in the declaration, it shall be presumed until the contrary is shown that the director did not have reasonable grounds for his opinion.

(3) If, in a members' voluntary winding up, the liquidator is at any time of the opinion that the company will not be able to pay its debts in full within the period stated in the declaration under the said section two hundred and thirty, he shall forthwith summon a meeting of the creditors and shall lay before the meeting a statement of the assets and liabilities of the company; and if the liquidator fails to comply with this subsection, he shall be liable to a fine not exceeding fifty pounds.

(4) Where the last foregoing subsection applies, sections two hundred and forty-four and two hundred and forty-five of the principal Act (which respectively require annual meetings and a final meeting both of the company and of the creditors in a creditors' voluntary winding up) shall apply to the winding up instead of sections two hundred and thirty-five and two hundred and thirty-six of that Act (which in a members' voluntary winding up require corresponding meetings of the company only):



Provided that the liquidator shall not be required to summon a meeting of creditors under the said section two hundred and forty-four at the end of the first year from the commencement of the winding up, unless the meeting held under the last foregoing subsection is held more than three months before the end of that year.

PART V.  
—cont.

(5) Nothing in this section shall apply in relation to a winding up commenced before the coming into force thereof. Miscellaneous amendments as to meetings in winding up.

95.—(1) The power of the liquidator under the said sections two hundred and thirty-five and two hundred and forty-four to call the yearly meeting of the company or of the creditors as soon as may be convenient after the end of the year in question shall be subject to the proviso that, unless the Board of Trade otherwise allow, the meeting shall be summoned for a date within three months after the end of that year.

(2) If the liquidator fails to summon a final meeting of the company or of the creditors as required by the said section two hundred and thirty-six or the said section two hundred and forty-five, he shall be liable to a fine not exceeding fifty pounds.

(3) The duty of the liquidator under subsection (7) of section one hundred and ninety-nine of the principal Act in a compulsory winding up, and under that subsection as applied by subsection (2) of section two hundred and forty of that Act in a creditors' voluntary winding up, on a vacancy occurring in the committee of inspection forthwith to summon a meeting of creditors or of contributories to fill the vacancy shall be subject to the proviso that, if the liquidator, having regard to the position in the winding up, is of opinion that it is unnecessary for the vacancy to be filled, he may apply to the court and the court may make an order that the vacancy shall not be filled, or shall not be filled except in such circumstances as may be specified in the order.

(4) A meeting of the creditors shall, where there is no committee of inspection, have the same power—

- (a) in a creditors' voluntary winding up, under paragraph (a) of subsection (1) of section two hundred and forty-eight of the principal Act; and
- (b) in a winding up subject to the supervision of the court, under the proviso to subsection (1) of section two hundred and sixty thereof;

as a committee of inspection would have to sanction the exercise by the liquidator of the powers given to a liquidator in a winding up by the court by paragraphs (d), (e) and (f) of subsection (1) of section one hundred and ninety-one of that Act (which paragraphs relate respectively to the payment

PART V.  
—*cont.*

of any classes of creditors in full, to the making of compromises with creditors and to the making of compromises with contributories and debtors).

Miscellaneous amendments as to proceedings in or in connection with winding-up.  
15 & 16 Geo. 5.  
c. 49.

96.—(1) Section one hundred and sixty-four of the principal Act (which makes provision as to the judge or judges by whom the winding-up jurisdiction of the High Court is to be exercised) shall cease to have effect, and the provisions of Part III of the Supreme Court of Judicature (Consolidation) Act, 1925 (which relates among other things to the distribution of business in the High Court) shall apply accordingly in relation to the jurisdiction to wind up companies in England under the principal Act.

(2) Where, in the case of a private company, default is made in complying with the provisions required to be included in its articles in order to constitute it a private company, the provisions of the principal Act which by virtue of subsection (3) of section twenty-seven thereof are to apply to the company as if it were not a private company shall include paragraph (i) of proviso (a) to subsection (1) of section one hundred and seventy thereof (which enables a contributory to present a winding-up petition where the number of members is reduced, in the case of a private company, below two or, in the case of any other company, below seven).

(3) In subsection (1) of section two hundred and twenty-one of the principal Act (which provides that where the affairs of a company have been completely wound up the court shall make an order for its dissolution) after the words " the court " there shall be inserted the words " if the liquidator makes an application in that behalf ".

(4) The rights conferred by sections two hundred and sixty-eight and two hundred and sixty-nine of the principal Act on the liquidator of a company being wound up in England in relation to executions against the goods or other property of the company and attachments of debts due to the company may be set aside by the court in favour of the creditor to such extent and subject to such terms as the court may think fit.

Miscellaneous amendments as to information relating to windings up.

97.—(1) On the making of any order staying the proceedings in a winding up, a copy of the order must forthwith be forwarded by the company, or otherwise as may be prescribed, to the registrar of companies, who shall make a minute thereof in his books relating to the company.

(2) In subsection (2) of section two hundred and twenty-one of the principal Act (which requires an order dissolving a company on completion of a compulsory winding up to be reported by the liquidator to the registrar of companies) for the words " The order shall within fourteen days from the date thereof

be reported " there shall be substituted the words " A copy of the order shall within fourteen days from the date thereof be forwarded " .

PART V.  
—cont.

(3) Section two hundred and twenty-six of the principal Act (which requires a company to give notice in the Gazette of the passing of a resolution for voluntary winding up within seven days after the passing thereof) shall have effect with the substitution for the words " seven days " of the words " fourteen days " ; and section two hundred and fifty of the principal Act (which requires notice to the registrar of a liquidator's appointment in a voluntary winding up) shall have effect—

- (a) with the substitution for the words " twenty-one days " of the words " fourteen days " ; and
- (b) with the insertion immediately before the words " deliver to the registrar " of the words " publish in the Gazette and " .

(4) Any person shall be entitled, but only on payment of the prescribed fee, to inspect the copies filed under subsection (4) of section one hundred and ninety-five of the principal Act by the Board of Trade and the court of the audited accounts of a liquidator in a compulsory winding up in England, and accordingly the said subsection (4) shall be amended by the substitution for the words " the inspection of any creditor or any person interested " of the words " the inspection of any person on payment of the prescribed fee. "

(5) The duty under subsection (5) of the said section one hundred and ninety-five to print and circulate copies of the liquidator's accounts or a summary thereof shall be that of the liquidator, instead of the Board of Trade, but compliance with that subsection may in any case be dispensed with by the Board.

(6) Section three hundred and fourteen of the principal Act (which relates to the inspection of documents kept by the registrar of companies) shall apply to the statements by a liquidator required by section two hundred and eighty-four of that Act, and so much of the said section two hundred and eighty-four as relates to the inspection of statements sent thereunder or the receipt of copies or extracts thereof shall cease to have effect.

(7) Nothing in section two hundred and twelve of the principal Act (which provides in a compulsory winding up for the inspection of the company's books and papers by creditors and contributories in accordance with an order of the court under that section, but not further or otherwise) shall be taken

PART V.  
—cont.

as excluding or restricting any statutory rights of a government department or person acting under the authority of a government department.

Unclaimed assets while liquidation proceeding.

98. For the purposes of section two hundred and eighty-five of the principal Act (which relates to the disposal of unclaimed or undistributed assets of a company which is being wound up in England) any money held by the company in trust in respect of dividends or other sums due to any person as a member of the company shall be included in the expression "money representing unclaimed or undistributed assets of the company."

Liability for rentcharge on company's land after dissolution or disclaimer.

99.—(1) Where by operation of law land in England vests subject to a rentcharge in the Crown or any other person either—

(a) on the dissolution of a company; or

(b) on a disclaimer under section two hundred and sixty-seven of the principal Act;

that shall not, subject to the next following subsection, impose on the Crown or the said other person or its or his successors in title any personal liability in respect of the rentcharge.

(2) This section shall not affect any liability in respect of sums accruing due after the Crown or the said other person, or some person claiming through or under the Crown or the said other person, has taken possession or control of the land or has entered into occupation thereof.

(3) This section shall apply to land vesting and sums accruing due before, as well as after, the coming into force thereof.

(4) In this section the expression "company" includes any body corporate.

Property of dissolved company.

100.—(1) Where on the dissolution of a company any property vests in the Crown as bona vacantia under section two hundred and ninety-six of the principal Act, the Crown's title thereto under that section may be disclaimed by a notice signed by the Treasury Solicitor.

(2) Where a notice of disclaimer under this section is executed as respects any property, that property shall be deemed not to have vested in the Crown under the said section two hundred and ninety-six on the dissolution of the company, and subsections (2) and (6) of section two hundred and sixty-seven of the principal Act and the last foregoing section of this Act shall apply in relation to the property as if it had been disclaimed under subsection (1) of that section immediately before the dissolution.

(3) The right to execute a notice of disclaimer under this section may be waived by or on behalf of the Crown either expressly or by taking possession or other act evincing that intention.

(4) A notice of disclaimer under this section shall be of no effect unless it is executed within twelve months of the date on which the vesting of the property as aforesaid came to the notice of the Treasury Solicitor, or, if an application in writing is made to the Treasury Solicitor by any person interested in the property requiring him to decide whether he will or will not disclaim, within a period of three months after the receipt of the application or such further period as may be allowed by the court which would have had jurisdiction to wind up the company if it had not been dissolved.

(5) A statement in a notice of disclaimer of any property under this section that the vesting of the property came to the notice of the Treasury Solicitor on a specified date or that no such application as aforesaid was received by him with respect to the property before a specified date shall, until the contrary is proved, be sufficient evidence of the fact stated.

(6) A notice of disclaimer under this section shall be delivered to the registrar of companies and retained and registered by him, and copies thereof shall be published in the Gazette and sent to any persons who have given the Treasury Solicitor notice that they claim to be interested in the property.

(7) This section shall apply to property vested in the Crown as aforesaid at the coming into force of this section, and where the vesting came to the notice of the Treasury Solicitor more than six months before the coming into force thereof notice of disclaimer under this section may (except where an application is made to him under subsection (4) of this section) be executed at any time within six months thereafter.

(8) This section shall apply to property vested in the Duchy of Lancaster or the Duke of Cornwall under the said section two hundred and ninety-six as if for references to the Crown and to the Treasury Solicitor there were respectively substituted references to the Duchy of Lancaster and to the Solicitor to the Duchy of Lancaster or to the Duke of Cornwall and to the Solicitor to the Duchy of Cornwall, as the case may be.

(9) This section shall apply to property in Scotland as if for references to the Treasury Solicitor there were substituted references to the King's and Lord Treasurer's Remembrancer, and as if section two hundred and sixty-seven of the principal Act applied in the case of a winding-up in Scotland, with the substitution, however, for references to property of a leasehold nature, to an under-lessee, and to a mortgagee by demise

PART V.  
—cont.20 & 21 Vict.  
c. 26.Miscellaneous  
amendments  
as to civil and  
criminal  
liability.

or a chargee by way of legal mortgage, of references respectively to property held under a lease, to a sub-lessee, and to the creditor in a security constituted by the assignation of a lease recorded under the Registration of Leases (Scotland) Act, 1857.

**101.—(1)** In any case in which a company's business is carried on in such a manner as to make the directors liable under section two hundred and seventy-five of the principal Act (which relates to the responsibility of directors for fraudulent trading) any other person who is knowingly a party to the carrying on of the business in that manner shall be similarly liable, both civilly under subsection (1) and criminally under subsection (3) of that section, and accordingly that section shall have effect with the substitution—

- (a) in subsection (1) thereof for the words " any of the directors, whether past or present, of the company " of the words " any persons ";
- (b) in subsection (2) thereof for the word " director " where it first occurs of the word " person ", for the words " the director, company or person " of the words " the person liable or any company or person acting on his behalf " and for the word " director " where it last occurs of the words " person liable "; and
- (c) in subsection (3) thereof for the words " director of the company " of the word " person ".

(2) A person convicted under subsection (3) of the said section two hundred and seventy-five shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds or to both (instead of being liable only to imprisonment for a term not exceeding one year).

(3) Subsection (1) of section two hundred and seventy-four of the principal Act (which penalises the persons responsible where proper books of account were not kept by a company throughout the two years immediately preceding the commencement of its winding up) shall have effect and be deemed always to have had effect as if after the words " the period of two years immediately preceding the commencement of the winding up " there were inserted the words " or the period between the incorporation of the company and the commencement of the winding up, whichever is the shorter " and as if, in the phrase " unless he shows that he acted honestly or that in the circumstances in which the business of the company was carried on the default was excusable " for the word " or " there were substituted the word " and ".

(4) So much of section two hundred and seventy-seven of the principal Act (which deals with the prosecution of officers and members of a company for offences discovered on a winding up) as—

- (a) relates to prosecutions by the liquidator (except as respects prosecutions instituted or ordered by the court to be instituted before the coming into force of this section); or
- (b) requires the Director of Public Prosecutions or the Lord Advocate, before instituting a prosecution, to form the opinion that the proceedings ought to be conducted by him; or
- (c) requires the Director, if he forms the opinion that the case is not one in which proceedings ought to be taken by him, to inform the liquidator;

shall cease to have effect.

(5) Any person who gives or agrees or offers to give to any member or creditor of a company any valuable consideration with a view to securing his own appointment or nomination, or to securing or preventing the appointment or nomination of some person other than himself, as the company's liquidator shall be liable to a fine not exceeding one hundred pounds.

## PART VI.

### OFFENCES AND LEGAL PROCEEDINGS.

102.—(1) If on an application made—

- (a) in England, to a judge of the High Court in chambers by the Director of Public Prosecutions, the Board of Trade or a chief officer of police; or
- (b) in Scotland, to one of the Lords Commissioners of Justiciary by the Lord Advocate;

Production  
and inspection  
of books  
where offence  
suspected.

there is shown to be reasonable cause to believe that any person has, while an officer of a company, committed an offence in connection with the management of the company's affairs and that evidence of the commission of the offence is to be found in any books or papers of or under the control of the company, an order may be made—

- (i) authorising any person named therein to inspect the said books or papers or any of them for the purpose of investigating and obtaining evidence of the offence; or
- (ii) requiring the secretary of the company or such other officer thereof as may be named in the order to produce the said books or papers or any of them to a person named in the order at a place so named.

PART VI.  
—cont.

(2) The foregoing subsection shall apply also in relation to any books or papers of a person carrying on the business of banking so far as they relate to the company's affairs, as it applies to any books or papers of or under the control of the company, except that no such order as is referred to in paragraph (ii) thereof shall be made by virtue of this subsection.

(3) The decision of a judge of the High Court or of any of the Lords Commissioners of Justiciary on an application under this section shall not be appealable.

(4) In this section the expression "chief officer of police" has (subject to the provisions of the Police Act, 1946, and the Police (Scotland) Act, 1946) the same meaning as in the Police Pensions Act, 1921.

9 & 10 Geo. 6.  
c. 46.  
9 & 10 Geo. 6.  
c. 71.  
11 & 12 Geo. 5.  
c. 31.

Proceedings  
on  
indictment  
in Scotland  
against  
bodies  
corporate.

103.—(1) In any proceedings on indictment against a body corporate for an offence against the principal Act or this Act the indictment may be served by—

- (a) delivery of a copy with notice to appear attached thereto at the registered office or, if there is no registered office, at the principal place of business of the body corporate; and
- (b) delivery in Scotland of a copy of the indictment with notice to appear attached thereto to the secretary or any director or to any person in charge of any principal place of business of the body corporate.

Where a registered letter containing a copy of the indictment has been sent by post to the registered office or principal place of business of the body corporate, an acknowledgment or certificate of the delivery of the letter issued by the Postmaster General in pursuance of regulations under the Post Office Act, 1908, shall be sufficient evidence of the delivery of the letter at the registered office or place of business on the day specified in such acknowledgement or certificate.

8 Edw. 7. c. 48.

(2) In any such proceedings as aforesaid the body corporate may appear, and any plea or notice on behalf of the body may be tendered or given—

- (a) in the High Court of Justiciary by counsel or by a representative of the body corporate; and
- (b) in the sheriff court by counsel, or by a solicitor, or by a representative of the body corporate.

(3) Where at the first diet in any such proceedings as aforesaid the body corporate does not appear or tender any plea in accordance with the provisions of the last foregoing



subsection, it shall be deemed to have tendered a plea of not guilty.

PART VI.  
—cont.

(4) Where at the second diet in any such proceedings as aforesaid the body corporate does not appear in accordance with the provisions of subsection (2) of this section, the Court shall, on the motion of the prosecutor, if it is satisfied that the provisions of subsection (1) of this section have been complied with, proceed to hear and dispose of the case in the absence of the body corporate.

(5) Where in any such proceedings as aforesaid a body corporate is sentenced to a fine, the fine may be recovered in like manner in all respects as if a copy of the sentence certified by the clerk of the court were an extract decree of the Court of Session for the payment of the amount of the fine by the body corporate to the King's and Lord Treasurer's Remembrancer.

(6) Notwithstanding anything contained in sections twenty-eight or twenty-nine of the Criminal Procedure (Scotland) Act, 1887, it shall not be necessary for a plea tendered by counsel or by a solicitor in accordance with the provisions of subsection (2) of this section to be signed. <sup>50 & 51 Vict. c. 35.</sup>

(7) If on the application of the procurator fiscal, a sheriff is satisfied that there is reasonable ground for suspecting that an offence against the principal Act or this Act has been or is being committed by a body corporate, the sheriff shall have the like power to grant warrant for the citation of witnesses and the production of documents and articles as he would have if a petition charging an individual with the commission of the offence were presented to him.

(8) In this section, the expression "representative" in relation to a body corporate against which such proceedings as aforesaid are brought means an officer or servant of the body corporate duly appointed by it for the purpose of those proceedings. Such appointment need not be under the seal of the body corporate, and a statement in writing purporting to be signed by the managing director of, or by any person having or being one of the persons having the management of the affairs of, the body corporate to the effect that the person named in the statement has been appointed the representative of the body corporate for the purpose of the said proceedings shall be admissible without further proof as evidence that the person has been appointed.

(9) This section shall extend to Scotland only.

104.—(1) Proceedings under the Summary Jurisdiction Acts in respect of any offence against the principal Act or this Act may, notwithstanding anything to the contrary in the <sup>Extension of time limit for summary proceedings.</sup>

PART VI.  
—cont.

Summary Jurisdiction Acts, be taken by the Director of Public Prosecutions or by the Board of Trade at any time within twelve months from the date on which evidence sufficient in the opinion of the Director or the Board, as the case may be, to justify the proceedings comes to his or their knowledge:

Provided that proceedings shall not be so taken more than three years after the commission of the offence.

(2) For the purposes of the foregoing subsection, a certificate of the Director of Public Prosecutions or the Board of Trade as to the date on which such evidence as aforesaid came to his or their knowledge shall be conclusive evidence thereof.

(3) In the application of this section to Scotland, any reference to the Director of Public Prosecutions and the first reference to the Board of Trade shall be omitted, and for any reference to evidence sufficient to justify proceedings there shall be substituted a reference to evidence sufficient to justify a report to the Lord Advocate with a view to consideration of the question of proceedings.

(4) In relation to offences committed before the coming into force of this section, this section shall not apply if the time allowed for taking proceedings under the said Acts apart from this section had already expired before this section came into force.

Amendments  
as to persons  
liable for  
certain  
offences.

105.—(1) In the provisions of the principal Act specified in the first column of the Fifth Schedule to this Act for the words respectively mentioned in relation thereto in the second column of that Schedule there shall be substituted the expression “every officer of the company who is in default” (which expression by section three hundred and sixty-five of the principal Act is defined to mean any director, manager, secretary or other officer of the company, who knowingly and wilfully authorises or permits the default, refusal or contravention mentioned in the enactment in which the expression is used).

(2) In subsection (9) of section one hundred and thirteen of the principal Act (which penalises directors for defaults in relation to the statutory meeting or the statutory report) for the words “every director of the company who is guilty of or who knowingly and wilfully authorises or permits the default” there shall be substituted the words “every director of the company who is knowingly and wilfully guilty of the default or, in the case of default by the company, every officer of the company who is in default”.

(3) In subsection (3) of section one hundred and forty-five of the principal Act (which, for default in giving the required

particulars as to directors in trade catalogues, etc., penalises every director of the company and, in the case of a director being a corporation, also any officer of the corporation knowingly a party to the default)—

- (a) for the words “ every director of the company ” there shall be substituted the words “ every officer of the company who is in default ”; and
- (b) for the words from “ and in the case of a director ” to “ liable to a like penalty ” there shall be substituted the words “ and for the purposes of this subsection, where a corporation is an officer of the company, any officer of the corporation shall be deemed to be an officer of the company ”;

and at the end of paragraph (a) of subsection (4) of that section (which defines the expression “ director ” to include persons in accordance with whose directions or instructions the directors are accustomed to act) there shall be added the words “ and the expression ‘ officer ’ shall be construed accordingly ”.

(4) The following provisions of the principal Act, that is to say—

- (a) subsection (3) of section forty (which penalises allotments of shares or debentures without registration of a statement in lieu of prospectus);
- (b) subsection (2) of section two hundred and eighty (which penalises default in stating, in invoices etc., that the company is being wound up);
- (c) subsection (2) of section three hundred and eight (which penalises default in stating, in invoices etc., that a receiver or manager has been appointed);
- (d) section three hundred and fifty-one (which penalises default in complying with the provisions of the principal Act regulating foreign companies carrying on business in Great Britain);

shall not penalise an officer, liquidator, receiver, manager or agent except for a contravention or default which he knowingly and wilfully authorised or permitted.

106. So much of subsection (1) of section fifty-six of the principal Act (which relates to confirmation by the court of a reduction of share capital) as requires proceedings thereunder to be by petition shall cease to have effect.

Procedure on application for confirmation of reduction of share capital.

## PART VII.

## COMPANIES NOT REGISTERED UNDER PRINCIPAL ACT.

*Companies incorporated in Great Britain.*

Application of  
this Act to  
certain  
companies  
not formed  
under  
principal Act.

**107.**—(1) Part VIII of the principal Act (which relates to companies formed or registered under the former Acts therein mentioned), and section three hundred and thirty-three of the principal Act (which relates to companies not formed under that Act but registering thereunder), shall apply for the purpose of the application of the provisions of this Act to such companies as aforesaid as they apply for the purpose of the application thereto of the provisions of the principal Act.

Provided that subsection (6) of the said section three hundred and thirty-three (which saves any existing power to alter the constitution of a company registering under Part IX of the principal Act) shall not restrict the operation of subsection (3) of section nine of this Act.

(2) In section three hundred and thirty-four of the principal Act (which empowers a company registering under Part IX thereof to substitute a memorandum and articles for its deed of settlement) for the reference to the provisions of that Act with respect to confirmation by the court and registration of an alteration of the objects of the company there shall be substituted a reference to section seventy-six of this Act, and for the reference to registration of the alteration being certified by the registrar there shall be substituted a reference to delivery to the registrar of a printed copy of the substituted memorandum and articles or the date when the alteration is no longer liable to be cancelled by order of the court, whichever last occurs.

(3) The section of this Act relating to the making of a winding up order on the ground that it is just and equitable, notwithstanding the existence of an alternative remedy, shall apply in relation to the winding up of an unregistered company under Part X of the principal Act as well as to windings up under Part V thereof.

Application of  
certain pro-  
visions to  
other  
unregistered  
companies.

**108.**—(1) The provisions of the principal Act and this Act specified in the second column of the Sixth Schedule to this Act (which respectively relate to the matters referred to in the first column of that Schedule) shall apply to all bodies corporate incorporated in and having a principal place of business in Great Britain, other than those mentioned in the next following subsection, as if they were companies registered under the principal Act, but subject to any limitations mentioned in relation to those provisions respectively in the third column of that Schedule and to any prescribed adaptations or modifications.

(2) The said provisions shall not apply by virtue of this section to any of the following, that is to say— PART VII.  
—cont.

- (a) any body incorporated by or registered under any public general Act of Parliament; and
- (b) any body not formed for the purpose of carrying on a business which has for its object the acquisition of gain by the body or by the individual members thereof; and
- (c) any body for the time being exempted by direction of the Board of Trade.

(3) The said provisions shall apply also in like manner in relation to any unincorporated body of persons entitled by virtue of letters patent to any of the privileges conferred by the Chartered Companies Act, 1837, and not registered under any other public general Act of Parliament, but subject to the like exceptions as are provided for in the case of bodies corporate by paragraphs (b) and (c) of the last foregoing subsection. 7 Will. 4 &  
1 Vict. c. 73.

(4) This section shall not repeal or revoke in whole or in part any enactment, royal charter or other instrument constituting or regulating any body in relation to which the said provisions are applied by virtue of this section, or restrict the power of His Majesty to grant a charter in lieu of or supplementary to any such charter as aforesaid; but, in relation to any such body, the operation of any such enactment, charter or instrument shall be suspended in so far as it is inconsistent with any of the said provisions as they apply for the time being to that body.

109.—(1) The power of the registrar of companies, under the proviso to subsection (1) of section three hundred and fourteen of the principal Act, to direct that documents relating to a dissolved company may be removed to the Public Record Office shall extend to documents relating to companies dissolved whether under that Act or otherwise, being companies within the meaning of that Act or companies provisionally or completely registered under the Act 7 and 8 Victoria chapter one hundred and ten. Documents relating to companies wound up under repealed Acts.

(2) The provisions of this Act as to the inspection of copies of documents filed under section one hundred and ninety-five or two hundred and eighty-four of the principal Act shall apply to documents filed under any corresponding enactment repealed by the principal Act or by the Companies (Consolidation) Act, 1908.

PART VII.  
—cont.*Companies incorporated outside Great Britain.*Prospectus  
of foreign  
company.

**110.**—(1) For a prospectus to comply with Part XII of the principal Act (which relates to prospectuses of companies incorporated or to be incorporated outside Great Britain) it shall not be necessary for it to state the objects of the company as required by subsection (1) of section three hundred and fifty-five of that Act; but a prospectus shall not be deemed to comply with the said Part XII—

- (a) if, where it includes a statement purporting to be made by an expert, he has not given or has before delivery of a copy of the prospectus for registration withdrawn his written consent to the issue of the prospectus with the statement included in the form and context in which it is included or there does not appear in the prospectus a statement that he has given and has not withdrawn his consent as aforesaid; or
- (b) if it does not have the effect, where an application is made in pursuance thereof, of rendering all persons concerned bound by all the provisions (other than penal provisions) of the sections of this Act relating to allotment so far as applicable;

and any reference in section three hundred and fifty-four or three hundred and fifty-five of the principal Act to any provision of that Act which is amended by this Act shall be construed as a reference to that provision as so amended.

(2) Where, by section three hundred and fifty-four of the principal Act, a copy of a prospectus is required to be delivered to the registrar of companies before the prospectus is issued, circulated or distributed in Great Britain, the said requirement shall not be deemed to be complied with unless there is endorsed on or attached to the copy so delivered—

- (a) any consent required by the foregoing subsection to the issue of the prospectus;
- (b) a copy of any contract required by the said section three hundred and fifty-five and paragraph 13 of Part I of the Fourth Schedule to the principal Act to be stated in the prospectus or, in the case of a contract not reduced into writing, a memorandum giving full particulars thereof; and
- (c) where the persons making any report required by the said section three hundred and fifty-five and Part II of the said Fourth Schedule to be set out in the prospectus have made in the report, or have with-

out giving the reasons indicated in the report any such adjustments as are mentioned in the provisions of this Act relating to such reports, a written statement signed by those persons setting out the adjustments and giving the reasons therefor.

PART VII.  
—cont.

(3) The right under subsection (1) of section three hundred and fourteen of the principal Act of inspecting, or of requiring copies or extracts of, documents kept by the registrar of companies, shall in relation to documents registered by virtue of paragraph (b) of the last foregoing subsection be exercisable only—

- (a) during the fourteen days beginning with the date of the prospectus; or
- (b) with the permission of the Board of Trade.

(4) Where any such contract as is mentioned in the said paragraph (b) is wholly or partly in a foreign language, the reference in that paragraph to a copy of the contract shall be taken as a reference to a copy of a translation thereof in English or a copy embodying a translation in English of the parts in a foreign language, as the case may be, being a translation certified in the prescribed manner to be a correct translation.

(5) The section of this Act excluding section thirty-five of the principal Act and relaxing the Fourth Schedule thereto in the case of certain prospectuses shall extend to prospectuses to which section three hundred and fifty-four of the principal Act applies with the substitution for references to section thirty-five of that Act of references to section three hundred and fifty-five of that Act.

(6) Notwithstanding the provision of subsection (2) of the said section three hundred and fifty-four excluding the operation of that section in relation to a prospectus not issued generally, the following provisions shall apply in relation to such a prospectus, namely—

- (a) sub-paragraphs (i) and (ii) of paragraph (a) of subsection (1) thereof (which relate to registration of the prospectus); and
- (b) subsection (5) thereof (which extends the liability under section thirty-seven of the principal Act for misstatements in a prospectus); and
- (c) this section in so far as it relates to statements by experts or to the allotment of shares or debentures to be dealt in on a stock exchange.

(7) In this section the expressions "prospectus", "shares" and "debentures" have the same meanings as

PART VII.  
—*cont.*

in the said section three hundred and fifty-four, and any document deemed to be a prospectus issued by the company for the purposes of that section shall be deemed to be so for the purposes of this section also; and references in this section to an expert and to a statement being included in a prospectus shall be construed as they are to be construed where used in the foregoing provisions of this Act in relation to a company incorporated under the principal Act.

Power of  
foreign  
companies to  
hold land.

**111.** Section three hundred and forty-five of the principal Act (which confers on companies incorporated in a British possession power to hold lands in the United Kingdom) shall apply also to all companies incorporated outside the United Kingdom elsewhere than in a British possession, being companies to which Part XI of the principal Act applies.

Accounts of  
foreign  
companies.

**112.—(1)** The requirements of subsection (1) of section three hundred and forty-seven of the principal Act (which requires a foreign company carrying on business in Great Britain to deliver a balance sheet to the registrar of companies every year) as to the form and contents of the balance sheet and as to the documents to be included therein shall have effect as if the reference to the provisions of that Act included the provisions of this Act, subject, however, to any prescribed exceptions, and that section shall subject as aforesaid apply in relation to a profit and loss account and, in the case of a holding company, to group accounts as it applies in relation to a balance sheet.

(2) A company registered under the law relating to companies for the time being in force in Northern Ireland and having provisions in its constitution which would, if it had been registered in Great Britain, entitle it to rank as a private company shall not be required by the said section three hundred and forty-seven to make out accounts or deliver a copy thereof to the registrar for registration if in lieu thereof there is delivered a certificate signed by a director and by the secretary of the company that, had section fifty-four of, and the Third Schedule to, this Act extended to Northern Ireland, it would at the date of the certificate have been an exempt private company.

(3) Section three hundred and sixty-two of the principal Act (which penalises false statements) shall apply in relation to this section as it applies in relation to the said section three hundred and forty-seven.

List of  
directors.

**113.—(1)** Any reference in the following provisions of the principal Act (which relate to the list of directors to be delivered to the registrar of companies by a company in-



corporated outside but carrying on business in Great Britain), that is to say:—

PART VII,  
—cont.

(a) paragraph (b) of subsection (1) of section three hundred and forty-four; and

(b) paragraph (2) of section three hundred and forty-six;

to a company's directors shall include a reference to the company's secretary, and for the purpose of this provision the expression " secretary " shall include any person occupying the position of secretary by whatever name called.

(2) In paragraph (b) of subsection (1) of the said section three hundred and forty-four, the reference to such particulars as are by the principal Act required to be contained with respect to directors in the register of directors of a company shall be taken as including—

(a) in relation to name and nationality, the particulars, but only the particulars, required by that Act, as amended by this Act;

(b) in relation to directorships, as including the particulars, but only the particulars required by that Act as originally enacted;

and as not including particulars of date of birth as required by this Act.

114. Paragraphs (3) and (4) of section three hundred and forty-eight of the principal Act (which require publication of the name of companies incorporated outside but carrying on business in Great Britain) shall have effect as if they had been enacted with the words " notices and other official publications " for the words " notices, advertisements and other official publications ".

Publication  
of name.

## PART VIII.

### AMENDMENTS ETC. OF ACTS OTHER THAN PRINCIPAL ACT.

115.—(1) Subsection (1) of section thirty-three of the Bankruptcy Act, 1914, and subsection (1) of section one hundred and eighteen of the Bankruptcy (Scotland) Act, 1913, shall have effect subject to the like amendments as are by subsections (1) to (6) of the section of this Act relating to preferential payments in a winding up made in relation to the winding up of a company other than a company within the stannaries, but with the substitution for references to the company and to the winding up order or resolution of references to the bankrupt and to the receiving order or, in the

Bankruptcy.  
4 & 5 Geo. 5.  
c. 59.  
3 & 4 Geo. 5.  
c. 20.

PART VIII.  
—cont.

case of a person dying insolvent, to the deceased and to his death, and also with the omission of so much of subsection (5) of the said section of this Act as relates to subsection (3) of section two hundred and sixty-four of the principal Act.

(2) The rights conferred by sections forty and forty-one of the Bankruptcy Act, 1914, on the official receiver or trustee in bankruptcy in relation to executions against the goods or other property of the debtor and attachments of debts due to the debtor may be set aside by the court in favour of the creditor to such extent and subject to such terms as the court may think fit.

(3) In subsection (1) of section forty-four of the Bankruptcy Act, 1914 (which relates to fraudulent preferences), for the reference to three months there shall be substituted a reference to six months, and in the Act of the Parliament of Scotland, 1696, c. 5 (which relates to similar matters), for any reference to sixty days there shall be substituted a reference to six months.

(4) The provisions of this Act relating to a fraudulent preference of a surety or guarantor shall apply also in relation to the Bankruptcy Act, 1914, (with the necessary modification of any reference to a company), as if a reference to the said section forty-four of that Act were substituted in those provisions for the reference to section two hundred and sixty-five of the principal Act.

(5) The provisions of this Act relating to the liability in respect of a rentcharge on land disclaimed under section two hundred and sixty-seven of the principal Act shall apply also in relation to land disclaimed under section fifty-four of the Bankruptcy Act, 1914.

(6) Subsection (1) of this section shall not apply where the date of the receiving order (or, in relation to the estate of a person dying insolvent, the date of his death) occurred before the coming into force of this section and subsection (3) of this section shall not apply in relation to anything made or done before the coming into force thereof.

(7) In the application of this section to Scotland, references to the receiving order shall be construed as references to the award of sequestration.

Registration of  
business  
names.

116.—(1) The power conferred by section fourteen of the Registration of Business Names Act, 1916, on the registrar under that Act to refuse registration of a business name shall (without prejudice to the specific provisions of that section) extend to any name which is in his opinion undesirable.

(2) Where registration of a business name is refused under the said section fourteen, any person carrying on business under that name in such circumstances as to require registration under that Act shall be liable under section seven thereof to the same penalties as if he had without reasonable excuse made default in furnishing a statement of particulars with respect to that name.

(3) So much of any provision of the Registration of Business Names Act, 1916, as requires a person's nationality of origin to be stated shall cease to have effect.

(4) So much of section twenty-two of the Registration of Business Names Act, 1916, as provides that references in that Act to a former christian name or surname or to a change of name shall have any special meaning in the case of natural born British subjects shall cease to have effect, and—

- (a) references in that Act to a former christian name or surname shall not, in the case of any person, include a former christian name or surname where that name or surname has been changed or disused before the person bearing the name had attained the age of eighteen years or has been changed or disused for a period of not less than twenty years; and
- (b) an individual or firm shall not require to be registered under that Act by reason only of a change of his name, or of the name of a member of the firm, if the change has taken place before the person who has changed his name has attained the age of eighteen years or if not less than twenty years have elapsed since it took place.

(5) Where by virtue of the last foregoing subsection an individual or firm registered under the Registration of Business Names Act, 1916, no longer requires to be so registered—

- (a) the registrar, if so requested by the individual or firm, shall remove him or it from the register; and
- (b) section eleven of that Act shall no longer require the individual or firm to keep exhibited the certificate of registration or a copy thereof;

and where, in any other case, the particulars registered under that Act in respect of any individual or firm include a former name or surname which by virtue of the last foregoing subsection no longer requires to be included among those particulars, the registrar, if so requested by the individual or firm, shall amend the particulars by leaving out that name or surname.

## PART VIII.

—*cont.*

Prevention of  
fraud (unit  
trusts)  
2 & 3 Geo. 6.  
c. 16.

**117.—(1)** In the Schedule to the Prevention of Fraud (Investments) Act, 1939 (which relates to the constitution of an authorised unit trust scheme for the purposes of that Act)—

- (a) in paragraph 1 for the reference to the sale price of units there shall be substituted a reference to the manager's prices for units on a sale and a purchase respectively; and at the end of that paragraph there shall be inserted the words " and for entitling the holder of any units to require the manager to purchase them at a price calculated accordingly "; and
- (b) in paragraph 2 (which relates among other things to securing that the property will be vested in the trustee before unit certificates are issued) after the words " will be vested in him " there shall be inserted the words " or, subject to any prescribed conditions, in a nominee for him approved by the Board of Trade "; and
- (c) after paragraph 2 there shall be inserted the following paragraph—

" 2A. For prohibiting or restricting the issue by or on behalf of the manager of advertisements, circulars or other documents containing any statement with respect to the sale price of units, or the payments or other benefits received or likely to be received by holders of units, or containing any invitation to buy units, unless the document in question also contains a statement of the yield from the units."

(2) The terms of any trust created before the coming into force of this section in pursuance of a unit trust scheme may, notwithstanding anything in any deed, be varied or supplemented by a deed made between the trustee and the manager under the scheme, and containing such provisions as may be certified by the Board of Trade to be consequential on the passing of the foregoing subsection.

(3) The Board of Trade may appoint one or more competent inspectors to investigate and report on the administration of any unit trust scheme within the meaning of the said Act, if it appears to the Board—

- (a) that it is in the interests of unit holders so to do; and
- (b) that the matter is one of public concern;

and subsections (3) to (6) of section one hundred and thirty-five of the principal Act and subsection (4) of the section of this Act relating to the inspection of a company's affairs on the application of its members shall apply in relation to an inspector appointed under this section as they apply in relation to an inspector appointed under the said section one

hundred and thirty-five, but with the substitution for references to the company and its affairs of references to the manager under the scheme and to the administration of the scheme.

PART VIII.  
—cont.

(4) The expenses of any investigation under the last foregoing subsection shall be defrayed by the Board of Trade out of moneys provided by Parliament.

118.—(1) Notwithstanding the extension by this Act of section three hundred and fifty-four of the principal Act to prospectuses not issued generally, any reference in section two or section thirteen of the Prevention of Fraud (Investments) Act, 1939, to a prospectus to which the said section three hundred and fifty-four applies shall be construed as not including such a prospectus; but any reference in the said sections two and thirteen—

Consequential amendments.

- (a) to a prospectus to which section thirty-five of the principal Act applies shall include a reference to a prospectus to which that section would apply if not excluded by section sixty-four of this Act;
- (b) to a prospectus complying with the said section thirty-five shall be construed as a reference to its complying with that section as amended by this Act or not being required to comply therewith because excluded by section sixty-four of this Act;
- (c) to a prospectus complying with Part XII of the principal Act shall be construed as a reference to its complying therewith as so amended;
- (d) to a document containing the matters which would be required by the said section three hundred and fifty-four shall be construed as a reference to its containing the matters, and being issued with the consents, which would be required by that section as so amended.

(2) Any reference in the said section thirteen of the Prevention of Fraud (Investments) Act, 1939, to a subsidiary company shall be construed in accordance with the definition contained in this Act, but, subject to the foregoing provision of this subsection, nothing in this Act shall affect any reference to a subsidiary company contained in any Act other than the principal Act and this Act.

(3) The Assurance Companies Acts, 1909 to 1946, shall have effect as if—

- (a) in subsection (4) of section two of the Assurance Companies (Winding up) Act, 1933, as substituted by the Assurance Companies (Winding Up) Act, 1945, <sup>23 & 24 Geo. 5. c. 9.</sup> <sub>25 & 26 Geo. 5. c. 45.</sub>

PART VIII.  
—cont.

1935, the reference to subsections (3), (4) and (5) of section one hundred and thirty-five of the principal Act included the provisions of this Act amending those subsections and also subsections (4), (5) and (6) of the section of this Act relating to the inspection of a company's affairs on the application of its members, and the reference in subsection (4) of the said section two to an officer or agent of the company were to be construed accordingly; and

- (b) the powers conferred on the Board of Trade and the Industrial Assurance Commissioner respectively by virtue of subsection (3) of section seven of the Assurance Companies Act, 1946, to make regulations providing for the modification, in consequence of the passing of that Act, of the forms set out in the Schedules to the Assurance Companies Act, 1909, extended to the modification, having regard to the provisions of the First Schedule to this Act, of any form set out in the Schedules to either of those Acts.

9 & 10 Geo. 6.  
c. 28.  
9 Edw. 7.  
c. 49.

PART IX.

GENERAL.

Form of registers, etc.

119.—(1) Any register, index, minute book or book of account required by the principal Act or this Act to be kept by a company may, notwithstanding anything in that Act, be kept either by making entries in bound books or by recording the matters in question in any other manner.

(2) Where any such register, index, minute book or book of account is not kept by making entries in a bound book, but by some other means, adequate precautions shall be taken for guarding against falsification and facilitating its discovery, and where default is made in complying with this subsection, the company and every officer of the company who is in default shall be liable to a fine not exceeding fifty pounds, and further shall be liable to a default fine.

Power to vary certain provisions by regulation or order.

120.—(1) The Board of Trade shall have power by regulations to alter or add to the requirements of the principal Act and this Act as to the matters to be stated in a company's balance sheet, profit and loss account and group accounts, and in particular those of the First Schedule to this Act, and any reference in this Act to the said First Schedule shall be construed as a reference to that Schedule with any alterations or additions made by regulations for the time being in force under this subsection.

(2) The power of the Board of Trade under section three hundred and seventy-nine of the principal Act to alter or add to the provisions of the Schedules to that Act mentioned in that section shall be exercisable by regulations instead of by publishing the provisions as altered in the London Gazette, and the power to alter the table of fees in the Tenth Schedule to the principal Act shall include power to alter the section of this Act amending the said Tenth Schedule.

(3) The Treasury shall have power by order from time to time to substitute for the rates of interest respectively mentioned in section two hundred and sixty-six of the principal Act (which relates to floating charges created within six months before the commencement of a winding up) and in subsection (4) of section three hundred and two thereof (which provides for payment of interest on sums standing to the credit of a company's liquidation account) such other rate of interest as may be prescribed by the order; and for the reference in proviso (e) to subsection (1) of section fifty-four of the principal Act (which relates to the payment of interest on shares out of capital) to such other rate as may for the time being be prescribed by Order in Council there shall be substituted a reference to such other rate as may for the time being be prescribed by order of the Treasury (but without prejudice, until the making of an order by the Treasury, to the effect of any Order in Council in force thereunder at the coming into force of this subsection).

**121.—(1)** No regulations shall be made under subsection (1) of the last foregoing section so as to render more onerous the requirements therein referred to, unless a draft of the regulations has been laid before Parliament and has been approved by resolution of each House of Parliament. Laying of regulations and orders.

(2) The following regulations and orders, that is to say—

- (a) any regulations prescribing fees made by the Board of Trade under the principal Act or this Act;
- (b) any regulations made by them in relation to the application to unregistered companies of the provisions specified in the Sixth Schedule to this Act;
- (c) any such regulations or order as mentioned in the last foregoing section not being regulations to which subsection (1) of this section applies;

shall be laid before both Houses of Parliament immediately after the making thereof.

(3) If either House of Parliament within the period of forty days beginning with the day on which any regulations or order are or is laid before it under the last foregoing subsection,

PART IX.  
—cont.

resolves that the regulations or order be annulled, the regulations or order shall thereupon become void, without prejudice, however, to the validity of anything previously done thereunder, or to the making of new regulations or a new order.

(4) In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.

Construction and application of principal Act and this Act.  
19 & 20 Geo. c. 23.

122.—(1) In this Act the expression “ the principal Act ” means the Companies Act, 1929, and, except where the context otherwise requires—

(a) any reference in this Act to a provision of the principal Act which is amended by this Act shall be taken as referring to that provision as so amended; and

(b) expressions to which a meaning is assigned by the principal Act for the purposes of that Act have that meaning also for the purposes of this Act.

(2) In this Act, except where the context otherwise requires—

the expression “ accounts ” includes a company’s group accounts, whether prepared in the form of accounts or not;

the expression “ bank holiday ” means a day which is a bank holiday under the Bank Holidays Act, 1871;

the expression “ financial year ” means, in relation to any body corporate, the period in respect of which any profit and loss account of the body corporate laid before it in general meeting is made up, whether that period is a year or not;

the expression “ issued generally ” means, in relation to a prospectus, issued to persons who are not existing members or debenture holders of the company;

the expression “ recognised stock exchange ” means any body of persons which is for the time being a recognised stock exchange for the purposes of the Prevention of Fraud (Investments) Act, 1939.

(3) Any provision of this Act overriding or interpreting a company’s articles shall, except as provided by this Act, apply in relation to articles in force at the coming into force of that provision, as well as to articles coming into force thereafter, and shall apply also in relation to a company’s memorandum as it applies in relation to its articles.

34 & 35 Vict. c. 17.



(4) In the principal Act and this Act, the expression "officer", in relation to a body corporate, includes a director, manager or secretary; and the references to officers in the provisions of the principal Act mentioned in the Seventh Schedule to this Act shall be amended in accordance with that Schedule.

(5) In the principal Act and in this Act the expression "agent" shall not include a person's counsel acting as such.

(6) References in the principal Act and this Act to a body corporate or to a corporation shall be construed as not including a corporation sole but as including a company incorporated outside Great Britain, and references therein to a body corporate shall be construed as not including a Scottish firm.

(7) In the provisions of the principal Act specified in the Eighth Schedule to this Act references to that Act shall include references to this Act, except in so far as the context, by referring to a specific provision of that Act or to the commencement thereof or otherwise, excludes such a construction.

123.—(1) This Act may be cited as the Companies Act, 1947, and this Act and the principal Act may be cited together as the Companies Acts, 1929 and 1947.

Short title,  
citation, com-  
mencement  
and repeal.

(2) This Act shall come into force on such day as the Board of Trade may by order appoint, and different days may be appointed for the purpose of different provisions thereof.

(3) The provisions of the principal Act specified in Part I of the Ninth Schedule to this Act and the provisions of the Registration of Business Names Act, 1916, specified in Part II thereof are hereby repealed to the extent specified in that Schedule.



## SCHEDULES.

---

### FIRST SCHEDULE.

---

#### ACCOUNTS.

##### PART I.

#### GENERAL PROVISIONS AS TO BALANCE SHEET AND PROFIT AND LOSS ACCOUNT.

##### *A. Balance Sheet.*

The first seven paragraphs of this Part of this Schedule apply to the balance sheet and are subject to the exceptions and modifications provided for by Part II thereof in the case of a holding company and by Part III thereof in the case of companies of the classes there mentioned.

1.—(1) The reserves, provisions, liabilities and fixed and current assets shall be classified under headings appropriate to the company's business :

Provided that—

- (a) where the amount of any class is not material, it may be included under the same heading as some other class ; and
- (b) where any assets of one class are not separable from assets of another class, those assets may be included under the same heading.

(2) Fixed assets shall also be distinguished from current assets.

(3) The method or methods used to arrive at the amount of the fixed assets under each heading shall be stated.

2.—(1) The method of arriving at the amount of any fixed asset shall, subject to the next following sub-paragraph, be to take the difference between—

- (a) its cost or, if it stands in the company's books at a valuation, the amount of the valuation ; and
- (b) the aggregate amount provided or written off since the date of acquisition or valuation, as the case may be, for depreciation or diminution in value ;

and for the purposes of this paragraph the net amount at which any assets stand in the company's books at the date of the coming into force of this Schedule (after deduction of the amounts previously provided or written off for depreciation or diminution in value) shall, if the figures relating to the period before that date cannot be obtained without unreasonable expense or delay, be treated as if it were the amount of a valuation of those assets made at that date and, where any of those assets are sold, the said net amount less the amount of the sales shall be treated as if it were the amount of a valuation so made of the remaining assets.

(2) The foregoing sub-paragraph shall not apply—

- (a) to assets for which the figures relating to the period beginning with the coming into force of this Schedule cannot be obtained without unreasonable expense or delay ; or

(b) to assets the replacement of which is provided for wholly or partly—

(i) by making provision for renewals and charging the cost of replacement against the provision so made ; or

(ii) by charging the cost of replacement direct to revenue;  
or

(c) to any investments of which the market value (or, in the case of investments not having a market value, their value as estimated by the directors) is shown either as the amount of the investments or by way of note ; or

(d) to goodwill, patents or trade marks.

(3) For the assets under each heading whose amount is arrived at in accordance with sub-paragraph (1) of this paragraph, there shall be shown—

(a) the aggregate of the amounts referred to in paragraph (a) of that sub-paragraph ; and

(b) the aggregate of the amounts referred to in paragraph (b) thereof.

(4) As respects the assets under each heading whose amount is not arrived at in accordance with the said sub-paragraph (1) because their replacement is provided for as mentioned in sub-paragraph (2) (b) of this paragraph, there shall be stated—

(a) the means by which their replacement is provided for ; and

(b) the aggregate amount of the provision (if any) made for renewals and not used.

3. The aggregate amounts respectively of capital reserves, revenue reserves and provisions (other than provisions for depreciation, renewals or diminution in value of assets) shall be stated under separate headings :

Provided that—

(a) this paragraph shall not require a separate statement of any of the said three amounts which is not material ; and

(b) the Board of Trade may direct that it shall not require a separate statement of the amount of provisions where they are satisfied that that is not required in the public interest and would prejudice the company, but subject to the condition that any heading stating an amount arrived at after taking into account a provision (other than as aforesaid) shall be so framed or marked as to indicate that fact.

4.—(1) There shall also be shown (unless it is shown in the profit and loss account or a statement or report annexed thereto, or the amount involved is not material)—

(a) where the amount of the capital reserves, of the revenue reserves or of the provisions (other than provisions for depreciation, renewals or diminution in value of assets) shows an increase as compared with the amount at the end of the immediately preceding financial year, the source from which the amount of the increase has been derived ; and

1ST SCH.  
—cont.

(b) where—

(i) the amount of the capital reserves or of the revenue reserves shows a decrease as compared with the amount at the end of the immediately preceding financial year ; or

(ii) the amount at the end of the immediately preceding financial year of the provisions (other than provisions for depreciation, renewals or diminution in value of assets) exceeded the aggregate of the sums since applied and amounts still retained for the purposes thereof ;

the application of the amounts derived from the difference.

(2) Where the heading showing any of the reserves or provisions aforesaid is divided into sub-headings, this paragraph shall apply to each of the separate amounts shown in the sub-headings instead of applying to the aggregate amount thereof.

5.—(1) There shall be shown under separate headings—

(a) the aggregate amounts respectively of the company's trade investments, quoted investments other than trade investments and unquoted investments other than trade investments ;

(b) if—

(i) the total amount of the goodwill, patents and trademarks is not stated pursuant to paragraph (c) of subsection (2) of section one hundred and twenty-four of the principal Act, because not shown in or ascertainable from the books and papers mentioned in that paragraph ; but

(ii) part of that amount is shown in or ascertainable from the said books and papers ;

the amount of the goodwill, patents and trademarks, so far as it is so shown or ascertainable and as so shown or ascertained ;

(c) the aggregate amount of bank loans and overdrafts ;

(d) the net aggregate amount (after deduction of income tax) which is recommended for distribution by way of dividend.

(2) Nothing in paragraph (c) of subsection (2) of the said section one hundred and twenty-four shall be taken as requiring the amount of the goodwill, patents and trademarks to be stated otherwise than as a single item, and sub-paragraph (1) (b) of this paragraph shall be construed accordingly.

(3) The heading showing the amount of the quoted investments other than trade investments shall be sub-divided, where necessary, to distinguish the investments as respects which there has, and those as respects which there has not, been granted a quotation or permission to deal on a recognised stock exchange.

6. Where any of the company's debentures are held by a nominee of or trustee for the company, the nominal amount of the debentures and the amount at which they are stated in the books of the company shall be stated.

7.—(1) The matters referred to in the following sub-paragraphs shall be stated by way of note, or in a statement or report annexed, if not otherwise shown.

(2) The number, description and amount of any shares in the company which any person has an option to subscribe for, together with the following particulars of the option, that is to say—

- (a) the period during which it is exercisable ;
- (b) the price to be paid for shares subscribed for under it.

(3) The amount of any arrears of fixed cumulative dividends on the company's shares and the period for which the dividends or, if there is more than one class, each class of them are in arrear, the amount to be stated before deduction of income tax, except that, in the case of tax free dividends, the amount shall be shown free of tax and the fact that it is so shown shall also be stated.

(4) Particulars of any charge on the assets of the company to secure the liabilities of any other person, including, where practicable, the amount secured.

(5) The general nature of any other contingent liabilities not provided for and, where practicable, the aggregate amount or estimated amount of those liabilities, if it is material.

(6) Where practicable the aggregate amount or estimated amount, if it is material, of contracts for capital expenditure, so far as not provided for.

(7) If in the opinion of the directors any of the current assets have not a value, on realisation in the ordinary course of the company's business, at least equal to the amount at which they are stated, the fact that the directors are of that opinion.

(8) The aggregate market value of the company's quoted investments, other than trade investments, where it differs from the amount of the investments as stated, and the stock exchange value of any investments of which the market value is shown (whether separately or not) and is taken as being higher than their stock exchange value.

(9) The basis on which foreign currencies have been converted into sterling, where the amount of the assets or liabilities affected is material.

(10) The basis on which the amount, if any, set aside for United Kingdom income tax is computed.

(11) Except in the case of the first balance sheet laid before the company after the coming into force of this Schedule, the corresponding amounts at the end of the immediately preceding financial year for all items shown in the balance sheet.

### *B. Profit and Loss Account.*

The two following paragraphs apply to the profit and loss account and are subject to the exceptions and modifications provided for by Part II of this Schedule in the case of a holding company and by Part III thereof in the case of companies of the classes there mentioned.

8.—(1) There shall be shown—

- (a) the amount charged to revenue by way of provision for depreciation, renewals or diminution in value of fixed assets ;
- (b) the amount of the interest on the company's debentures and other fixed loans ;

1ST SCH.  
—cont.

- (c) the amount of the charge for United Kingdom income tax and other United Kingdom taxation on profits, including, where practicable, as United Kingdom income tax any taxation imposed elsewhere to the extent of the relief, if any, from United Kingdom income tax and distinguishing where practicable between income tax and other taxation ;
- (d) the amounts respectively provided for redemption of share capital and for redemption of loans ;
- (e) the amount, if material, set aside or proposed to be set aside to, or withdrawn from, reserves ;
- (f) subject to sub-paragraph (2) of this paragraph, the amount, if material, set aside to provisions other than provisions for depreciation, renewals or diminution in value of assets or, as the case may be, the amount, if material, withdrawn from such provisions and not applied for the purposes thereof ;
- (g) the amount of income from investments, distinguishing between trade investments and other investments ;
- (h) the aggregate amount of the dividends paid and proposed.

(2) The Board of Trade may direct that a company shall not be obliged to show an amount set aside to provisions in accordance with sub-paragraph (1) (f) of this paragraph, if the Board is satisfied that that is not required in the public interest and would prejudice the company, but subject to the condition that any heading stating an amount arrived at after taking into account the amount set aside as aforesaid shall be so framed or marked as to indicate that fact.

9.—(1) The matters referred to in the following sub-paragraphs shall be stated by way of note, if not otherwise shown.

(2) If depreciation or replacement of fixed assets is provided for by some method other than a depreciation charge or provision for renewals, or is not provided for, the method by which it is provided for or the fact that it is not provided for, as the case may be.

(3) The basis on which the charge for United Kingdom income tax is computed.

(4) Whether or not the amount stated for dividends paid and proposed is for dividends subject to deduction of income tax.

(5) Except in the case of the first profit and loss account laid before the company after the coming into force of this Schedule, the corresponding amounts for the immediately preceding financial year for all items shown in the profit and loss account.

(6) Any material respects in which any items shown in the profit and loss account are affected—

- (a) by transactions of a sort not usually undertaken by the company or otherwise by circumstances of an exceptional or non-recurrent nature ; or
- (b) by any change in the basis of accounting.

## PART II.

1ST SCH.  
—cont.SPECIAL PROVISIONS WHERE THE COMPANY IS A HOLDING OR  
SUBSIDIARY COMPANY.A. *Modifications of and additions to requirements as to company's  
own accounts.*

1.—(1) This paragraph shall apply where the company is a holding company, whether or not it is itself a subsidiary of another body corporate.

(2) The references in Part I of this Schedule to the company's investments shall not include its investments in its subsidiaries which are required to be separately stated by section one hundred and twenty-five of the principal Act and paragraph 2, sub-paragraph (1) (a) of paragraph 8 and sub-paragraph (2) of paragraph 9 thereof shall not apply in relation to fixed assets consisting of interests in its subsidiaries.

(3) There shall be shown by way of note on the balance sheet or in a statement or report annexed thereto the number, description and amount of the shares in and debentures of the company held by its subsidiaries or their nominees, but excluding any of those shares or debentures in the case of which the subsidiary is concerned as personal representative or in the case of which it is concerned as trustee and neither the company nor any subsidiary thereof is beneficially interested under the trust, otherwise than by way of security only for the purposes of a transaction entered into by it in the ordinary course of a business which includes the lending of money.

(4) Where group accounts are not submitted, there shall be annexed to the balance sheet a statement showing—

(a) the reasons why subsidiaries are not dealt with in group accounts ;

(b) the net aggregate amount, so far as it concerns members of the holding company and is not dealt with in the company's accounts, of the subsidiaries' profits after deducting the subsidiaries' losses (or vice versa)—

(i) for the respective financial years of the subsidiaries ending with or during the financial year of the company ;  
and

(ii) for their previous financial years since they respectively became the holding company's subsidiary ;

(c) the net aggregate amount of the subsidiaries' profits after deducting the subsidiaries' losses (or vice versa)—

(i) for the respective financial years of the subsidiaries ending with or during the financial year of the company ;  
and

(ii) for their other financial years since they respectively became the holding company's subsidiary ;

so far as those profits are dealt with, or provision is made for those losses, in the company's accounts ;

(d) any qualifications contained in the report of the auditors of the subsidiaries on their accounts for their respective financial

1ST SCH.  
—cont.

years ending as aforesaid, and any note or saving contained in those accounts to call attention to a matter which, apart from the note or saving, would properly have been referred to in such a qualification, in so far as the matter which is the subject of the qualification or note is not covered by the company's own accounts and is material from the point of view of its members ;

or, in so far as the information required by this sub-paragraph is not obtainable, a statement that it is not obtainable :

Provided that the Board of Trade may, on the application or with the consent of the company's directors, direct that in relation to any subsidiary this sub-paragraph shall not apply or shall apply only to such extent as may be provided by the direction.

(5) Paragraphs (b) and (c) of the last foregoing sub-paragraph shall apply only to profits and losses of a subsidiary which may properly be treated in the holding company's accounts as revenue profits or losses, and the profits or losses attributable to any shares in a subsidiary for the time being held by the holding company or any other of its subsidiaries shall not (for that or any other purpose) be treated as aforesaid so far as they are profits or losses for the period before the date on or as from which the shares were acquired by the company or any of its subsidiaries, except that they may in a proper case be so treated where—

- (a) the company is itself the subsidiary of another body corporate ; and
- (b) the shares were acquired from that body corporate or a subsidiary of it ;

and for the purpose of determining whether any profits or losses are to be treated as profits or losses for the said period the profit or loss for any financial year of the subsidiary may, if it is not practicable to apportion it with reasonable accuracy by reference to the facts, be treated as accruing from day to day during that year and be apportioned accordingly.

(6) Where group accounts are not submitted, there shall be annexed to the balance sheet a statement showing, in relation to the subsidiaries (if any) whose financial years did not end with that of the company—

- (a) the reasons why the company's directors consider that the subsidiaries' financial years should not end with that of the company ; and
- (b) the dates on which the subsidiaries' financial years ending last before that of the company respectively ended or the earliest and latest of those dates.

2.—(1) The balance sheet of a company which is a subsidiary of another body corporate, whether or not it is itself a holding company, shall show the aggregate amount of its indebtedness to all bodies corporate of which it is a subsidiary or a fellow subsidiary and the aggregate amount of the indebtedness of all such bodies corporate to it, distinguishing in each case between indebtedness in respect of debentures and otherwise.

(2) For the purposes of this paragraph, a company shall be deemed to be a fellow subsidiary of another body corporate if both are subsidiaries of the same body corporate but neither is the other's.



**B. Consolidated Accounts of Holding Company and Subsidiaries.**

1ST SCH.  
—cont.

3. Subject to the following paragraphs of this Part of this Schedule, the consolidated balance sheet and profit and loss account shall combine the information contained in the separate balance sheets and profit and loss accounts of the holding company and of the subsidiaries dealt with by the consolidated accounts, but with such adjustments (if any) as the directors of the holding company think necessary.

4. Subject as aforesaid and to Part III of this Schedule, the consolidated accounts shall, in giving the said information, comply, so far as practicable, with the requirements of the principal Act and this Act as if they were the accounts of an actual company.

5. Section one hundred and twenty-eight of the principal Act and section thirty-eight of this Act shall not, by virtue of the two last foregoing paragraphs, apply for the purpose of the consolidated accounts.

6. Paragraph 4 of Part I of this Schedule shall not apply for the purpose of any consolidated accounts laid before a company with the first balance sheet so laid after the coming into force of this Schedule.

7. In relation to any subsidiaries of the holding company not dealt with by the consolidated accounts—

- (a) section one hundred and twenty-five of the principal Act and sub-paragraphs (2) and (3) of paragraph 1 of this Part of this Schedule shall apply for the purpose of those accounts as if those accounts were the accounts of an actual company of which they were subsidiaries; and
- (b) there shall be annexed the like statement as is required by sub-paragraph (4) of paragraph 1 of this Part of this Schedule where there are no group accounts, but as if references therein to the holding company's accounts were references to the consolidated accounts.

8. In relation to any subsidiaries (whether or not dealt with by the consolidated accounts), whose financial years did not end with that of the company, there shall be annexed the like statement as is required by sub-paragraph (6) of paragraph 1 of this Part of this Schedule where there are no group accounts.

**PART III.**

**EXCEPTIONS FOR SPECIAL CLASSES OF COMPANY.**

1.—(1) A banking or discount company shall not be subject to the requirements of Part I of this Schedule other than—

- (a) as respects its balance sheet, those of paragraph 1 (so far as the said paragraph relates to fixed and current assets), paragraph 5 (except sub-paragraph (1) (c)), paragraph 6 and paragraph 7 (except sub-paragraph (8)); and
- (b) as respects its profit and loss account, those of sub-paragraph (1) (h) of paragraph 8 and sub-paragraphs (1), (4) and (5) of paragraph 9;

but, where in its balance sheet capital reserves, revenue reserves or provisions (other than provisions for depreciation, renewals or diminution in value of assets) are not stated separately, any heading stating an amount arrived at after taking into account such a reserve

1ST SCH.  
—cont.

or provision shall be so framed or marked as to indicate that fact, and its profit and loss account shall indicate by appropriate words the manner in which the amount stated for the company's profit or loss has been arrived at.

(2) The accounts of a banking or discount company shall not be deemed, by reason only of the fact that they do not comply with any requirements of the said Part I from which the company is exempt by virtue of this paragraph, not to give the true and fair view required by this Act.

(3) In this paragraph the expression "banking or discount company" means any company which satisfies the Board of Trade that it ought to be treated for the purposes of this Schedule as a banking company or as a discount company.

2.—(1) In relation to an assurance company within the meaning of the Assurance Companies Acts, 1909 to 1946, which is subject to and complies with the requirements of those Acts as respects the preparation and deposit with the Board of Trade of a balance sheet and profit and loss account, the foregoing paragraph shall apply as it applies in relation to a banking or discount company, and such an assurance company shall also not be subject to the requirements of sub-paragraphs (1) (a) and (3) of paragraph 5 and sub-paragraphs (4) to (7) and sub-paragraph (10) of paragraph 7 of the said Part I :

Provided that the Board of Trade may direct that any such assurance company whose business includes to a substantial extent business other than assurance business shall comply with all the requirements of the said Part I or such of them as may be specified in the direction and shall comply therewith as respects either the whole of its business or such part thereof as may be so specified.

(2) Where an assurance company is entitled to the benefit of this paragraph, then any wholly owned subsidiary thereof shall also be so entitled if its business consists only of business which is complementary to assurance business of the classes carried on by the assurance company.

(3) For the purposes of this paragraph, a company shall be deemed to be the wholly owned subsidiary of an assurance company if it has no members except the assurance company and the assurance company's wholly owned subsidiaries and its or their nominees.

3.—(1) A company to which this paragraph applies shall not be subject to the following requirements of Part I of this Schedule, that is to say—

(a) as respects its balance sheet, those of paragraph 1 (except so far as the said paragraph relates to fixed and current assets) and paragraphs 2, 3 and 4 ; and

(b) as respects its profit and loss account, those of sub-paragraph (1) (a), (e) and (f) of paragraph 8 ;

but a company taking advantage of this paragraph shall be subject, instead of the said requirements, to any prescribed conditions as respects matters to be stated in its accounts or by way of note thereto and as respects information to be furnished to the Board of Trade or a person authorised by them to require it.

(2) The accounts of a company shall not be deemed, by reason only of the fact that they do not comply with any requirements of the said Part I from which the company is exempt by virtue of this paragraph, not to give the true and fair view required by this Act.

(3) This paragraph applies to companies of any class prescribed for the purposes thereof, and a class of companies may be so prescribed if it appears to the Board of Trade desirable in the national interest :

Provided that, if the Board of Trade are satisfied that any of the conditions prescribed for the purposes of this paragraph has not been complied with in the case of any company, they may direct that so long as the direction continues in force this paragraph shall not apply to the company.

4. Where a company entitled to the benefit of any provision contained in this Part of this Schedule is a holding company, the reference in Part II of this Schedule to consolidated accounts complying with the requirements of the principal Act and this Act shall, in relation to consolidated accounts of that company, be construed as referring to those requirements in so far only as they apply to the separate accounts of that company.

#### PART IV.

##### INTERPRETATION OF SCHEDULE.

1.—(1) For the purposes of this Schedule, unless the context otherwise requires—

- (a) the expression "provision" shall, subject to sub-paragraph (2) of this paragraph, mean any amount written off or retained by way of providing for depreciation, renewals or diminution in value of assets or retained by way of providing for any known liability of which the amount cannot be determined with substantial accuracy ;
- (b) the expression "reserve" shall not, subject as aforesaid, include any amount written off or retained by way of providing for depreciation, renewals or diminution in value of assets or retained by way of providing for any known liability ;
- (c) the expression "capital reserve" shall not include any amount regarded as free for distribution through the profit and loss account and the expression "revenue reserve" shall mean any reserve other than a capital reserve ;

and in this paragraph the expression "liability" shall include all liabilities in respect of expenditure contracted for and all disputed or contingent liabilities.

(2) Where—

- (a) any amount written off or retained by way of providing for depreciation, renewals or diminution in value of assets, not being an amount written off in relation to fixed assets before the coming into force of this Schedule ; or
- (b) any amount retained by way of providing for any known liability ;

is in excess of that which in the opinion of the directors is reasonably necessary for the purpose, the excess shall be treated for the purposes of this Schedule as a reserve and not as a provision.

2. For the purposes aforesaid, the expression "quoted investment" means an investment as respects which there has been granted a quotation or permission to deal on a recognised stock exchange, or on any stock exchange of repute outside Great Britain, and the expression "unquoted investment" shall be construed accordingly.

## Section 22.

## SECOND SCHEDULE.

## MATTERS TO BE EXPRESSLY STATED IN AUDITORS' REPORT.

1. Whether they have obtained all the information and explanations which to the best of their knowledge and belief were necessary for the purposes of their audit.

2. Whether, in their opinion, proper books of account have been kept by the company, so far as appears from their examination of those books, and proper returns adequate for the purposes of their audit have been received from branches not visited by them.

3.—(1) Whether the company's balance sheet and (unless it is framed as a consolidated profit and loss account) profit and loss account dealt with by the report are in agreement with the books of account and returns.

(2) Whether, in their opinion and to the best of their information and according to the explanations given them, the said accounts give the information required by the principal Act and this Act in the manner so required and give a true and fair view—

(a) in the case of the balance sheet, of the state of the company's affairs as at the end of its financial year ; and

(b) in the case of the profit and loss account, of the profit or loss for its financial year ;

or, as the case may be, give a true and fair view thereof subject to the non-disclosure of any matters (to be indicated in the report) which by virtue of Part III of the First Schedule to this Act are not required to be disclosed.

4. In the case of a holding company submitting group accounts whether, in their opinion, the group accounts have been properly prepared in accordance with the provisions of this Act so as to give a true and fair view of the state of affairs and profit or loss of the company and its subsidiaries dealt with thereby, so far as concerns members of the company, or, as the case may be, so as to give a true and fair view thereof subject to the non-disclosure of any matters (to be indicated in the report) which by virtue of Part III of the First Schedule to this Act are not required to be disclosed.

## Section 54.

## THIRD SCHEDULE.

## CONDITIONS AS TO INTERESTS IN SHARES AND DEBENTURES OF EXEMPT PRIVATE COMPANY.

*Basic conditions.*

1. The basic conditions as to the shares or debentures of the company whose exemption is in question are—

(a) that no body corporate is the holder of any of the shares or debentures ; and

(b) that no person other than the holder has any interest in any of the shares or debentures ;

but these conditions are subject to the exceptions provided for by the following paragraphs of this Schedule.

*Exceptions for normal dealings of a business nature.*3RD SCH.  
—cont.

2.—(1) The rules contained in the following sub-paragraphs of this paragraph shall apply for the purposes both of the basic conditions and of the exceptions from those conditions.

(2) Where any share or debenture or any interest in any share or debenture is subject to a charge in favour of a banking or finance company by way of security for the purposes of a transaction entered into in the ordinary course of its business as such—

- (a) any interest under the charge, whether of the banking or finance company or a nominee for it, shall be disregarded ; and
- (b) if the banking or finance company or its nominee is the holder of the share or debenture, the person entitled to the equity of redemption shall be treated as the holder, whether he has a present right to redeem or not.

(3) Any interest under a contract for the transfer of any share or debenture or of any interest in any share or debenture shall, until execution of an instrument of transfer by the parties, be disregarded unless execution thereof is unreasonably delayed.

(4) Subject to sub-paragraph (2) of this paragraph, on execution of an instrument of transfer of a share or debenture, the transferee and not the transferor shall be treated as the holder, notwithstanding that the transfer requires registration with the company, unless registration is refused.

(5) Any interest of the company itself in any of its shares or debentures, and any lien or charge arising by operation of law and affecting any of the shares or debentures, shall be disregarded.

*Exceptions for cases of death and for family settlements.*

3.—(1) The basic conditions shall be subject to exceptions for—

- (a) any shares or debentures forming part of the estate of a deceased holder thereof, so long as administration of his estate has not been completed ; and
- (b) any shares or debentures held by trustees on the trusts of a will or family settlement disposing of the shares or debentures, so long as no body corporate has for the time being any immediate interest under the said trusts other than—
  - (i) a body corporate established for charitable purposes only and having no right to exercise or control the exercise of any part of the voting power at any general meeting of the company ;
  - (ii) a body corporate which is a trustee of the said trusts and has such an interest only by way of remuneration for acting as trustee thereof.

(2) For the purposes of this paragraph—

- (a) shares or debentures held by trustees on trusts arising on an intestacy shall, if the shares or debentures or an interest therein formed part of the intestate's estate at the time of

3RD SCH.  
—cont.

his death, be treated as if the trusts arose under a will disposing of the shares or debentures ;

- (b) the expression “ family settlement ” means a settlement made either—
- (i) in consideration or contemplation of an intended marriage of the settlor or any of the settlor’s issue or in pursuance of a contract entered into in consideration or contemplation of any such marriage ; or
  - (ii) otherwise in favour of any of the following persons’ that is to say the settlor, his parents and grandparents, and any other individual who at the date of the settlement is a member of the company or, in the case of a settlement of debentures, a member or debenture holder of the company, and the wife or husband and issue, and the wife or husband of any of the issue, of the settlor, his parents, or any such other individual, and persons taking in the event of a failure of the issue or any class of the issue of any person taking under the settlement ;
- (c) the expressions “ parent ”, “ grandparent ” and “ issue ” shall be construed as if the stepchild, adopted child or illegitimate child of any person were that person’s child ;
- (d) any reference to a wife or husband shall include a former wife or husband and a reputed wife or husband ;
- (e) the expression “ will ” includes any testamentary disposition ;
- (f) any reference to a will or family settlement disposing of any shares or debentures shall include a will or family settlement disposing of an interest under another will or family settlement disposing of the shares or debentures.

*Exception for cases of disability.*

4. Where the person entitled to any share or debenture or any interest in any share or debenture is of unsound mind or otherwise under any disability, and by reason thereof the share, debenture or interest is vested in an administrator, curator or other person on behalf of the person entitled thereto, then in relation to the share, debenture or interest the person in whom it is so vested and the person entitled thereto shall be treated for the purposes of this Schedule as if they were the same person.

*Exception for trusts for employees.*

5. The basic conditions shall be subject to an exception for any shares or debentures held by trustees for the purposes of a scheme maintained for the benefit of employees of the company, including any director holding a salaried employment or office in the company.

*Exception for shares held by exempt private companies.*

6.—(1) The first of the basic conditions shall be subject to an exception for shares held by another private company which is itself an exempt private company :

Provided that this exception shall not apply if, taking all the following companies together, that is to say—

3RD SCH.  
—cont.

- (a) the company whose exemption is in question (hereafter in this Schedule referred to as "the relevant company") ;
- (b) any company holding shares to which this exception has to be applied in determining the relevant company's right to be treated as an exempt private company ; and
- (c) any further company taken into account for the purposes of this proviso in determining the right to be so treated of any company holding any such shares as aforesaid ;

the total number of persons holding shares in those companies is more than fifty, joint shareholders being treated as a single person and the companies themselves and (subject to sub-paragraph (4) of this paragraph) their employees and former employees being disregarded.

(2) Where the relevant company and another company hold shares in each other, the other company shall be treated for the purposes of the foregoing sub-paragraph as an exempt private company if—

- (a) in determining its right to be so treated the exception in that sub-paragraph would apply to the shares in it held by the relevant company, on the assumption that the relevant company was an exempt private company ; and
- (b) in all other respects the other company is entitled to be so treated ;

and where another company's right to be so treated depends on the application to any shares in it of that sub-paragraph, and the application thereof to those shares depends indirectly on the relevant company's right to be so treated, this sub-paragraph shall apply as if those shares were held by the relevant company.

(3) Where by virtue of this paragraph any shares are excepted from the first of the basic conditions, the second of those conditions shall be subject to an exception for any interest in those shares which any person has by virtue of debentures of the company holding those shares or as trustee of a deed for securing an issue of debentures of that company.

(4) In the proviso to sub-paragraph (1) of this paragraph, the direction that employees and former employees of the companies shall be disregarded in computing the number of shareholders shall not apply to a person holding shares in a company of which he is not for the time being an employee unless, having been formerly in the employment of that company, he held while in that employment, and has continued after the determination of that employment to hold, shares in that company.

*Exception for banking or finance company providing capital.*

7.—(1) The first of the basic conditions shall be subject to an exception for any shares or debentures held by or by a nominee for a banking or finance company, where the banking or finance company acquired the shares or debentures or its interest therein in the ordinary course of its business as such and by arrangement with the relevant company or its promoters :

3RD SCH.  
—cont.

Provided that this exception shall not apply if the banking or finance company has the right (or, where there is more than one such company holding shares or debentures to which this exception has to be applied in determining the relevant company's right to be treated as an exempt private company, they have between them the right) to exercise or control the exercise of one-fifth or more of the total voting power at any general meeting of the relevant company.

(2) Where by virtue of the foregoing sub-paragraph any shares or debentures are excepted from the first of the basic conditions, the second of those conditions shall be subject to an exception for the banking or finance company itself, where the shares or debentures are held by a nominee for it, and for any interest in those shares or debentures which any person has by virtue of debentures of the banking or finance company or as trustee of a deed for securing an issue of debentures of that company.

*Exceptions for bankruptcies, liquidations, etc.*

8. The basic conditions shall be subject to exceptions for—
- (a) any shares or debentures forming part of the assets in a bankruptcy or liquidation of a holder thereof; and
  - (b) any shares or debentures held either—
    - (i) on trusts created for the benefit of his creditors generally by a person having an interest therein; or
    - (ii) otherwise for the purposes of any composition or scheme made or approved under any Act by a court or an officer of a court for arranging the affairs of such a person.

*Meaning of "banking or finance company."*

9. In this Schedule the expression "banking or finance company" means any body corporate or partnership whose ordinary business includes the business of banking and any other body corporate whose ordinary business includes the business of lending money or of subscribing for shares or debentures, except that it does not include any such other body corporate unless either—

- (a) its shares are quoted or dealt in on a recognised stock exchange; or
- (b) it is designated for the purposes of this paragraph by order of the Board of Trade; or
- (c) it is a subsidiary of a body corporate whose shares are so quoted or dealt in or which is so designated.



## FOURTH SCHEDULE.

Section 67.

## AMENDMENTS OF THIRD AND FIFTH SCHEDULES TO PRINCIPAL ACT.

1. In the Third Schedule to the principal Act, there shall, in the entry relating to the rates of the dividends paid by the company, be substituted for the words "three financial years" the words "five financial years."

2.—(1) In the said Third Schedule there shall be inserted at the end of the entry relating to the vendors of property purchased or acquired or proposed to be purchased or acquired the words "except where the contract for its purchase or acquisition was entered into in the ordinary course of business and there is no connection between the contract and the company ceasing to be a private company or where the amount of the purchase money is not material".

(2) At the end of the corresponding entry in the Fifth Schedule to the principal Act there shall be inserted the words "except where the contract for its purchase or acquisition was entered into in the ordinary course of the business intended to be carried on by the company or the amount of the purchase money is not material".

3.—(1) Both in the said Third Schedule and in the Fifth Schedule to the principal Act for the words "dates of, and parties to, every material contract" there shall be substituted the words "dates of, parties to, and general nature of, every material contract".

(2) In both the said Schedules there shall be inserted at the end of the entry relating to a time and place for inspection of material contracts the following words—

"or (1) in the case of a contract not reduced into writing, a memorandum giving full particulars thereof, and (2) in the case of a contract wholly or partly in a foreign language, a copy of a translation thereof in English or embodying a translation in English of the parts in a foreign language, as the case may be, being a translation certified in the prescribed manner to be a correct translation."

4. In both the said Schedules there shall be inserted at the places specified in this paragraph the entries so specified, that is to say—

(a) *Immediately after the entry relating to the consideration for the issue or intended issue of shares and debentures of the company :—*

|                                                                                                                                                                                                                                                                                                                                 |                                                             |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| <p>Number, description and amount of any shares or debentures which any person has or is entitled to be given an option to subscribe for, or to acquire from a person to whom they have been allotted or agreed to be allotted with a view to his offering them for sale.</p> <p>Period during which option is exercisable.</p> | <p>1. shares of £ and debentures of £ .</p> <p>2. Until</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|

4TH SCH.  
—cont.

Price to be paid for shares or debentures subscribed for or acquired under option.

3.

Consideration for option or right to option.

4. Consideration :—

Persons to whom option or right to option was given or, if given to existing shareholders or debenture holders as such, the relevant shares or debentures.

5. Names and addresses :—

*(b) Immediately after the entries relating to the amount paid or payable for property purchased or acquired by the company :—*

Short particulars of any transaction relating to any such property which was completed within the two preceding years and in which any vendor to the company or any person who is, or was at the time thereof, a promoter, director or proposed director of the company had any interest direct or indirect.

*(c) Immediately after the entry relating to the preliminary expenses :—*

By whom those expenses have been paid or are payable.

5.—(1) In the said Third Schedule immediately after the entry relating to the consideration for payments to promoters there shall be inserted the following entries :—

Any other benefit given to any promoter.

Name of promoter :—

Nature and value of benefit :—

Consideration for giving of benefit.

Consideration :—

(2) In the said Fifth Schedule immediately after the corresponding entry, there shall be inserted the following entries :—

Any other benefit given or intended to be given to any promoter.

Name of promoter :—

Nature and value of benefit :

Consideration for giving of benefit.

Consideration :—

## FIFTH SCHEDULE.

Section 105.

---

 AMENDMENTS AS TO PERSONS LIABLE FOR DEFAULTS UNDER  
 PRINCIPAL ACT.
*Enactment of  
principal Act.**Present wording.*

- S. 42 (3) ... Every director, manager, secretary, or other officer of the company, who is knowingly a party to the default.
- S. 66 (2) ... Every director, manager, secretary or other officer of the company who is knowingly a party to the default.
- S. 67 (2) ... Every director, manager, secretary or other officer of the company who is knowingly a party to the default.
- S. 80 (3) ... Every director, manager, secretary or other person who is knowingly a party to the default.
- S. 89 (2) ... Any officer of the company refusing inspection and every director and manager of the company authorising or knowingly and wilfully permitting the refusal.
- S. 112 (2) ... Every director or manager of the company who is knowingly a party to the default.
- S. 129 (3) ... Every director, manager, secretary or other officer of the company who is knowingly a party to the default.
- S. 130 (1) ... Every director, manager, secretary or other officer of the company who is knowingly a party to the default.
- S. 131 (4) ... Every director and manager of the company who knowingly and wilfully authorises or permits the default.
- S. 274 (1) ... Every director, manager or other officer of the company who was knowingly a party to or connived at the default of the company.
-

Section 108, 121.

SIXTH SCHEDULE.

PROVISIONS APPLIED TO UNREGISTERED COMPANIES.

| <i>Subject matter.</i>                 | <i>Provisions applied.</i>                                                                                                                                                                                                                                                                            | <i>Limitations on application.</i>                                                                                                                                                                                                                        |
|----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Prospectuses and allotments.           | Principal Act :—<br>sections thirty-four to thirty-eight and the Fourth Schedule.<br><br>This Act :—<br>sections fifty-nine to sixty-six and section sixty-eight.                                                                                                                                     | To apply so far only as may be prescribed and to such bodies corporate as may be prescribed.                                                                                                                                                              |
| Annual return, accounts and audit.     | (a) Principal Act :—<br>sections one hundred and eight to one hundred and eleven, section three hundred and sixty-one and the Sixth Schedule.<br><br>This Act :—<br>sections fifty-two to fifty-five and the Third Schedule.                                                                          | (a) Not to apply so as to require particulars in respect of any period before the coming into force of this Schedule, and as respects any period thereafter to apply so far only as may be prescribed, and to such bodies corporate as may be prescribed. |
| Investigations.                        | (b) Principal Act :—<br>sections one hundred and twenty-two to one hundred and twenty-five and sections one hundred and twenty-eight to one hundred and thirty-four.<br><br>This Act :—<br>sections twelve to twenty-five, sections thirty-eight and thirty-nine, and the First and Second Schedules. | (b) To apply so far only as may be prescribed and to such bodies corporate as may be prescribed.                                                                                                                                                          |
| Register of directors and secretaries. | Principal Act :—<br>sections one hundred and thirty-five and one hundred and thirty-six and section one hundred and thirty-eight.<br><br>This Act :—<br>sections forty-two to forty-nine.<br><br>Principal Act :—<br>section one hundred and forty-four.<br><br>This Act :—<br>section twenty-seven.  | —                                                                                                                                                                                                                                                         |

| Subject matter.                                                        | Provisions applied.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Limitations on application.                                                                                                      | 6TH SCH<br>—cont. |
|------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|-------------------|
| Registration of documents, enforcement and other supplemental matters. | <p>Principal Act :—<br/>sections three hundred and thirteen to three hundred and fifteen, section three hundred and sixty-two, sections three hundred and sixty-five to three hundred and seventy, section three hundred and seventy-five, section three hundred and eighty and the Tenth and Eleventh Schedules.</p> <p>This Act :—<br/>section forty-one, sections one hundred and two to one hundred and four, section one hundred and nineteen, section one hundred and twenty and section one hundred and twenty-two.</p> | To apply so far only as they have effect in relation to provisions applying by virtue of the foregoing entries in this Schedule. |                   |

Section 122.

## SEVENTH SCHEDULE.

## AMENDMENTS OF PROVISIONS OF PRINCIPAL ACT REFERRING TO OFFICERS.

## I. There shall be left out—

- (a) the words “ director, manager, secretary or other ” in section sixty, in subsection (2) of section two hundred and eighty, in subsection (2) of section three hundred and eight and in subsection (2) of section three hundred and sixty-five ;
- (b) the words “ director, manager or other ” in subsection (2) of section eighty-eight, subsection (1) of section two hundred and seventy-one, section two hundred and seventy-two, section two hundred and seventy-three, and subsections (1), (2) and (5) of section two hundred and seventy-seven ;
- (c) the words “ director, manager or ” in subsection (4) of section ninety-three and in section one hundred and fifty-two ;
- (d) the words “ director, manager ” in proviso (c) to the said section one hundred and fifty-two and in subsection (2) of section three hundred and seventy-five ;
- (e) the words “ director or other ” in subsection (2) of section one hundred and eighty-two, section two hundred and fifteen and subsection (1) of section two hundred and sixteen ;
- (f) the words “ director or ” in both places in subsection (1) of section one hundred and twenty-eight, in subsection (1) of section one hundred and thirty-three, in the second place in

7TH SCH.  
—cont.

- subsection (1) of the said section two hundred and sixteen and in both places in subsection (7) of section two hundred and ninety-five ;
- (g) the word "director" in the second place in subsection (1) of the said section two hundred and sixteen ;
- (h) the words "directors or" in subsection (2) of section one hundred and eighty-one ;
- (i) the words "directors and" in subsection (2) of section one hundred and thirty-four ;
- (j) the words—
- " (a) directors of a company :
- (b) managers of a company : "
- in subsection (4) of section three hundred and seventy-two.

2. In subsection (3) of the said section two hundred and seventy-one (which extends the meaning in that section of "director" to include persons on whose instructions the directors have been accustomed to act) for the word "director" there shall be substituted the word "officer".

Section 122.

## EIGHTH SCHEDULE.

### ENACTMENTS OF PRINCIPAL ACT APPLIED.

| <i>Enactment or group of enactments</i> | <i>Subject matter</i>                                                    |
|-----------------------------------------|--------------------------------------------------------------------------|
| S. 1 (1) ... ..                         | Formation of company.                                                    |
| S. 15 (i) ... ..                        | Conclusiveness of certificate of incorporation.                          |
| S. 180 ... ..                           | Appointment of person to be official receiver.                           |
| S. 313 (2) ... ..                       | Payment of fees into Exchequer.                                          |
| S. 315 (1) ... ..                       | Enforcement of duty to make returns to registrar.                        |
| S. 338 (1) ... ..                       | Winding up of unregistered companies.                                    |
| S. 353 ... ..                           | Registration of documents by Channel Islands and Isle of Man companies.  |
| Ss. 365 to 368 & 373 to 378             | General provisions as to offences, legal proceedings and Board of Trade. |
| S. 384 ... ..                           | Application to Northern Ireland.                                         |
| Tenth Schedule ... ..                   | Table of fees.                                                           |

## NINTH SCHEDULE.

Section 123.

## ENACTMENTS REPEALED.

## PART I.

## ENACTMENTS OF PRINCIPAL ACT REPEALED.

*Enactments contained in Part I.*

Subsections (2) to (7) of section five, except as respects resolutions passed before the coming into force of this repeal.

Section seventeen.

In subsection (1) of section twenty-seven the words "a prospectus or," and in subsection (3) of that section the words "subsection (1) of section one hundred and thirty".

*Enactments contained in Part II.*

The proviso to subsection (1) and subsection (3) of section thirty-seven.

Subsection (2) of section forty-four.

In section forty-six, in proviso (d) to subsection (1) the words "where any such shares are redeemed out of the proceeds of a fresh issue" the concluding paragraph of subsection (2) and in subsection (5) the words "where new shares have been issued in pursuance of the last foregoing subsection" and the words "up to an amount equal to the nominal amount of the shares so issued".

Subsection (2) of section fifty-four.

In subsection (1) of section fifty-six, the words "by petition".

*Enactments contained in Part III.*

In subsection (3) of section seventy-nine the word "solely".

Subsection (4) of section eighty-two.

*Enactments contained in Part IV.*

In subsection (1) of section ninety-five the words "and the occupations, if any" in paragraph (a).

In subsection (2) of section ninety-six, the words "which may be in the form of a card index".

In subsection (3) of section one hundred and four, the words "at its registered office".

In subsection (2) of section one hundred and eight, the words "and occupations", and subsection (5) of that section.

In subsection (1) of section one hundred and ten, the words "must be contained in a separate part of the register of members and" and subsection (2) of that section.

In section one hundred and seventeen, subsection (4) and the words "in accordance with this section" in subsection (5).

In subsection (1) of section one hundred and twenty-four, the words from "and to distinguish" to the end of the subsection.

9TH SCH.  
—cont.

Sections one hundred and twenty-six and one hundred and twenty-seven.

In subsection (1) of section one hundred and twenty-eight the word "and" at the end of paragraph (b) and the whole of paragraph (c), and subsections (3) and (5) of that section.

In section one hundred and thirty, the words "not being a private company" in subsection (1) and the whole of subsection (2), except as respects balance sheets laid before the company before the coming into force of this repeal.

In section one hundred and thirty-two, the words "to hold office until the next annual general meeting" in subsection (1), the whole of subsection (2) and subsection (3), in subsection (4) the words "of which notice has been served on the auditors in the same manner as on members of the company", and the whole of subsection (6).

Subsection (3) of section one hundred and thirty-three.

In subsection (1) of section one hundred and thirty-four the words from "and the report" to the end of the subsection, the proviso to subsection (2) of that section and subsection (3) of that section.

In section one hundred and thirty-five, the words from "banking" in paragraph (a) of subsection (1) to "other" in paragraph (b) thereof, and the words "and are not actuated by malicious motives in" in subsection (2).

In subsection (2) of section one hundred and thirty-six the words "and, further, that it is desirable in the public interest that the proceedings in the prosecution should be conducted by him", and subsections (3) and (4) of that section.

Section one hundred and thirty-seven, except as respects inspectors appointed before, or to continue an investigation begun by inspectors appointed before, the coming into force of this repeal.

In subsection (1) of section one hundred and forty-four, the words "or managers" and, in paragraph (a), the words from "and if," to the end of the paragraph, except the words "and his business occupation if any".

Paragraph (d) of subsection (1) of section one hundred and forty-five.

Section one hundred and forty-eight.

*Enactments contained in Part V.*

Section one hundred and sixty-four.

In subsection (2) of section one hundred and eighty-one, the words "or other chief officer".

In subsection (3) of section one hundred and eighty-two, the words "and two hundred and seventeen".

Section two hundred and seventeen, except as respects orders on applications made before the coming into force of this repeal.

In subsection (1) of section two hundred and thirty, the words "held before the date on which the notices of the meeting at which the resolution for the winding up of the company is to be proposed are sent out", except in relation to a winding up commenced before the coming into force of this repeal.



In section two hundred and seventy-five, subsections (4) and (5) and in subsection (7) the words from the beginning of the subsection to the word "and" and the words "that subsection or under", except as respects orders on applications made before the coming into force of this repeal.

9TH SCH:  
—cont.

In section two hundred and seventy-seven, the words "either himself to prosecute the offender or" in subsection (1), subsection (4), the words "and further that it is desirable in the public interest that the proceedings in the prosecution should be conducted by him" in subsection (6) and subsection (8), except as respects prosecutions instituted or ordered by the court to be instituted before the coming into force of this repeal.

Subsection (3) of section two hundred and seventy-eight.

In section two hundred and eighty-four, subsection (2) and in subsection (3) the words from "and any person" to the end of the subsection.

In paragraph (1) of section two hundred and ninety-eight, the words "shall be given to the extent of three months only, instead of four months, and".

*Enactment contained in Part VI.*

Subsection (3) of section three hundred and six.

*Enactment contained in Part IX.*

In proviso (v) to subsection (1) of section three hundred and twenty-one, the words "by the regulations of the company".

*Enactment contained in Part XII.*

In section three hundred and fifty-five, sub-paragraph (i) of paragraph (a) of subsection (1) and the reference thereto in the first proviso in that subsection, in paragraph (b) of that subsection the words "(other than those specified in paragraph 1 of the said Part I)" and paragraphs (i) and (iii) of the second proviso in that subsection and the word "and" at the end of paragraph (ii) thereof.

*Enactments contained in the Schedules.*

In the Third Schedule the entry relating to any business in the purchase of which unissued shares or debentures are to be applied.

In the Fourth Schedule, paragraph 1 of Part I and in paragraph 13 of that Part the words "and a reasonable time and place at which any such material contract or a copy thereof may be inspected"; and in paragraph 1 of Part III the words "the memorandum and".

In the Fifth Schedule the entry relating to any business proposed to be acquired and the definition of "financial year" in the Note at the end of that Schedule.

In the Ninth Schedule the entry relating to section two hundred and seventeen of the principal Act.

9TH SCH.  
—cont.

In the Tenth Schedule the entry relating to registration of an increase of share capital and the proviso immediately following that entry, and the entry relating to registration of an increase in the number of members and the proviso immediately following that entry.

## PART II.

### ENACTMENTS OF REGISTRATION OF BUSINESS NAMES ACT, 1916, REPEALED.

In subsection (1) of section three, the words "and if that nationality is not the nationality of origin, the nationality of origin", in both places where they occur.

In subsection (1) of section eighteen, the words "and if his nationality is not his nationality of origin his nationality of origin" in paragraph (a), and the words "and if the nationality is not the nationality of origin, the nationality of origin" in paragraph (b).

In section twenty-two, in the definition of a former christian name or surname, the words from the first "shall not," to "and," and in the definition of a change of name the words from the first "in the case of," to the first "or".

In the Schedule, the words "and if that nationality is not the nationality of origin, the nationality of origin".



## TABLE II.

---

### ALPHABETICAL LIST OF SHORT TITLES WITH ARRANGEMENT OF SECTIONS OF ACTS PRINTED IN VOLUME I.

---

ACQUISITION OF LAND (AUTHORISATION PROCEDURE) (SCOTLAND) ACT :  
C. 42 ... .. p. 492

- § 1 and schedules 1 and 2. Procedure for compulsory purchase of land by local authorities, and by the Minister of Transport, the Minister of Civil Aviation and the Secretary of State for certain purposes, pp. 493, 502, 508.
- 2, and schedule 3. Temporary powers for speedy acquisition of land in urgent cases, pp. 494, 510.
3. Power to extinguish certain public rights of way over land acquired, p. 497.
4. Notification of purchase of war-damaged land to War Damage Commission, p. 498.
- 5, and schedule 4. Inquiries and as to service of certain notices, pp. 499, 511.
6. Application of s. 1 to local Acts, p. 500.
7. Interpretation, p. 500.
- 8, and schedule 5. Repeals and consequential and transitional provisions, pp. 502, 512.
9. Short title and extent, p. 502.

Schedule 1. Procedure for authorising compulsory purchases :

Part I.—Purchases by local authorities, p. 502.

Part II.—Purchases by Ministers, p. 504.

Part III.—Special provisions as to certain descriptions of land, p. 504.

Part IV.—Validity and date of operation of compulsory purchase orders, p. 506.

Part V.—General, p. 507.

Schedule 2. Incorporation of enactments :

Part I.—The Lands Clauses Acts and the Railways Clauses Consolidation (Scotland) Act, 1845, p. 508.

Part II.—The Acquisition of Land (Assessment of Compensation) Act, 1919, p. 509.

Part III.—Purchases under Section 2, p. 509.

Schedule 3. Authorisations under Section 2, p. 510.

Schedule 4. Public local inquiries, p. 511.

Schedule 5. Enactments repealed, p. 512.

- AGRICULTURAL WAGES (REGULATION) ACT : c. 15 ... .. p. 70
- § 1, and schedule 1. Transfer to Agricultural Wages Board of power to fix, cancel or vary minimum rates of agricultural wages, pp. 71, 78.
- 2, and schedule 1. Benefits and advantages to be reckoned as payment of wages, and employment to be treated as overtime employment, pp. 72, 78.
- 3, and schedules 1 and 2. Provisions as to learners, pp. 73, 78, 79.
4. Minimum time rates of wages for agricultural workers employed on piece work p. 74.
5. Revocation and variation of permits under s. 2 (3) of the Agricultural Wages (Regulation) Act, 1924, p. 75.
6. Exercise of functions of Agricultural Wages Board and agricultural wages committees, p. 76.
7. Removal of restrictions on granting holidays with pay, p. 76.
8. Extension of definition of "agriculture", p. 76.
9. Expenses, p. 76.
- 10, and schedule 2. Application to Scotland, pp. 77, 79.
11. Scottish Agricultural Wages Board and Wages Committees, p. 77.
- 12, and schedule 3. Short title, construction, citation, repeal and savings, pp. 78, 81.
- Schedule 1.—Orders of Agricultural Wages Board, p. 78.
- Schedule 2.—
- Part I.—S. 7 of the Agricultural Wages (Regulation) Act, 1924 applied for purposes of s. 3 of this Act, p. 79.
- Part II.—S. 7 of the Agricultural Wages (Regulation) (Scotland) Act, 1937 applied for purposes of s. 3 of this Act, p. 80.
- Schedule 3.—Enactments repealed, p. 81.
- AGRICULTURE (EMERGENCY PAYMENTS) ACT : c. 32 ... .. p. 277
- AIR NAVIGATION ACT : c. 18 ... .. p. 85
- § 1. Power to give effect to Chicago Convention and regulate air navigation, p. 86.
2. Nuisance caused by aircraft on aerodromes, p. 88.
3. Exemption of aircraft and parts thereof from seizure on patent claims, p. 89.
4. Extra-territorial operation of laws of Newfoundland and Southern Rhodesia, p. 89.
5. Financial provisions, p. 90.
6. Construction of existing Acts and this Act, p. 90.
7. Commencement, and interim and transitional provisions, p. 91.
- 8, and schedule. Short title, citation, extent and repeal, pp. 91, 92.
- Schedule.—Enactments Repealed, p. 92.
- APPELLATE JURISDICTION ACT : c. 11 ... .. p. 24
- ARMY AND AIR FORCE (ANNUAL) ACT : c. 25 ... .. p. 121
- § 1. Short title, p. 123.
2. Army Act and Air Force Act to be in force for specified times, p. 123.
- AMENDMENTS OF THE ARMY AND AIR FORCE ACTS.
- Part I.—Amendments of the Army Act applicable also (subject to modifications) to the Air Force.*
3. Payments for copies of proceedings of court-martial, p. 124.
4. Liability of officer to maintain wife and children, p. 124.
5. Minor amendments as to liabilities for maintenance, p. 126.
6. Interim orders for deductions from pay towards maintenance of wife and children, p. 126.
7. Amendment of Army Act, section 163 (1), p. 127.
8. Application of Part I to Air Force Act, p. 127.
- Part II.—Amendment of the Army Act.*
9. Military corrective establishments, p. 127.
- Part III.—Amendment of the Air Force Act.*
10. Detention of airmen in military corrective establishments, p. 128.

|                                                        |        |
|--------------------------------------------------------|--------|
| BIRTHS AND DEATHS REGISTRATION ACT : c. 12 (E.) ... .. | p. 25  |
| CIVIC RESTAURANTS ACT : c. 22 (E.S.) ... ..            | p. 113 |
| COMPANIES ACT : c. 47 ... ..                           | p. 908 |

## PART I.—MANAGEMENT AND ADMINISTRATION.

*Meetings and proceedings.*

- § 1. Preliminary amendments as to annual general meeting, p. 912.  
 2. Length of notice of meetings, and of business thereat, p. 913.  
 3. Circulation of members' resolutions, etc., p. 915.  
 4. Right to demand a poll, p. 917.  
 5. Voting at meetings, p. 917.  
 6. Meetings attended by single member, p. 919.  
 7. Exemption from obligation to print certain resolutions, etc., p. 919.  
 8. Penalty for failure to keep minutes of proceedings, p. 919.

*Minorities.*

9. Alternative remedy to winding up in cases of oppression, p. 919.  
 10. Extension of time limit under s. 61 (2) of principal Act, p. 920.  
 11. Acquisition of shares of shareholders dissenting from scheme or contract approved by majority, p. 921.

*Accounts, directors' report and audit.*

12. Books of account, p. 922.  
 13. and schedule 1. Contents of balance sheet and profit and loss account, pp. 922, 1024.  
 14. Obligation to lay group accounts before holding company, p. 924.  
 15. Form of group accounts, p. 925.  
 16. Contents of group accounts, p. 926.  
 17. Financial year of holding company and subsidiary, p. 926.  
 18. Meaning of "holding company" and "subsidiary," p. 927.  
 19. Directors' report, p. 928.  
 20. Liability of directors for defective accounts, p. 928.  
 21. Signature and copies of accounts, p. 928.  
 22. and schedule 2. Extension of rights and duties of auditors, pp. 929, 1034.  
 23. Extension of disqualifications for appointment as auditor, p. 930.  
 24. Appointment and remuneration of auditors, p. 931.  
 25. Construction of references to documents annexed to accounts, p. 933.

*Appointment, etc., of directors and secretary.*

26. Director and secretary, p. 933.  
 27. Particulars of directors and secretaries, p. 934.  
 28. Appointment of directors to be voted on individually, p. 935.  
 29. Removal of directors, p. 936.  
 30. Retirement of directors under age limit, p. 937.  
 31. Duty to disclose age to company, p. 939.  
 32. Amendment of s. 140 of principal Act, p. 939.  
 33. Power to restrain fraudulent persons from managing companies, p. 939.

*Payments to directors.*

34. Prohibition of tax free payments to directors, p. 940.  
 35. Prohibition of loans to directors, p. 941.  
 36. Payments received by directors for loss of office or on retirement, p. 942.

*Disclosure of payments to and interest of officers.*

37. Register of directors' shareholdings, etc., p. 943.  
 38. Particulars in accounts of directors' salaries, pensions, etc., p. 945.  
 39. Particulars in accounts of loans to officers, p. 948.  
 40. Information as to compromises with creditors and members, p. 949.  
 41. General duty to make disclosure, p. 950.

COMPANIES ACT—*continued.*PART I.—MANAGEMENT AND ADMINISTRATION—*continued.**Investigations.*

- § 42. Inspection of company's affairs on application of members, p. 950.
- 43. Inspection of company's affairs in other cases, p. 952.
- 44. Proceedings on inspector's report, p. 953.
- 45. Expenses of inspection of company's affairs, p. 954.
- 46. Appointment and powers of inspectors to investigate ownership of company. p. 955.
- 47. Power to require information as to persons interested in shares or debentures, p. 957.
- 48. Power to impose restrictions on shares or debentures, p. 957.
- 49. Saving for solicitors and bankers, p. 959.

*Register of members and annual return.*

- 50. Power to keep register where made up, p. 959.
- 51. Contents of register of members, p. 960.
- 52. Preparation, etc., of annual return, p. 960.
- 53. Contents of annual return, p. 960.
- 54. and schedule 3. Inclusion in annual return of accounts of private companies, pp. 962, 1034.
- 55. Signature of annual return, etc., and penalty for false statements, p. 963.

*Registered office and name.*

- 56. Establishment of registered office, p. 964.
- 57. Amendments as to publication of name, p. 964.
- 58. Extension of Registration of Business Names Act, 1916, to companies, p. 964.

## PART II.—SHARE CAPITAL AND DEBENTURES.

*Allotment.*

- 59. Applications for, and allotment of, shares and debentures, p. 965.
- 60. Allotment of shares and debentures to be dealt in on stock exchange, p. 966.

*Prospectus.*

- 61. Facts to be stated in prospectus to which s. 35 of principal Act applies, p. 967.
- 62. Reports to be set out in prospectus to which s. 35 of the principal Act applies, p. 969.
- 63. Issue and registration of prospectus, p. 971.
- 64. Exclusion of s. 35 and relaxation of Fourth Schedule in case of certain prospectuses, p. 972.
- 65. Civil liability for mis-statements in prospectus, p. 973.
- 66. Criminal liability for mis-statements in prospectus, p. 975.
- 67. and schedule 4. Statements in lieu of prospectus, p. 975.
- 68. Interpretation of provisions relating to prospectuses, etc., pp. 976, 1039.

*Other provisions as to shares and debentures.*

- 69. Numbering of shares, p. 977.
- 70. Certification of transfers, p. 978.
- 71. Redeemable preference shares, p. 978.
- 72. and schedule 1. Application of premiums received on issue of shares, pp. 979, 1024.
- 73. Amendment of s. 45 of principal Act, p. 980.
- 74. Register of debenture holders, p. 980.
- 75. Liability of trustees for debenture holders, p. 981.

## PART III.—CONSTITUTION OF COMPANIES AND MATTERS INCIDENTAL THERETO.

- 76. Alteration of company's objects, p. 982.
- 77. Additional power to alter memorandum, p. 984.
- 78. Prohibition of registration of companies by undesirable names, p. 985.
- 79. Extension of s. 18 of principal Act to certain companies after formation, p. 985.
- 80. Membership of holding company, p. 986.
- 81. Fees on registration, p. 987.
- 82. Documents of and relating to Scottish companies, p. 988.

## COMPANIES ACT—(continued).

## PART IV.—ENFORCEMENT AND REGISTRATION OF CHARGES.

*Receivers and managers.*

- § 83. Disqualification of undischarged bankrupt from acting as receiver or manager, p. 988.  
 84. Information where receiver or manager appointed, p. 988.  
 85. Special provisions as to statement submitted to receiver, p. 990.  
 86. Enforcement of duty of receiver to make returns, etc., p. 991.  
 87. Receivers appointed out of court, p. 992.  
 88. Explanation of terms, p. 993.

*Registration of charges.*

89. Registration of charges, p. 993.

## PART V.—WINDING UP.

90. Modification of grounds on which winding up order may be made, p. 994.  
 91. Amendments as to preferential payments, p. 994.  
 92. Amendments as to fraudulent preference, p. 996.  
 93. Effect of floating charge, p. 997.  
 94. Amendments as to declaration of solvency in voluntary winding up, p. 997.  
 95. Miscellaneous amendments as to meetings in winding up, p. 999.  
 96. Miscellaneous amendments as to proceedings in or in connection with winding up, p. 1000.  
 97. Miscellaneous amendments as to information relating to windings up, p. 1000.  
 98. Unclaimed assets while liquidation proceeding, p. 1002.  
 99. Liability for rentcharge on company's land after dissolution or disclaimer, p. 1002.  
 100. Property of dissolved company, p. 1002.  
 101. Miscellaneous amendments as to civil and criminal liability, p. 1004.

## PART VI.—OFFENCES AND LEGAL PROCEEDINGS.

102. Production and inspection of books where offence suspected, p. 1005.  
 103. Proceedings on indictment in Scotland against bodies corporate, p. 1006.  
 104. Extension of time limit for summary proceedings, p. 1007.  
 105. and schedule 5. Amendments as to persons liable for certain offences, pp. 1008, 1041.  
 106. Procedure on application for confirmation of reduction of share capital, p. 1009.

## PART VII.—COMPANIES NOT REGISTERED UNDER PRINCIPAL ACT.

*Companies incorporated in Great Britain.*

107. Application of this Act to certain companies not formed under principal Act, p. 1010.  
 108. and schedule 6. Application of certain provisions to other unregistered companies, pp. 1010, 1042.  
 109. Documents relating to companies wound up under repealed Acts, p. 1011.

*Companies incorporated outside Great Britain.*

110. Prospectus of foreign company, p. 1012.  
 111. Power of foreign companies to hold land, p. 1014.  
 112. Accounts of foreign companies, p. 1014.  
 113. List of directors, p. 1014.  
 114. Publication of name, p. 1015.

## PART VIII.—AMENDMENTS, ETC., OF ACTS OTHER THAN PRINCIPAL ACT.

115. Bankruptcy, p. 1015.  
 116. Registration of business names, p. 1016.  
 117. Prevention of fraud (unit trusts), p. 1018.  
 118. and schedule 1. Consequential amendments, pp. 1019, 1024.

COMPANIES ACT—*continued.*

## PART IX.—GENERAL.

- § 119. Form of registers, etc., p. 1020.  
120, and schedule 1. Power to vary certain provisions by regulation or order, pp. 1020, 1024.  
121, and schedule 6. Laying of regulations and orders, pp. 1021, 1042.  
122, and schedules 7 and 8. Construction and application of principal Act and this Act, pp. 1022, 1043, 1044.  
123, and schedule 9. Short title, citation, commencement and repeal, pp. 1023, 1045.
- Schedule 1—Accounts :  
Part I.—General provisions as to balance sheet and profit and loss account, p. 1024.  
Part II.—Special provisions where the company is a holding or subsidiary company, p. 1029.  
Part III.—Exceptions for special classes of company, p. 1031.  
Part IV.—Interpretation of Schedule, p. 1033.
- Schedule 2.—Matters to be expressly stated in auditors' report, p. 1034.  
Schedule 3.—Conditions as to interests in shares and debentures of exempt private company, p. 1034.  
Schedule 4.—Amendments of Third and Fifth Schedules to principal Act, p. 1039.  
Schedule 5.—Amendments as to persons liable for defaults under principal Act, p. 1041.  
Schedule 6.—Provisions applied to unregistered companies, p. 1042.  
Schedule 7.—Amendments of provisions of principal Act referring to officers, p. 1043.  
Schedule 8.—Enactments of principal Act applied, p. 1044.  
Schedule 9.—Enactments repealed, p. 1045.

CONSOLIDATED FUND (NO. 1) ACT : c. 17 ... .. p. 83

COTTON (CENTRALISED BUYING) ACT : c. 26 ... .. p. 128

*Provisions for establishing centralised buying.*

- § 1. Establishment and primary functions of the Raw Cotton Commission, p. 129.  
2. Raw cotton to be imported only by the Commission, p. 130.  
3. Prohibition of dealings in raw cotton except with the consent of the Commission, p. 131.  
4. Punishment for prohibited importation or dealing, p. 131.

*Constitution of the Commission, etc.*

5. Constitution of the Commission, p. 132.  
6. Independent members of the Commission, p. 134.  
7. Powers of the Board of Trade in relation to the Commission, p. 135.  
8. Annual report of the Commission, p. 135.

*Subsidiary functions of the Commission.*

9. Research, p. 135.  
10. Cover scheme, p. 135.  
11. Agency for government departments, p. 135.  
12. General powers, p. 136.

*Transfer of cotton assets from Board of Trade, and financial provisions.*

13. Transfer to the Commission of cotton assets of the Board of Trade, p. 136.  
14. Values of assets transferred to the Commission to be treated as advanced by the Board of Trade, p. 137.  
15. Advances by the Board of Trade to the Commission, p. 138.  
16. Temporary borrowing by the Commission, p. 139.  
17. Interest on advances, p. 139.  
18. Repayment of advances, p. 139.  
19. Reserve fund of the Commission, p. 140.  
20. Commission's accounts and audit thereof, p. 140.  
21. Issues from and repayments to the Consolidated Fund, etc., p. 141.



COTTON (CENTRALISED BUYING) ACT—*continued*.*General.*

- § 22. Provisions as to the Commission's obtaining information, p. 142.
- 23. Restriction on disclosure of information, p. 142.
- 24. Prosecutions, and offences by corporations, p. 142.
- 25. Regulations, p. 143.
- 26. Exercise of powers of Board of Trade, p. 143.
- 27. Interpretation, p. 143.
- 28. Short title and extent, p. 144.

COUNTY COUNCILS ASSOCIATION EXPENSES (AMENDMENT) ACT : c. 13 p. 26

CROWN PROCEEDINGS ACT : c. 44 ... .. p. 861

## PART I.—SUBSTANTIVE LAW.

- § 1. Right to sue the Crown, p. 863.
- 2. Liability of the Crown in tort, p. 863.
- 3. Industrial property, p. 865.
- 4. Application of law as to indemnity, contribution, joint and several tortfeasors, and contributory negligence, p. 865.
- 5. Liability in respect of Crown ships, &c., p. 865.
- 6. Application to Crown ships of rules as to division of loss, &c., p. 867.
- 7. Liability in respect of Crown docks, harbours, &c., p. 868.
- 8. Salvage claims against the Crown and Crown rights to salvage, p. 868.
- 9. Liability in connection with postal packets, p. 868.
- 10. Provisions relating to the armed forces, p. 870.
- 11. Saving in respect of acts done under prerogative and statutory powers, p. 871.
- 12. Transitional provisions, p. 872.

## PART II.—JURISDICTION AND PROCEDURE.

*The High Court.*

- 13. Civil proceedings in the High Court, p. 872.
- 14. Summary applications to High Court in certain revenue matters, p. 873.

*County Courts.*

- 15. Civil proceedings in the county court, p. 873.

*General.*

- 16. Interpleader, p. 873.
- 17. Parties to proceedings, p. 874.
- 18. Service of documents, p. 875.
- 19. Venue and related matters, p. 875.
- 20. Removal and transfer of proceedings, p. 875.
- 21. Nature of relief, p. 876.
- 22. Appeals and stay of execution, p. 876.
- 23. and schedule 1. Scope of Part II, pp. 876, 893.

## PART III.—JUDGMENTS AND EXECUTION.

- 24. Interest on debts, damages and costs, p. 878.
- 25. Satisfaction of orders against the Crown, p. 878.
- 26. Execution by the Crown, p. 879.
- 27. Attachment of moneys payable by the Crown, p. 880.

## PART IV.—MISCELLANEOUS AND SUPPLEMENTAL.

*Miscellaneous.*

- 28. Discovery, p. 880.
- 29. Exclusion of proceedings in rem against the Crown, p. 881.
- 30. Limitation of actions, p. 881.
- 31. Application to the Crown of certain statutory provisions, p. 882.
- 32. No abatement on demise of Crown, p. 882.
- 33. Abolition of certain writs, p. 882.
- 34. Proceedings in courts other than the High Court and county courts, p. 882.

CROWN PROCEEDINGS ACT—*continued*.PART IV.—MISCELLANEOUS AND SUPPLEMENTAL—*continued*.*Supplemental.*

- § 35. Rules of court and county court rules, p. 883.
- 36. Pending proceedings, p. 884.
- 37. Financial provisions, p. 885.
- 38. Interpretation, p. 885.
- 39. and schedule 2. Repeals, &c., pp. 886, 893.
- 40. Savings, p. 886.

## PART V.—APPLICATION TO SCOTLAND.

- 41. Application of Act to Scotland, p. 888.
- 42. Exclusion of certain provisions, p. 888.
- 43. Interpretation for purposes of application to Scotland, p. 888.
- 44. Proceedings against the Crown in the sheriff court, p. 889.
- 45. Satisfaction of orders granted against the Crown in Scotland, p. 889.
- 46. Arrestment, p. 890.
- 47. Recovery of documents in possession of Crown, p. 890.
- 48. Application of Public Authorities Protection Act, 1893, to the Crown, p. 890.
- 49-51. Application to Scotland of ss. 26, 35-6, 38 of this Act, pp. 890-1.

## PART VI.—EXTENT, COMMENCEMENT, SHORT TITLE, &amp;c.

- 52. Extent of Act, p. 891.
- 53. Northern Ireland, p. 892.
- 54. Short title and commencement, p. 892.
- Schedule 1.—Proceedings abolished by this Act, p. 893.
- Schedule 2.—Enactments repealed, p. 893.

## DOG RACECOURSE BETTING (TEMPORARY PROVISIONS) ACT : c. 20 ... p. 106

- § 1. Temporary limitation of dog racecourse betting to Saturdays and certain other days, and variation of restrictions for those days, p. 106.
- 2. Temporary limitation of dog racecourse betting on Saturdays to after 1.0 p.m., p. 107.
- 3. Application to Scotland, p. 108.
- 4. Expiry of this Act, and power to relax its operation in particular localities, p. 108.
- 5. Short title, construction and extent, p. 109.

## EDUCATION (EXEMPTIONS) (SCOTLAND) ACT : c. 36 ... .. p. 400

## EXCHANGE CONTROL ACT : c. 14 ... .. p. 27

## PART I.—GOLD AND FOREIGN CURRENCY.

- § 1, and schedule 1. Dealings in gold and foreign currency, pp. 28, 57.
- 2. Surrender of gold and foreign currency, p. 29.
- 3. Bailees of gold and foreign currency, p. 30.
- 4. Travellers' cheques, etc., p. 30.

## PART II.—PAYMENTS.

- 5. Payments in the United Kingdom, p. 31.
- 6. Payments outside the United Kingdom, p. 31.
- 7. Compensation deals, p. 32.

## PART III.—SECURITIES.

- 8. Issue of securities, p. 32.
- 9. Transfer of securities and coupons, p. 33.
- 10. Issue of bearer certificates and coupons, p. 34.
- 11. Substitution of securities and certificates outside United Kingdom, p. 34.
- 12. Payment of capital moneys outside the United Kingdom, p. 34.

**EXCHANGE CONTROL ACT—continued.**

**PART III.—SECURITIES—continued.**

- § 13. Duties of persons keeping registers, p. 35.
- 14. Additional provisions as to nominee holdings, p. 35.
- 15. Deposit of certificates of title, p. 36.
- 16. Additional provisions as to deposited certificates, p. 37.
- 17. Special provisions as to dealings in certain securities, p. 38.
- 18. Validation of certain transfers, p. 39.
- 19. Application of Part III to secondary securities, p. 39.
- 20. Interpretation of Part III, p. 39.

**PART IV.—IMPORT AND EXPORT.**

- 21. Restrictions on import, p. 42.
- 22. General restrictions on export, p. 42.
- 23. Payment for exports, p. 43.

**PART V.—MISCELLANEOUS.**

- 24. Duty to collect certain debts, p. 43.
- 25. Duty not to delay sale or importation of goods, p. 44.
- 26. Property obtained by infringement of Act, p. 46.
- 27. Provisions supplemental to preceding provisions of Part V, p. 46.
- 28. Transfer of annuities, policies, etc., p. 47.
- 29. Settlements, p. 47.
- 30, and schedule 2. Companies, pp. 47, 58.

**PART VI.—SUPPLEMENTAL.**

- 31. Exemptions, p. 50.
- 32, and schedules 2 and 3. Blocked accounts, pp. 50, 58, 59.
- 33, and schedule 4. Contracts, legal proceedings, etc., pp. 50, 60.
- 34, and schedule 5. Enforcement and administration, pp. 51, 63.
- 35. Application to Crown, p. 51.
- 36, and schedule 6. Treasury orders, pp. 51, 69.
- 37. Other powers of Treasury, p. 52.
- 38. Financial provisions, p. 53.
- 39. Branches, p. 53.
- 40. Persons leaving the scheduled territories, p. 54.
- 41. Determination of residence, p. 54.
- 42. Interpretation, p. 54.
- 43. Extent, p. 56.
- 44. Short title, commencement and repeal, p. 57.
- Schedule 1.—The Scheduled Territories, p. 57.
- Schedule 2.—Foreign Companies, p. 58.
- Schedule 3.—Blocked Accounts, p. 59.
- Schedule 4.—Legal Proceedings, etc., p. 60.
- Schedule 5.—Enforcement
  - Part I.—General provisions as to evidence and information, p. 63.
  - Part II.—General provisions as to offences, p. 65.
  - Part III.—Import and export, p. 68.
- Schedule 6.—Orders not required to be laid before Parliament, p. 69.

**FINANCE ACT : C. 35** ... .. p. 287

**PART I.—CUSTOMS AND EXCISE.**

- § 1. Hydrocarbon oils, p. 290.
- 2. Discontinuance of charge of duty on removal of oils to a refinery, p. 291.
- 3, and schedule 1. Tobacco, pp. 292, 362.
- 4. Relief for pensioners in respect of increase in tobacco duty, p. 293.
- 5, and schedule 2. Repeal and reduction of certain artificial silk duties and allowances, pp. 294, 363.
- 6. Duty free use of sugar, etc., p. 295.
- 7. Imported films, p. 296.
- 8. Reduction of duty and other relief in respect of certain mechanically propelled vehicles, p. 297.
- 9. Rate of excise duty on motor-cars (other than electrically propelled), p. 298.

**FINANCE ACT—continued.**

**PART II.—PURCHASE TAX.**

- § 10, and schedules 3 and 4. Intermediate rate of purchase tax on certain goods, pp. 299, 364, 365.
- 11, and schedules 5 and 6. Cesser of charge and reduction of rates of purchase tax on certain goods, pp. 301, 368, 370.
- 12. Commencement of two preceding sections, and saving, p. 301.
- 13. Adjustment of rights as between seller and buyer under certain sales of electric and gas appliances, p. 301.

**PART III.—INCOME TAX.**

*Charge of tax, etc.*

- 14. Income Tax for 1947-48, p. 302.
- 15. Alteration of certain reliefs, p. 303.
- 16. Repayment of post-war credits, p. 304.
- 17. Continuance of allowance for repairs, p. 304.
- 18. Relief from balancing charges for certain cotton spinning concerns, p. 304.

*Retirement and other benefits for directors and employees.*

- 19. Charge to tax in respect of provision for retirement or other benefits to directors and employees of bodies corporate, p. 305.
- 20. Exemptions from charge to tax under the preceding section, p. 307.
- 21. Approval of retirement benefit schemes, p. 308.
- 22. Aggregation and severance of schemes, p. 309.
- 23. Supplementary provisions as to retirement or other benefits and application to unincorporated societies, p. 310.

*Miscellaneous provisions as to income tax.*

- 24. Relief for capital expenditure on rehabilitation, p. 313.
- 25. Payments of the profits tax to be treated as expenses of management, p. 315.
- 26. Amendment of s. 4 of Income Tax Act, 1945, p. 316.
- 27. Exemption from income tax of training expenses allowances and bounties of reserve and auxiliary forces, p. 316.
- 28. Exemption from income tax of gratuities payable to certain women who re-engage in the forces, p. 316.
- 29, and schedule 7. Assets transferred under Coal Industry Nationalisation Act, 1946, pp. 316, 373.

**PART IV.—THE PROFITS TAX.**

*Principal changes of the law.*

- 30. Rate of the profits tax, p. 317.
- 31. Exemption of individuals and partnerships of individuals from the profits tax, p. 318.
- 32. Investment income to be included in computing profits, p. 320.
- 33. Abatement of profits in certain cases, p. 320.

*Supplementary provisions as to non-distribution relief and distribution charges.*

- 34. Meaning of "net relevant distributions to proprietors," p. 321.
- 35. Meaning of "gross relevant distributions to proprietors," p. 322.
- 36. Meaning of "distribution" and provision with respect to repaid loans, p. 324.
- 37. Apportionments to be made to arrive at gross relevant distributions for a period, p. 326.

*Provisions applicable in special cases.*

- 38. Subsidiary companies, p. 326.
- 39. Persons resident outside United Kingdom, p. 328.
- 40. Nationalised undertakings, p. 329.
- 41. Industrial and provident societies, p. 331.
- 42. Building societies, p. 331.
- 43. Persons carrying on several trades or businesses and changes in the persons carrying on trades or businesses, p. 331.
- 44. Liquidations, receiverships, partnerships, etc., p. 332.

FINANCE ACT—*continued.*PART IV.—THE PROFITS TAX—*continued.**Miscellaneous provisions as to the profits tax.*

- § 45. Amendment of limit on amount allowable as deduction in respect of directors' remuneration, p. 333.  
 46. and schedule 8. Co-ordination of treatment for profits tax purposes with treatment for income tax and excess profits tax purposes, etc., pp. 333, 377.  
 47. Commencement of Part IV and transitional provisions, p. 333.  
 48. Interpretation of Part IV, p. 335.

## PART V.—DEATH DUTIES.

49. Charge of additional duty, p. 335.  
 50. Limits of value, p. 337.  
 51. Relief from estate duty on bearer securities compulsorily registered, p. 339.

## PART VI.—STAMP DUTIES.

*Increase of existing duties.*

52. Increase of existing duties and provisions consequential thereon, p. 339.  
 53. Transitional provisions as to compositions for transfers of stock, etc., and as to loan capital, p. 341.  
 54. Savings for certain conveyances and leases, p. 342.  
 55. Savings for maximum rates, p. 343.

*Other provisions as to existing duties.*

56. Repeal or reduction of duties on legal professions, p. 344.  
 57. Exemption of transfers of stock guaranteed by Treasury, p. 345.  
 58. Extension and explanation of charge on customs bonds, p. 345.  
 59. Time for payment of companies capital duty by statutory companies, p. 345.

*Duty on bonus issues of securities.*

60. Charge of duty on bonus issues of securities, etc., p. 346.  
 61. Special provisions as to issue of securities, p. 347.  
 62. Special provisions as to variation of rights or liabilities on securities, p. 350.

## PART VII.—MISCELLANEOUS.

63. Excess profits tax and profits tax—provisions as to remuneration of directors, p. 350.  
 64. Provision applicable where joint and several liability has been imposed under Finance Act, 1943, s. 24, p. 352.  
 65. Relaxation of rules as to use of post-war refunds of excess profits tax in case of nationalised undertakings, etc., p. 354.  
 66. and schedule 9. Amendments as to granting of credit for foreign tax, pp. 356, 385.  
 67. and schedule 10. Treatment of farm animals, etc., for income tax and profits tax purposes, pp. 356, 392.  
 68. Permanent annual charge for the National Debt, p. 357.  
 69. Amendment as to deficit for 1946-47, p. 357.  
 70. Reduction of debt, p. 357.  
 71. Winding up of Essential Commodities Reserves Fund, p. 358.  
 72. Payment out of Consolidated Fund of deficiencies of interest on Post Office Savings Banks Fund and Fund for the Banks for Savings, p. 358.  
 73. Monopoly value of new on-licence where current on-licence surrendered, p. 359.  
 74. and schedule 11. Short title, construction, extent and repeals, pp. 360, 397.  
 Schedule 1.—Tobacco (rates of duty and drawback), p. 362.  
 Schedule 2.—Artificial Silk Duties, p. 363.  
 Schedule 3.—Purchase Tax—Intermediate rate (Goods chargeable), p. 364.

FINANCE ACT—*continued.*PART VII.—MISCELLANEOUS—*continued.*

- Schedule 4.—Purchase Tax—Intermediate rate (Consequential and supplementary provisions), p. 365.  
 Schedule 5.—Purchase Tax—Exemptions and reductions, p. 368.  
 Schedule 6.—Purchase Tax : amendments of Seventh Schedules to Finance (No. 2) Act, 1940, and Finance Act, 1942, consequential on exemptions and reductions provided by Fifth Schedule to this Act, p. 370.  
 Schedule 7.—Income Tax in relation to assets transferred under Coal Industry Nationalisation Act, 1946, p. 373.  
 Schedule 8.—Computation of profits, etc., for purposes of the profits tax, p. 377.  
 Schedule 9.—Double taxation, p. 385.  
 Schedule 10.—Treatment of farm animals, etc., for income tax and profits tax purposes, p. 392.  
 Schedule 11.—Enactments repealed, p. 397.

## FIRE SERVICES ACT : C. 41 ... .. P. 442

*Provision of fire services.*

- § 1. Provision of fire services, p. 444.  
 2. Arrangements for mutual assistance, p. 445.  
 3. Supplementary powers of fire authorities, p. 446.

*Fire Authorities.*

4. County and county borough councils to be fire authorities, p. 448.  
 5. Voluntary schemes for combination of fire authorities, p. 448.  
 6. Power of Secretary of State to make combination schemes, p. 449.  
 7. Appointment of joint committees by fire authorities, p. 450.  
 8, and schedule 1. Constitution and powers of fire authorities constituted by combination schemes, pp. 451, 481.  
 9. Amendment and revocation of combination schemes, p. 452.  
 10. Power to make schemes in advance of alterations of local government areas, p. 453.  
 11. Adaptation of local Acts relating to fire services, p. 453.  
 12. Discharge of functions of fire authorities through other fire authorities or persons, p. 454.

*Supply of water for fire-fighting.*

13. Duty of fire authorities to ensure supply of water for fire-fighting, p. 455.  
 14. Supply of water by statutory undertakers, p. 455.  
 15. Provision of water supply otherwise than by statutory undertakers, p. 456.  
 16. Notice to be given of proposed works affecting water supply and fire hydrants, p. 457.

*Administrative provisions.*

17. Conditions of service, p. 457.  
 18. Procedure and qualifications for appointments and promotions, p. 458.  
 19, and schedule 2. Fire brigade establishments to be determined in accordance with approved schemes, pp. 459, 482.  
 20. Fire brigade committees in counties, p. 460.  
 21. Standards of training and equipment, p. 462.  
 22. Provision by Secretary of State of equipment, p. 462.  
 23. Training centres, p. 462.  
 24. Inspectors of Fire Brigades, p. 462.  
 25. Grants to fire authorities, p. 463.

*Pensions, etc.*

- 26, and schedule 3. Firemen's Pension Scheme, pp. 463, 483.  
 27. Firemen's Pension Scheme to supersede other statutory schemes, p. 466.  
 28. Preservation of pensions, etc., p. 469.

FIRE SERVICES ACT—*continued.**Miscellaneous and General.*

- § 29. Central Fire Brigades Advisory Council, p. 470.  
 30. Powers of firemen and police in extinguishing fires, p. 470.  
 31. False alarms of fire, p. 471.  
 32. Members of police force not to be employed in fire brigade, p. 472.  
 33. Inquiries, p. 472.  
 34. Expenses and receipts of Secretary of State, p. 472.  
 35. Regulations and orders to be laid before Parliament, p. 472.  
 36. Application to Scotland, p. 473.  
 37. Application to Isles of Scilly, p. 479.  
 38. Interpretation, p. 480.  
 39, and schedules 5 and 6. Short title, extent, transitional provisions, repeals and savings, pp. 480, 484, 491.  
 Schedule 1.—Making, Approval and Variation of Establishment Schemes and Management Schemes for Counties, p. 481.  
 Schedule 2.—Application to Combined Fire Authorities of Provisions as to Establishment Schemes and Management Schemes, p. 482.  
 Schedule 3.—Provisions of Fire Brigade Pensions Act, 1925 applicable for purposes of Firemen's Pension Scheme, p. 483.  
 Schedule 4.—Combined Areas in Scotland, p. 484.  
 Schedule 5.—Transitional provisions, p. 484.  
 Schedule 6.—Enactments repealed, p. 491.

FOREIGN MARRIAGE ACT : c. 33 ... .. p. 281

FORESTRY ACT : c. 21 ... .. p. 109

*Forestry dedication covenants (England).*

- § 1. Forestry dedication covenants and enforcement thereof, p. 110.  
 2. Power of tenants for life, etc., to enter into forestry dedication covenants, p. 110.

*Forestry dedication agreements (Scotland).*

3. Forestry dedication agreements and enforcement thereof, p. 111.  
 4. Power of liferenters, etc., to enter into forestry dedication agreements, p. 112.

*Miscellaneous, short title, etc.*

5. Restriction on compulsory acquisition of dedicated land, p. 112.  
 6. Deduction of grants from compensation in case of compulsory acquisition, p. 112.  
 7. Execution of certain instruments on behalf of Secretary of State, p. 113.  
 8. Short title, construction, citation, and extent, p. 113.

GREENWICH HOSPITAL ACT : c. 5 ... .. p. 1

HOUSE OF COMMONS (REDISTRIBUTION OF SEATS) ACT : c. 10 ... .. p. 20

INDIAN INDEPENDENCE ACT : c. 30 ... .. p. 236

- § 1. The new Dominions, p. 237.  
 2. Territories of the new Dominions, p. 237.  
 3, and schedule 1. Bengal and Assam, pp. 238, 253.  
 4, and schedule 2. The Punjab, pp. 239, 253.  
 5. The Governor-General of the new Dominions, p. 239.  
 6. Legislation for the new Dominions, p. 240.  
 7. Consequences of the setting up of the new Dominions, p. 240.  
 8. Temporary provision as to government of each of the new Dominions, p. 241.  
 9. Orders for bringing this Act into force, p. 242.  
 10. Secretary of State's services, etc., p. 244.  
 11. Indian armed forces, p. 245.  
 12, and schedule 3. British forces in India, pp. 245, 253.  
 13. Naval forces, p. 246.

INDIAN INDEPENDENCE ACT—*continued.*

- § 14. The Secretary of State and the Auditor of Indian Home Accounts, p. 247.  
 15. Legal proceedings by and against the Secretary of State, p. 247.  
 16. Aden, p. 248.  
 17. Divorce jurisdiction, p. 249.  
 18. Provisions as to existing laws, etc., p. 250.  
 19. Interpretation, etc., p. 251.  
 20. Short title, p. 252.  
 Schedule 1.—Bengal Districts provisionally included in the new Province of East Bengal, p. 253.  
 Schedule 2.—Districts provisionally included in the new Province of West Punjab, p. 253.  
 Schedule 3.—Modifications of Army Act and Air Force Act in relation to British forces, p. 253.

## INDUSTRIAL ORGANISATION AND DEVELOPMENT ACT : c. 40 ... .. p. 429

*Development councils.*

- § 1, and schedule 1. Power to establish development councils, and purposes thereof, pp. 430, 440.  
 2, and schedule 2. Constitution, etc., of development councils, pp. 431, 441.  
 3. Provisions for furnishing development councils with information as to their industries, p. 432.  
 4. Levies by development councils, p. 432.  
 5. Restriction on disclosure of information, p. 433.  
 6. Enforcement of provisions for registration and furnishing of information, etc., p. 434.  
 7. Reports, and accounts, of development councils, p. 435.  
 8. Amendment or termination of provision for a development council, p. 435.

*Miscellaneous.*

9. Levies for certain purposes for industries for which there is no development council, p. 436.  
 10. Disposal of sums levied for industries under certain emergency provision, p. 438.  
 11. Grants to the Council of Industrial Design, and to design centres, p. 438.

*General.*

12. Administrative expenses, p. 438.  
 13. Exercise of powers of Board of Trade, p. 438.  
 14. Ascertainment of activities to be treated as comprised in an industry, p. 438.  
 15. Application to Northern Ireland, p. 439.  
 16. Repeal of Cotton Industry (Reorganisation) Act, p. 440.  
 17. Short title, p. 440.  
 Schedule 1.—Functions which may be assigned to development councils, p. 440.  
 Schedule 2.—Subsidiary matters relating to development councils, p. 441.

## ISLE OF MAN HARBOURS ACT : c. 28 ... .. p. 232

## LOCAL GOVERNMENT (SCOTLAND) ACT : c. 43 ... .. p. 513

## PART I.—CONSTITUTION AND ELECTIONS.

## LOCAL GOVERNMENT AREAS.

- § 1, and schedule 1. Division into administrative areas, pp. 527, 757.

## COUNTY COUNCILS.

*Constitution.*

2. Establishment of county councils, p. 528.  
 3. Constitution of county councils, p. 528.



LOCAL GOVERNMENT (SCOTLAND) ACT—*continued.*PART I.—CONSTITUTION AND ELECTIONS—*continued.*COUNTY COUNCILS—*continued.**County Councillors.*

- § 4. Term of office of county councillors, p. 528.

*Election of County Councillors representing Landward Area.*

5. Day of election of county councillors for landward area, p. 529.
6. Division of landward area of county into electoral divisions, p. 529.
7. Electors, p. 530.
8. Polling districts, p. 530.
9. Appointment of returning officer, etc., p. 530.
- 10, and schedule 2. Conduct of election of county councillors for landward area. pp. 530, 759.
11. Expenses of election of county councillors for landward area, p. 530.

*Election of County Councillors representing Burghs.*

12. Election of county councillors representing burghs, p. 531.

*Alteration of Number of County Councillors and of Electoral Divisions.*

13. Alteration of number of county councillors and of electoral divisions, p. 531

*Convener and Vice-Convener of County.*

14. Convener and vice-convener of county, p. 531.

## TOWN COUNCILS.

*Constitution.*

15. Establishment of town councils, p. 533.
16. Constitution of town councils, p. 533.

*Town Councillors.*

17. Term of office of town councillors, p. 534.

*Election of Town Councillors.*

18. Day of annual election of town councillors, p. 534.
19. Burgh and ward elections, p. 534.
20. Division of burgh into wards, p. 535.
21. Alteration of wards in burgh, p. 535.
22. Electors, p. 536.
23. Polling districts, p. 536.
24. Returning officer, p. 536.
- 25, and schedule 2. Conduct of election of town councillors, pp. 537, 759.
26. Expenses of election of town councillors, p. 537.
27. Date of election in fishing burghs, p. 537.

*Provost, Magistrates, Honorary Treasurer and Judges of Police.*

28. Election and term of office of provost, p. 537.
29. Election and term of office of other magistrates, p. 538.
30. Honorary treasurer, p. 538.
31. Meeting for election of provost, bailies and honorary treasurer, p. 539.
32. Acting chief magistrate in absence of provost, p. 540.
33. Resignation of magistrate or honorary treasurer, p. 540.
34. Filling of casual vacancies in case of provost, bailie, or honorary treasurer, p. 541.
35. Magistrates exempted from serving on juries, p. 541.
36. Appointment of town councillor to act as judge of police, p. 541.
37. Provost, &c. to go out of office on ceasing to be town councillor, p. 541.

LOCAL GOVERNMENT (SCOTLAND) ACT—*continued.*PART I.—CONSTITUTION AND ELECTIONS—*continued.*

## DISTRICT COUNCILS.

*District Council Schemes and Constitution of District Councils.*

- § 38. District council schemes, p. 542.  
39. Establishment and constitution of district councils, p. 543.

*District Councillors.*

40. Term of office of district councillors, p. 543.

*Election of Elected District Councillors.*

41. Day of election of elected district councillors, p. 544.  
42. District council elections, p. 544.  
43. Division of electoral division into wards, p. 544.  
44. Electors, p. 545.  
45. and schedule 2. Conduct of election of elected district councillors, pp. 545, 759.  
46. Expenses of election of elected district councillors, p. 546.

*Chairman and Vice-Chairman of District Council.*

47. Chairman and Vice-Chairman of district council, p. 546.

*General.*

48. Determination by lot in case of equality of votes in certain matters, p. 547.  
49. Publication of orders by Secretary of State under Part I, p. 547.

## PART II.—GENERAL PROVISIONS AS TO MEMBERS OF LOCAL AUTHORITIES AND ELECTIONS.

*Qualifications for Office.*

50. Qualifications for nomination, election and holding office as member of local authority, p. 548.  
51. Re-election, p. 548.

*Disqualifications for Office.*

52. Disqualifications for nomination, election and holding office as member of local authority, p. 548.  
53. Procedure in case of disqualification, p. 549.  
54. Validity of acts done by unqualified persons, p. 551.

*Declaration by member elected by Local Authority.*

55. Declaration by member elected by local authority, p. 551.

*Resignation and Vacation of Office.*

56. Resignation, p. 552.  
57. Vacation of office by failure to attend meetings, p. 552.

*Casual Vacancies.*

58. Casual vacancies, p. 553.  
59. Filling of casual vacancies, p. 554.

*Miscellaneous Provisions as to Elections.*

60. Right of candidate to use of schoolroom, &c., at election, p. 556.  
61. Election not invalidated by non-compliance in certain cases, p. 557.  
62. Election valid unless questioned by election petition, p. 557.  
63. Election where poll countermanded on account of death of candidate, p. 558.  
64. and schedule 3. Provision in case of non-election of local authority, &c., pp. 558, 794.  
65. Ballot boxes, p. 558.  
66. Saving for Elections (Scotland) (Corrupt and Illegal Practices) Act, 1890, p. 559.

*Offences.*

67. Failure of returning officer, &c., to conduct elections, p. 559.  
68. Offences in relation to nomination papers, ballot papers and ballot boxes, p. 559.  
69. Offence of personation, p. 560.  
70. Penalty for voting in more than one electoral division or ward, p. 560.

LOCAL GOVERNMENT (SCOTLAND) ACT—*continued.*

## PART III.—MEETINGS, PROCEEDINGS AND OFFICES OF LOCAL AUTHORITIES.

*Meetings and Proceedings.*

- § 71, and schedule 3. Meetings and proceedings of local authorities, &c., pp. 561, 794.  
 72. Voting by county councillors, p. 561.  
 73. Disability of member of local authority for voting on account of interest in contract, &c., p. 562.

*Halls, Offices and Buildings.*

74. Provision of halls, offices and buildings, p. 564.  
 75. Use of schoolroom for district council meetings, p. 566.

## PART IV.—OFFICERS.

*Officers of County Council.*

76. County clerk, p. 566.  
 77. County treasurer, p. 567.  
 78. County collector, p. 567.  
 79. County medical officer of health and county sanitary inspector, p. 567.  
 80. County surveyor, p. 569.  
 81. County valuation assessor, p. 569.  
 82. Appointment of other staff, p. 569.  
 83. Appointment of depute or interim officers, p. 570.

*Officers of Town Council.*

84. Town clerk, p. 571.  
 85. Town chamberlain, p. 572.  
 86. Burgh collector, p. 573.  
 87. Burgh medical officer of health and burgh sanitary inspector, p. 573.  
 88. Burgh surveyor, inspector of cleansing and inspector of lighting, p. 574.  
 89. Clerk of burgh police court, p. 575.  
 90. Burgh prosecutor, p. 575.  
 91. Burgh valuation assessor, p. 576.  
 92. Appointment of other staff, p. 576.  
 93. Appointment of depute or interim officers, p. 577.

*Officers of District Council.*

94. District council officers, p. 578.

*Officers of Joint Committee or Joint Board.*

95. Officers of joint committee or joint board, p. 579.

*General.*

96. Regard to be had to enactments relating to superannuation, p. 579.  
 97. Local authority may regulate duties of officers, &c. p. 579.  
 98. Security to be given by officers, p. 580.  
 99. Apportionment of loss due to defalcation of officer of local authority, p. 580.  
 100. Notice of termination of appointments held during pleasure, p. 581.  
 101. Member of local authority not to be appointed officer of authority or of committee or joint committee or joint board, p. 581.  
 102. Disclosure by officers of interest in contracts, p. 581.  
 103. Protection for officer of local authority acting in execution of duty, p. 582.  
 104. Savings for existing officers, &c., p. 583.

## PART V.—ADMINISTRATIVE SCHEMES, COMMITTEES AND JOINT COMMITTEES.

*Administrative Schemes.*

105. Schemes for administration of functions in county and large burgh, p. 583.  
 106. Contents of administrative scheme for education, p. 584.  
 107. Contents of other administrative schemes, p. 587.

LOCAL GOVERNMENT (SCOTLAND) ACT—*continued.*PART V.—ADMINISTRATIVE SCHEMES, COMMITTEES AND JOINT COMMITTEES—*continued.**Certain Statutory Committees of Local Authorities.*

- § 108. Education committee for county and county of city, p. 589.
- 109. Sub-committees for management of educational establishments, p. 590.
- 110. Roads committee in county, p. 592.
- 111. Health committee and committee for poor law purposes, p. 592.
- 112. Police committee in county and large burgh with police force, p. 592.
- 113. Finance committee in case of every local authority, p. 593.
- 114. Constitution of sub-committees of committees for administrative scheme functions, p. 594.

*General Power to Appoint Committees and Provisions as to Committees.*

- 115. Appointment of committees and sub-committees, p. 594.
- 116. Constitution of committees and sub-committees and term of office of members thereof, p. 595.
- 117. Proceedings of committees and sub-committees, p. 595.

*Combination of Local Authorities.*

- 118. Combination of counties of Perth and Kinross and of Moray and Nairn for certain purposes, p. 596.
- 119. Voluntary combination of local authorities, p. 597.
- 120. Compulsory combination of local authorities, p. 598.
- 121. Members and proceedings of joint committees and joint boards, p. 599.
- 122. Basis of valuation, in cases of combinations of local authorities, &c., p. 600.

*Appointment by County Council of Town Councils of Small Burghs and District Councils to be Agents.*

- 123. County council may appoint town councils of small burghs and district councils to be agents, p. 601.

*Provisions common to Committees, Joint Committees and Joint Boards.*

- 124. Prohibition of delegation to committee, &c., of power to rate or borrow, p. 602.
- 125. Disqualification for membership of committees, joint committees and joint boards, p. 602.
- 126. Disability of member for voting on account of interest in contract, &c., p. 603.

PART VI.—CHANGE OF NAME OF AREAS, BOUNDARIES OR AREAS  
AND ALTERATION OF AREAS.*Change of Name.*

- 127. Change of name of county or burgh, p. 604.

*Boundaries of Areas.*

- 128. Boundaries of counties, p. 605.
- 129. Boundaries of burghs, p. 605.

*Alteration of Areas.*

- 130. Alteration of boundaries of counties, p. 606.
- 131. Power of sheriff to alter burgh boundary, p. 606.
- 132. Appeal to Court of Session against alteration of burgh boundary, p. 608.
- 133. Formation of new small burgh, p. 609.
- 134. Dissolution of small burgh, p. 613.
- 135. Power of Secretary of State to alter parish boundary or name of parish, p. 616.
- 136. Rectification of boundary, p. 616.
- 137. Alteration of districts and district boundaries, p. 616.

LOCAL GOVERNMENT (SCOTLAND) ACT—*continued.*PART VI.—CHANGE OF NAME OF AREAS, BOUNDARIES OR AREAS AND ALTERATION OF AREAS—*continued.**Supplemental Provisions.*

- § 138. Change of name and alteration of areas, p. 617.  
 139. Presumption of compliance with statutory provisions, p. 617.  
 140. Transfer of functions, p. 618.  
 141. Adjustment of property and liabilities, p. 619.  
 142. Adjustment in respect of increase of burden on ratepayers, p. 620.  
 143. Funds held in trust for whole area to apply to area after alteration, p. 621.  
 144. Power of Secretary of State to make orders to carry alteration of area into effect, p. 622.  
 145. Savings, p. 622.

## PART VII.—SPECIAL DISTRICTS.

146. Special districts, p. 622.  
 147. Procedure for formation, alteration, combination or dissolution of special districts, p. 623.  
 148. Management of special districts, p. 625.  
 149. Power to apply burgh statutory provisions, p. 625.  
 150. Inclusion of whole or part of special district within a burgh, p. 626.  
 151. Combination of special water and drainage districts when required by Secretary of State, p. 627.  
 152. Schemes for dissolution of special water and drainage districts, p. 627.  
 153. Expenses of special districts, p. 629.  
 154. Contributions by county council to expenses of special districts, p. 629.  
 155. Savings, p. 630.

## PART VIII.—ACQUISITION OF AND DEALINGS IN LAND BY LOCAL AUTHORITIES.

*Acquisition of Land by Agreement.*

156. Acquisition of land by agreement, p. 630.  
 157. Acquisition of land in advance of requirements, p. 630.  
 158. Application of Lands Clauses Acts and other enactments to acquisition of land by agreement, p. 631.

*Compulsory Acquisition of Land.*

159. Application of Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, p. 631.  
 160. Compulsory purchase of land for particular purposes, p. 631.  
 161. Expenses relating to compulsory purchase order, p. 631.

*Title to Land.*

162. Title to land, p. 632.

*Appropriation of Land.*

163. Power to appropriate land, p. 632.

*Erection of Buildings, &c.*

164. Power to erect buildings, &c., p. 632.

*Disposal of Land.*

165. Power to let land, p. 632.  
 166. Power to sell land, p. 632.  
 167. Power to excamb land, p. 633.  
 168. Land to be sold for best price and application of capital moneys, p. 633.  
 169. Payment of purchase or compensation money by one local authority to another, p. 633.

*General.*

170. Land acquired for public recreation from heir of entail, p. 633.  
 171. Sale, &c., of land to apply to land forming part of common good, p. 634.  
 172. Interpretation, p. 635.  
 173. and schedule 4. Savings, pp. 635, 801.

LOCAL GOVERNMENT (SCOTLAND) ACT—*continued.*

PART IX.—ACCOUNTS, FUNDS AND EXPENSES OF LOCAL AUTHORITIES.

*Financial Year.*

- § 174. Financial year of local authorities, p. 636.

*Accounts.*

175. Accounts, p. 636.

*County Fund and Expenses of County Council.*

176. County fund, p. 637.  
177. Annual budget of county council, p. 637.  
178. Payments to and out of county fund, p. 639.  
179. Payments by county council in respect of salaries of procurators fiscal, &c., p. 640.

*Burgh Fund and Expenses of Town Council.*

180. Burgh fund, p. 640.  
181. Annual budget of town council, p. 641.  
182. Payments to and by town council, p. 642.  
183. Town council may contribute out of common good towards expenditure on statutory functions, p. 643.

*District Council Fund and Expenses of District Council.*

184. District council fund, p. 644.  
185. Annual budget of district council, p. 644.  
186. Payments to and out of district council fund, p. 645.

*Expenses of Justices of the Peace.*

187. Expenses of justices of the peace, p. 646.

*Fee Fund of Local Authority.*

188. Fee fund of local authorities, p. 646.

*Accounts to be made up Yearly and laid before Local Authority for approval.*

189. Accounts to be made up yearly, p. 647.  
190. Audited accounts to be laid before local authority for approval, p. 648.

*Limitation of Annual Expenditure in certain cases.*

191. and schedule 5. Limitation of certain annual expenditure defrayed out of county rate or burgh rate, pp. 648, 802.  
192. Limitation of expenditure in other case, p. 651.

*General.*

193. Apportionment of general expenses, p. 651.  
194. Regulations under Part IX of Act, p. 651.  
195. Savings, p. 652.

PART X.—AUDIT OF ACCOUNTS OF LOCAL AUTHORITIES.

*Accounts subject to Audit, Appointment of Auditors and Production of Books and Documents.*

196. Accounts of local authorities to be audited, p. 653.  
197. Appointment of auditors, p. 653.  
198. Production of books and documents, p. 654.

*Intimation of Audit and Right of Inspection of Abstract of Accounts by Ratepayers.*

199. Intimation of audit, p. 654.  
200. Deposit of abstract of accounts for inspection by ratepayers, p. 655.

LOCAL GOVERNMENT (SCOTLAND) ACT—*continued.*PART X.—AUDIT OF ACCOUNTS OF LOCAL AUTHORITIES—*continued.**Reports by Auditor and Surcharge, &c.*

- § 201. Power of Secretary of State to disallow illegal payments and surcharge on interim report of auditor, p. 655.  
 202. Power of Secretary of State to require rectification of accounts, p. 657.  
 203. Auditor's report on accounts, p. 657.  
 204. Abstract of audited accounts and auditor's report to be open to public inspection, p. 658.  
 205. Notice of surcharge, of rectification of accounts or of auditor's report on accounts, p. 658.

*General.*

206. Audit of accounts of joint committees and joint boards, p. 658.  
 207. Regulations as to audit, p. 659.  
 208. Saving and interpretation, p. 659.

## PART XI.—LEVY AND COLLECTION OF RATES BY RATING AUTHORITIES AND REQUISITIONS FOR PAYMENT BY OTHER LOCAL AUTHORITIES.

*Rating Authorities and Requisitioning Authorities and General Duties.*

209. Rating authorities, p. 659.  
 210. Requisitioning authorities, p. 660.  
 211. Expenses of local authority under public general Acts to be defrayed out of rates or sums requisitioned, p. 660.  
 212. Duty of local authority to levy sufficient rates or issue sufficient requisition, p. 660.  
 213. Sums to be raised by rates to be ascertained by reference to expenditure on functions within area to which functions relate, p. 661.

*Requisitions.*

214. Requisitions by county council to town councils of burghs, p. 661.  
 215. Requisition by district council to county council, p. 662.  
 216. Requisitions by joint committees and joint boards, p. 663.  
 217. Certification of valuation for apportionment of expenditure for rating purposes, p. 663.  
 218. Apportionment of expenditure for rating purposes to be on basis of valuation roll for previous year, p. 664.  
 219. Provisions for securing payment of sums in requisition, p. 664.

*General Provisions as to Rates.*

220. Rates to be levied for financial year of rating authority, p. 665.  
 221. Rates to be levied on lands and heritages according to rateable value in valuation roll, p. 665.  
 222. Incidence of rates between owners and occupiers, p. 665.  
 223. Uniform rates, p. 665.

*Levy of Rates.*

224. and schedule 5. County rate and burgh rate, pp. 666, 802.  
 225. Special district rates, p. 668.  
 226. District council rate, p. 668.  
 227. Other rates required to be levied, p. 668.  
 228. Rates to be levied notwithstanding appeal under Valuation Acts, p. 669.  
 229. Rates on lands and heritages in supplementary valuation roll, p. 669.  
 230. Amount per pound of rates to be determined by 31st October, p. 669.

*Payment of Rates.*

231. Date and place of payment of rates, p. 670.  
 232. Payment of rates by instalments, p. 670.

*Assessment Roll.*

233. Assessment roll, p. 670.  
 234. Valuation roll to be made available for preparation of assessment roll, p. 671.  
 235. Rating authority may require owner to furnish statement of lets, p. 672.  
 236. Fractions of a penny of rates, p. 672.

LOCAL GOVERNMENT (SCOTLAND) ACT—*continued.*PART XI.—LEVY AND COLLECTION OF RATES BY RATING AUTHORITIES AND REQUISITIONS FOR PAYMENT BY OTHER LOCAL AUTHORITIES—*continued.**Demand Note.*

- § 237. Demand note for rates, p. 672.

*Appeals against Rates.*

238. Appeals against rates, p. 673.

*Levy of Occupiers' Rates on Owner in Certain Cases.*

239. Owner of subjects of or under £4 annual value in burghs to pay occupiers' rates, p. 673.  
240. Owner may be charged with occupiers' rates where subjects let for less than a year, p. 674.  
241. Rates on subjects not occupied by same occupier for whole year, p. 674.

*Relief of Rates as between Occupiers.*

242. Outgoing occupier, to have right of relief for rates against incoming occupier, p. 675.

*Exemptions from Payment of Rates.*

243. Occupiers' rates not to be levied in respect of unlet and unoccupied subjects, p. 675.  
244. Remission of rates on account of poverty, p. 676.  
245. Town council of burgh may exempt from rates for definite period lands newly included within burgh boundary, p. 676.

*Expenses.*

246. Expenses of levying and collecting rates, p. 676.

*Recovery and Priority of Rates.*

247. Recovery of rates, p. 676.  
248. Priority of claim for rates over other claims, p. 678.  
249. Appeal against proceedings under warrant, p. 678.  
250. Recovery of rates from persons removing, p. 678.  
251. Rates recoverable beyond area of rating authority, p. 679.  
252. Application of recovery provisions of Act to private improvement expenses, p. 679.  
253. Misnomers, &c. not to affect proceedings for recovery of rates, p. 679.

*Miscellaneous.*

254. Application of Part XI of Act to all rates levied by rating authority, p. 680.  
255. Application of certain provisions to other authorities having power to levy rates, p. 680.  
256. Collection by rating authority of rates levied by other authority, p. 680.  
257. Savings for local Acts, p. 680.

## PART XII.—BORROWING BY LOCAL AUTHORITIES.

*Purposes for which, Restrictions subject to which, and Modes in which, Money may be Borrowed by Local Authorities and Security for Money so Borrowed.*

258. Purposes for which money may be borrowed, p. 681.  
259. Restrictions on power to borrow, p. 683.  
260. Modes of borrowing, p. 684.  
261. Security for money borrowed and ranking thereof, p. 685.

*Repayment of Money Borrowed by Local Authorities.*

262. and schedule 6. Period for repayment of borrowed money, pp. 686, 803.  
263. Repayment of borrowed money, p. 687.  
264. Returns to Secretary of State as to outstanding loans, p. 688.  
265. Sinking fund for repayment of borrowed money, p. 689.  
266. Adjustment of sinking fund, p. 690.



LOCAL GOVERNMENT (SCOTLAND) ACT—*continued.*PART XII.—BORROWING BY LOCAL AUTHORITIES—*continued.**Provisions as to Mortgages.*

- § 267, and schedule 7. Forms of mortgage, transfer, renewal and discharge thereof pp. 691, 805.  
268. Register of mortgages, p. 692.

*Provisions as to Stock.*

269. Creation of redeemable stock by county council or town council, p. 693.  
270. Creation of redeemable stock by authority other than local authority having power to raise money by rate or requisition, p. 694.  
271. Stock regulations, p. 695.  
272. Borrowing power to be exercisable for actual sum raisable by stock, p. 696.  
273. Conversion of securities of county council or town council into stock, p. 696.  
274. Revocation of resolution to create stock, p. 697.

*Loans Fund.*

- 275, and schedule 8. Establishment of loans fund by county council or town council, pp. 697, 808.

*General Provisions as to Borrowing.*

276. Loans to joint boards, p. 698.  
277. Power to re-borrow, p. 698.  
278. Protection to lenders, p. 699.  
279. Balance of unexpended borrowed money, p. 699.

*General Provisions as to Securities.*

280. Security to be moveable estate and notice of trusts, p. 699.  
281. Transmission of security on death, p. 700.  
282. Evidence on transfer of security, p. 700.  
283. Transmission of security otherwise than by transfer or on death, p. 700.  
284. Title to security and rectification of register p. 700.  
285. Security deed to be delivered to local authority on discharge, p. 701.  
286. Unclaimed security, p. 701.  
287. Appointment of judicial factor in case of non-payment, p. 702.  
288. Interest and dividends on security in case of death, &c., p. 702.  
289. Interest and dividends on security held jointly, p. 703.  
290. Warrants for interest and dividends by post, p. 703.  
291. Unclaimed interest and dividends, p. 703.

*General*

292. Period of repayment in case of money borrowed by county council or town council for housing employees, p. 704.  
293. Application of Part XII of Act to local housing bonds, p. 704.  
294. Application of Part XII of Act to securities created under local Acts, p. 704.  
295. Savings for common good, p. 704.  
296. Saving for Local Authorities Loans Act, 1945, &c., p. 704.

## PART XIII.—LOCAL FINANCIAL RETURNS.

297. Returns of local finance to be made to Secretary of State, p. 705.  
298. Returns to be summarised, p. 706.  
299. Penalties, p. 706.

## PART XIV.—BYELAWS.

*Power of County Council and Town Council to make certain Byelaws.*

300. Byelaws for good rule and government, &c., p. 707.

*Code of Procedure, Penalties, &c., in case of Byelaws under several Enactments.*

301. Procedure, &c. for making byelaws, p. 707.  
302. Penalties for offences against byelaws, p. 711.  
303. Evidence of byelaws, p. 711.

LOCAL GOVERNMENT (SCOTLAND) ACT—*continued.*PART XV.—PROMOTION OF AND OPPOSITION TO PRIVATE LEGISLATION BY  
LOCAL AUTHORITIES.

- § 304. Power of county council and town council to promote or oppose private legislation, p. 711.  
 305. Power of district council to oppose private legislation, p. 712.  
 306. Resolution of local authority to promote or oppose private legislation, and authority by Secretary of State, p. 712.  
 307. Taxation of expenses of local authority, p. 713.  
 308. Defraying expenses of local authority, p. 713.  
 309. Saving for existing powers of town council, p. 714.  
 310. Right of local authority to make report to Commissioners under Private Legislation Procedure (Scotland) Act, 1936, p. 714.  
 311. Interpretation, p. 714.

## PART XVI.—TRANSFER OF FUNCTIONS, &amp;c.

312. Transfer of functions of county road board to county council, p. 714.  
 313. Transfer of functions relating to licensing of theatres, &c., p. 714.  
 314. Transfer of functions relating to cinemas, p. 715.  
 315, and schedule 9. Transfer of functions under various Acts from county council to town councils of large burghs, pp. 715, 816.  
 316. Functions of town council of large burgh under Wild Birds Protection Acts, p. 716.

PART XVII.—PROVISIONS CONSEQUENTIAL ON TRANSFER OF FUNCTIONS BY OR  
BY VIRTUE OF THIS ACT.

- 317, and schedule 10. Transfer of property and liabilities and construction of Acts and documents in case of transfer of functions, pp. 716, 817.  
 318, and schedule 11. Transfer and compensation of officers on transfer of functions, pp. 716, 818.  
 319. Superannuation rights of transferred officers, p. 717.  
 320. Interpretation and application of Part XVII of Act and Tenth and Eleventh Schedules, p. 718.

## PART XVIII.—DEAN OF GUILD COURT, DEAN OF GUILD, &amp;c.

321. Constitution of dean of guild court, p. 719.  
 322. Election of dean of guild and members of dean of guild court by town council and casual vacancies, p. 720.  
 323. Committees of dean of guild court, p. 721.  
 324. Jurisdiction of dean of guild court, p. 721.  
 325. Master of works for dean of guild court, p. 721.  
 326. Clerk and prosecutor of dean of guild court, p. 721.  
 327. Rules as to holding of courts, p. 722.  
 328. Expenses of dean of guild court, p. 722.  
 329. Saving for cities, p. 722.  
 330. Dean of guild, &c. of certain burghs to be members of town council, p. 722.  
 331. Disqualifications in case of dean of guild, &c., p. 723.

## PART XIX.—BURGESSES.

332. Qualification of burghesses, p. 723.  
 333. Admission of honorary burghesses, p. 723.  
 334. Limitation of rights of persons burghesses by virtue of Part XIX of Act, p. 723.  
 335. Saving as to admission of burghesses, p. 723.

## PART XX.—GENERAL.

*Contracts and Obligations.*

336. Contracts and obligations of local authorities, p. 724.  
 337. Protection for members and officers of local authority in relation to obligations, &c., p. 724.

*Travelling Expenses, &c. of Members of County Council.*

- 338, and schedule 12. Payment of travelling expenses, &c. of member of county council, pp. 724, 822.

LOCAL GOVERNMENT (SCOTLAND) ACT—*continued.*PART XX.—GENERAL—*continued.**Expenditure by County Council and Town Council on Special Purposes.*

- § 339. Expenditure by county council and town council on special purposes, p. 725.

*Acceptance of Gifts.*

340. Acceptance of gifts of property, p. 726.

*Transfer of Stock on Change of Name of Local Authority, &c.*

341. Transfer of stock on change of name of local authority, &c., p. 726.

*Execution of Deeds and Use of Seal.*

342. Execution of deeds by local authority and use of seal, p. 727.

*Legal Proceedings, Notices, &c.*

343. Legal proceedings for protection of inhabitants of area, p. 728.  
 344. Offences against byelaws may be prosecuted by local authority, p. 728.  
 345. Appearance on behalf of local authority in legal proceedings, p. 728.  
 346. Service of legal proceedings and notices on local authority or officers, p. 728.  
 347. Authentication of notices by local authority, p. 728.  
 348. Claims in sequestrations and liquidations, p. 729.  
 349. Service of notices, &c., by local authority or officer, p. 729.  
 350. Evidence of resolutions, &c., by local authority, p. 730.  
 351. Public notices, p. 731.  
 352. Misnomers, &c., not to affect validity of notices, &c., p. 731.

*Custody of Records and Documents.*

353. Custody of records and documents, p. 731.

*Reports and Returns.*

354. Reports and returns, p. 732.

*Local Inquiries.*

355. Local inquiries, p. 732.

*Provision for Default of Local Authority.*

356. Provision for default of local authority, p. 734.

*Charitable Trusts, Parish Trusts, &c.*

357. Election of trustees under certain Acts, charters, &c., p. 734.  
 358. Trusts vested in deacons, &c., p. 734.  
 359. Parish trusts, p. 735.  
 360. Saving as to election of deacon convener, &c., p. 737.

*Miscellaneous Provisions.*

361. Alteration of register of electors in certain cases, p. 737.  
 362. Limitation of liability of certain owners, p. 738.  
 363. Power to apply provisions of Act to joint boards, &c., p. 738.  
 364. Member of local authority appointed to any court or body to cease to be member on ceasing to be member of authority, p. 739.  
 365. Election and term of office of members of courts for counties under Licensing (Scotland) Act, 1903, p. 739.  
 366. Sunday, &c., p. 740.  
 367. References to census, p. 740.  
 368. Adaptation of local Acts relating to local authorities, p. 740.  
 369. Adaptation of other local Acts, p. 742.  
 370. Order by Secretary of State relating to House Letting and Rating (Scotland) Act, 1911, p. 742.  
 371. Transitional regulations, p. 742.  
 372. Orders, p. 742.  
 373. Power to annul regulations or orders laid before Parliament, p. 743.  
 374. Application to sheriff in cases of difficulty, p. 743.  
 375. Applications to court, p. 743.  
 376. Saving for existing members of local authorities, p. 744.

LOCAL GOVERNMENT (SCOTLAND) ACT—*continued.*PART XX.—GENERAL—*continued.**Miscellaneous Provisions—continued.*

- § 377. Minor consequential amendments of enactments, p. 745.  
 378, and schedule 13. Cesser of certain enactments, pp. 746, 823.  
 379. Interpretation, p. 746.  
 380. Interpretation as respects Crown rights, p. 754.  
 381, and schedule 14. Repeals, pp. 754, 827.  
 382. Short title, commencement and extent, p. 756.

## Schedule 1—

- Part I.—Counties, p. 757.  
 Part II.—Counties of cities, p. 757.  
 Part III.—Large burghs, p. 757.  
 Part IV.—Small burghs, p. 757.

## Schedule 2—

- Part I.—Stages of the election of county councillors for the landward area of a county or of town councillors preceding the poll, p. 759.  
 Part II.—Times for the proceedings at an election of county councillors or of town councillors, p. 763.  
 Part III.—Contested elections, p. 764.  
 Part IV.—Application of Schedule to district council election, p. 777.  
 Part V.—Forms for use at the election of county councillors or of town councillors, p. 778.

## Schedule 3.—Meetings and proceedings of local authorities.

- Part I.—County councils, p. 794.  
 Part II.—Town councils, p. 796.  
 Part III.—District councils, p. 797.  
 Part IV.—Local authorities generally, p. 799.

## Schedule 4.—Enactments containing provisions as to the acquisition by agreement of, and certain other dealings in, land by local authorities, not affected by the provisions of Part VIII of this Act, p. 801.

## Schedule 5.—Expenditure of a town council to be defrayed out of the burgh rate so far as payable by occupiers of lands and heritages only, p. 802.

## Schedule 6.—Enactments for the purposes of which money may be borrowed by local authorities repayable within periods other than thirty years, p. 803.

## Schedule 7—

- (1) Form of mortgage by local authority, p. 805.
- (2) Form of transfer of mortgage, p. 807.
- (3) Form of minute of renewal of mortgage, p. 807.
- (4) Form of discharge of mortgage, p. 807.

## Schedule 8.—Rules regulating the administration of a loans fund established by a county council or town council under this Act, p. 808.

## Schedule 9.—Enactments under which the functions of a county council are so far as relating to a large burgh transferred to the town council of the burgh, p. 816.

## Schedule 10.—Construction of Acts and documents and other matters in case of transfer of functions, p. 817.

## Schedule 11.—Determination and payment of compensation to officers in case of transfer of functions, p. 818.

## Schedule 12.—Maximum rates of allowances in respect of travelling and other personal expenses necessarily incurred and time necessarily lost from ordinary employment by members of a county council or of any committee or sub-committee thereof in attending meetings.

- Part I.—Travelling expenses, p. 822.  
 Part II.—Other personal expenses, p. 822.  
 Part III.—Time necessarily lost from ordinary employment, p. 823.

## Schedule 13.—Enactments ceasing to have effect, p. 823.

## Schedule 14.—Enactments repealed, p. 827.

MALTA (RECONSTRUCTION) ACT : c. 9 ... .. p. 18

NATIONAL HEALTH SERVICE (SCOTLAND) ACT : c. 27 ... .. p. 144

## PART I.—CENTRAL ADMINISTRATION.

- § 1. Duty of Secretary of State, p. 147.  
2, and schedule 1. Scottish Health Services Council and Standing Advisory Committees, pp. 147, 208.

## PART II.—SERVICES PROVIDED BY THE SECRETARY OF STATE.

*Hospital and Specialist Services.*

3. Provision of hospital and specialist services, p. 148.  
4. Accommodation available on part payment, p. 149.  
5. Accommodation for private patients, p. 149.

*Transfer of hospitals to the Secretary of State.*

6. Transfer of hospitals to the Secretary of State, p. 150.  
7. Endowments of voluntary hospitals, p. 152.  
8, and schedule 2. Hospital Endowments Commission, pp. 155, 209.  
9. Supplementary provisions relating to transfer of hospital property and liabilities, p. 156.  
10, and schedule 3. Power to acquire hospital equipment, pp. 159, 209.

*Administration of hospital and specialist services.*

- 11, and schedule 4. Regional Hospital Boards, Medical Education Committees and Boards of Management, pp. 159, 210.  
12. Functions of Regional Hospital Boards and Boards of Management, p. 161.  
13. Legal status of Regional Hospital Boards and Boards of Management, p. 162.  
14. Conditions of service and appointment of officers, p. 162.

*Other services provided by the Secretary of State.*

15. Health Centres, p. 163.  
16. Ambulances, p. 164.  
17. Research, p. 164.  
18. Bacteriological service, p. 164.  
19. Blood transfusion and other services, p. 165.

## PART III.—SERVICES PROVIDED BY LOCAL HEALTH AUTHORITIES.

- 20, and schedule 5. Local health authorities, pp. 165, 213.  
21. Proposals for provision of services by local health authority, p. 167.  
22. Care of mothers and young children, p. 168.  
23. Midwifery, p. 168.  
24. Health visiting, p. 169.  
25. Home nursing, p. 169.  
26. Vaccination and immunisation, p. 169.  
27. Prevention of illness, care and after-care, p. 169.  
28. Domestic help, p. 170.  
29. Powers of local health authorities regarding research, p. 170.  
30. Power of local health authority to contribute to expenditure on co-ordination of services, p. 170.  
31. Appointed day for the purposes of Part III, p. 170.

## PART IV.—GENERAL MEDICAL AND DENTAL SERVICES, PHARMACEUTICAL SERVICES AND SUPPLEMENTARY OPHTHALMIC SERVICES.

*Administration.*

- 32, and schedule 6. Executive Councils, pp. 171, 214.  
33. Local representative committees, p. 172.

*General Medical Services.*

34. Arrangements for general medical services, p. 172.  
35, and schedule 7. Distribution of medical practitioners providing services, pp. 173, 215.  
36. Prohibition of sale of medical practices, p. 175.  
37. Compensation for loss of right to sell a medical practice, p. 179.  
38. Practitioners dying or retiring before appointed day, p. 180.

NATIONAL HEALTH SERVICE (SCOTLAND) ACT—*continued.*PART IV.—GENERAL MEDICAL AND DENTAL SERVICES, PHARMACEUTICAL SERVICES  
AND SUPPLEMENTARY OPHTHALMIC SERVICES—*continued.**General Dental Services.*

- § 39. Arrangements for general dental services, p. 180.

*Pharmaceutical Services.*

40. Arrangements for pharmaceutical services, p. 181.  
41. Persons authorised to provide pharmaceutical services, p. 182.

*Supplementary Ophthalmic Services.*

42. Supplementary ophthalmic services, p. 182.

*Supplementary Provisions.*

43. and schedule 8. Disqualification of persons providing services, pp. 183, 216.  
44. Powers of Secretary of State where services are inadequate, p. 186.  
45. Recovery of charges in respect of certain appliances and dental treatment,  
p. 187.  
46. Exercise of choice of medical practitioner, &c., in certain cases, p. 187.  
47. Decision of disputes, p. 187.  
48. Provision of courses for persons providing services, p. 187.

## PART V.—PROVISIONS AS TO MENTAL HEALTH SERVICES.

49. Functions of Secretary of State under Lunacy and Mental Deficiency Acts,  
p. 188.  
50. and schedule 9. Amendment and repeal of enactments relating to lunacy or  
mental deficiency, pp. 188, 216.  
51. Duties of local health authorities under Lunacy and Mental Deficiency Acts,  
p. 190.

## PART VI.—GENERAL.

*Financial Provisions.*

52. Expenses and receipts of the Secretary of State, p. 190.  
53. Grants to local health authorities, p. 190.  
54. Payments to Regional Hospital Boards, Executive Councils and other bodies,  
p. 193.  
55. Accounts of local health authorities, Regional Hospital Boards, Boards of  
Management and Executive Councils, p. 193.

*Administrative Provisions.*

56. Default powers of Secretary of State, p. 194.  
57. Purchase of land, p. 195.  
58. Power of Regional Hospital Boards and Boards of Management to hold  
property on trust, p. 196.  
59. Power of trustees to make payments to Regional Hospital Boards and Boards  
of Management, p. 196.  
60. Preservation of associations of denominational hospitals, p. 196.  
61. Provision of special educational treatment in hospitals, p. 196.  
62. Supply of goods by local health authorities, p. 197.  
63. Use of premises and equipment by other authorities, p. 197.  
64. Provision of residential accommodation for staff, p. 197.  
65. Qualifications, remuneration and conditions of service of officers, p. 197.  
66. Superannuation of officers, p. 198.  
67. Transfer and compensation of officers, p. 200.  
68. Consequential provisions on transfer of functions, p. 201.  
69. and schedule 10. Inquiries, pp. 202, 225.  
70. Protection of certain bodies and their officers, p. 202.  
71. Exemptions from stamp duty on certain documents required for purposes of  
Act, p. 202.  
72. Miscellaneous administrative matters, p. 203.  
73. Regulations and orders, p. 203.

NATIONAL HEALTH SERVICE (SCOTLAND) ACT—*continued.*PART VI.—GENERAL—*continued.**Supplementary Provisions.*

- § 74, and schedule 11. Consequential amendment and repeal of enactments, pp. 204, 226.
75. Amendment and repeal of local Acts and charters, p. 204.
76. Provision for winding up certain bodies, p. 204.
77. Arbitration, p. 205.
78. Repeal of s. 2 (3) of 6 & 7 Geo. 6. c. 33, p. 205.
79. Expression "asylum" to cease to be used, p. 205.
80. Interpretation, p. 205.
81. Short title and extent, p. 207.
- Schedule 1.—Scottish Health Services Council and Advisory Committees, p. 208.
- Schedule 2.—Hospital Endowments Commission, p. 209.
- Schedule 3.—Acquisition of Hospital Property other than Land., p. 209.
- Schedule 4.—Regional Hospital Boards, Medical Education Committees and Boards of Management, p. 210.
- Schedule 5.—Health Committees of Local Health Authorities, p. 213.
- Schedule 6.—Executive Councils, p. 214.
- Schedule 7.—Scottish Medical Practices Committee, p. 215.
- Schedule 8.—Constitution of Tribunal, p. 216.
- Schedule 9.—Amendment and repeal of enactments relating to lunatics and mental defectives,  
Part I.—Amendments, p. 216.  
Part II.—Repeals, p. 222.
- Schedule 10.—Inquiries, p. 225.
- Schedule 11.—Consequential amendments and repeals,  
Part I.—Amendments, p. 226.  
Part II.—Repeals, p. 229.

## NATIONAL SERVICE ACT: c. 31 ... .. p. 255

*Service in the armed forces.*

- § 1. Liability to be called up for service, p. 256.
- 2, and schedule 1. Whole-time and part-time service, pp. 257, 270.
3. Volunteer service in lieu of part-time service, p. 258.
4. Transfer, p. 258.
5. Liability to complete interrupted service, p. 258.
6. Calling up for training during part-time service, p. 259.
7. Modifications of enactments relating to persons called up for service, p. 260.
- 8, and schedule 1. Transitional provisions, pp. 261, 270.
9. Special provision as to medical and dental practitioners, p. 261.

*Education and Education Authorities.*

10. Further education during whole-time service, p. 262.
11. Information to be furnished by education authorities, p. 262.

*Safeguarding of employment.*

- 12, and schedule 2. Reinstatement in civil employment after whole-time service, pp. 262, 271.
13. Prohibition of dismissal of employees by reason of liability for service, p. 264.
14. Adjustment of contracts of service and apprenticeship affected by annual training, p. 265.

*Miscellaneous amendments of the National Service Acts, 1939 to 1946.*

15. Early registration and calling up, p. 265.
16. Enforcement of requirement to submit to medical examination, p. 266.
- 17, and schedules 3 and 4. Other amendments, pp. 266, 272, 275.

**NATIONAL SERVICE ACT—continued.**

*Supplemental.*

- § 18. Postponement of liability to be called up for service, p. 266.
- 19. Termination of reserve or auxiliary service by enlistment notice, p. 266.
- 20. Candidates for commissions, p. 267.
- 21. Termination of power to make up civil remuneration, p. 267.
- 22. Orders and regulations, p. 267.
- 23. Expenses, p. 267.
- 24. Interpretation, p. 267.
- 25. Application to Scotland, p. 269.
- 26. Application of National Service Acts to Isle of Man, p. 269.
- 27. Duration of National Service Acts, p. 269.
- 28, and schedule 5. Commencement, citation and repeal, pp. 270, 276.

Schedule 1.—Length of whole-time service, p. 270.

Schedule 2.—The Reinstatement Act.

Part I.—Modifications of the Act in relation to persons entering whole-time service after the commencement of this Act, p. 271.

Part II.—Modifications of the Act in relation to persons entering whole-time service on or after the first day of January nineteen hundred and forty-seven taking effect on the passing of this Act, p. 272.

Schedule 3.—Minor and consequential amendments of the National Service Acts, 1939 to 1946, p. 272.

Schedule 4.—Local and Appellate Tribunals, p. 275.

Schedule 5.—Enactments repealed, p. 276.

**NAVAL FORCES (ENFORCEMENT OF MAINTENANCE LIABILITIES) ACT :**

c. 24 ... .. p. 119

**NORTHERN IRELAND ACT : c. 37 ... .. p. 401**

*Enlargement of legislative power of the Parliament of Northern Ireland.*

- § 1. Power as regards certain schemes extending athwart land frontier, p. 402.
- 2. Power as regards certain transfers of property of public utility undertakers and local authorities, p. 403.
- 3. Power to provide for compulsory retirement of county court judges, p. 405.
- 4. Power as regards provision of health services, p. 405.
- 5. Power to adjust superannuation rights of Northern Irish civil servants to meet war circumstances, p. 405.
- 6. Power as regards transport services, p. 406.
- 7. Power as regards limitation of actions by and against the Crown, p. 406.
- 8. Cesser of reservation of registration of deeds, p. 407.
- 9. and schedule 1. Cesser of reservation of registration of title to land in Northern Ireland, pp. 407, 412.
- 10. Power to repeal or alter certain subordinate legislation, p. 410.
- 11. Validation of Fire Services (Emergency Provisions) Act (Northern Ireland), 1942, p. 410.

*Application of Part III of Requisitioned Land and War Works Act, 1945, to Northern Ireland.*

- 12, and schedule 2. Application of Part III of Requisitioned Land and War Works Act, 1945, to Northern Ireland, pp. 410, 413.

*Amendment of s. 2 of Northern Ireland (Miscellaneous Provisions) Act, 1945.*

- 13. Extension of power of Governor to effect consequential transfers of functions. p. 411.

*Supplementary.*

14. Interpretation, p. 411.

15. Short title, p. 412.

Schedule 1.—Amendments of the Northern Ireland Land Purchase (Winding Up) Act, 1935, p. 412.

Schedule 2.—Modifications of Part III of the Requisitioned Land and War Works Act, 1945, in its application to Northern Ireland, p. 413.

**PENICILLIN ACT : c. 29 ... .. p. 233**



- PENSIONS (INCREASE) ACT : c. 7** ... .. p. 10
- § 1. Raising of limits for, and rates of, pensions increases under principal Act, p. 10.  
 2. Minor amendments of principal Act, p. 12.  
 3. Continuance in force of principal Act, p. 13.  
 4. Increase of limits of income under Act of 1920, p. 14.  
 5. Payment of increases under schemes not falling within principal Act, p. 15.  
 6. Short title, construction, citation and interpretation, p. 15.
- POLISH RESETTLEMENT ACT : c. 19** ... .. p. 92
- § 1. Power to apply Royal Warrant as to pensions, &c., to certain Polish forces, p. 93.  
 2, and schedule. Allowances from the Assistance Board, pp. 95, 104.  
 3, and schedule. Provision by the Assistance Board of accommodation in camps, pp. 96, 104.  
 4. Provision by the Minister of Health of health services, p. 97.  
 5. Temporary registration of medical practitioners and of pharmacists, p. 98.  
 6. Provision by the Minister of Education of educational services, p. 100.  
 7. Arrangements by the Minister of Labour and National Service for emigration, p. 100.  
 8. Service in the forces, p. 100.  
 9. Discipline and internal administration of certain Polish forces, p. 101.  
 10. Interpretation, p. 102.  
 11. Application to Scotland, p. 103.  
 12. Application to Northern Ireland, p. 103.  
 13. Short title, p. 104.  
 Schedule. Subsidiary provisions as to allowances from the Assistance Board, and as to charges for accommodation, &c., provided by them, p. 104.
- PROBATION OFFICERS (SUPERANNUATION) ACT : c. 38** ... .. p. 414
- § 1. Superannuation of probation officers and clerks to probation officers, p. 414.  
 2, and schedule. Consequential amendments and repeals, pp. 416, 417.  
 3. Orders, p. 416.  
 4. Expenses, p. 416.  
 5. Short title and extent, p. 416.  
 Schedule. Consequential amendments and repeals of provisions of the Criminal Justice Act, 1925, p. 417.
- PUBLIC OFFICES (SITE) ACT : c. 45** ... .. p. 895
- ROAD TRAFFIC (DRIVING LICENCES) ACT : c. 8** ... .. p. 16
- § 1. Revocation of emergency provision as to provisional licences, p. 16.  
 2. Rights of persons who have held provisional licences under emergency provision on subsequent applications for licences, p. 16.  
 3. Amendment as to destination of fees in respect of driving tests, p. 17.  
 4. Short title, construction and extent, p. 18.
- STATISTICS OF TRADE ACT : c. 39** ... .. p. 418
- § 1, and schedule. Power of competent authorities to obtain information, pp. 418, 428.  
 2, and schedule. Census of production, distribution and services, pp. 419, 428.  
 3. Returns for the purposes of census, p. 419.  
 4. Offences relating to returns, p. 420.  
 5, and schedule. Power to prescribe additional subjects of inquiry by Order in Council, pp. 420, 428.  
 6. Duty to notify undertakings to Board of Trade or other competent authority, p. 421.  
 7. Report to Parliament, p. 421.  
 8. Advisory committees, p. 422.  
 9. Disclosure of information, p. 422.

STATISTICS OF TRADE ACT—*continued*.

|                                                                                          |        |
|------------------------------------------------------------------------------------------|--------|
| § 10. Information from persons entering or leaving the United Kingdom by air,<br>p. 424. |        |
| 11. Orders, p. 424.                                                                      |        |
| 12. Notices, p. 425.                                                                     |        |
| 13. Offences by bodies corporate, p. 425.                                                |        |
| 14. Power to require information about estimated cost of buildings, p. 425.              |        |
| 15. Expenses, p. 426.                                                                    |        |
| 16. Exercise of powers by Board of Trade, p. 426.                                        |        |
| 17. Interpretation, p. 426.                                                              |        |
| 18. Application to Scotland, p. 427.                                                     |        |
| 19. Short title, extent and repeal, p. 428.                                              |        |
| Schedule, p. 428.                                                                        |        |
| SUMMER TIME ACT : c. 16... ..                                                            | p. 82  |
| TRAFALGAR ESTATES ACT : c. 34 ... ..                                                     | p. 285 |
| TREATIES OF PEACE (ITALY, ROUMANIA, BULGARIA, HUNGARY AND<br>FINLAND) ACT : c. 23 ... .. | p. 117 |
| TRUSTEE SAVINGS BANKS ACT : c. 6 ... ..                                                  | p. 3   |
| § 1. Allocation of part of superannuation benefits to dependants, p. 3.                  |        |
| 2. Death gratuities payable after five years' service, p. 5.                             |        |
| 3. Superannuation payments for transferred officers, p. 5.                               |        |
| 4. Establishment of superannuation reserves, p. 7.                                       |        |
| 5. Establishment by trustee savings banks of contributory superannuation funds,<br>p. 8. |        |
| 6. Advances by trustee savings banks for development, p. 9.                              |        |
| 7. Short title, construction, citation and application, p. 10.                           |        |
| WELLINGTON MUSEUM ACT : c. 46 ... ..                                                     | p. 901 |





UNIVERSITY OF MICHIGAN



3 9015 06861 5627

